



April 24, 2024

Howard L. Sollins, Esquire
Baker, Donelson
100 Light Street
Baltimore, Maryland 21202

Re: Withdrawal of Exemption from Certificate of Need –
Merger/Consolidation Request: Communicare Health
Services – Docket No. 24-15-EX018

Dear Mr. Sollins:

Thank you for your e-mail of April 22, 2024 informing the Commission that Communicare Health Services is withdrawing the above-referenced Exemption from Certificate of Need request

The Maryland Health Care Commission accepts the relinquishment of this Exemption from Certificate of Need request without prejudice. By copy of this letter all affected persons are notified of this action.

If you have any questions about this determination, please contact Jeanne-Marie Gawel at (410) 764-5982.

Sincerely,

Ruby Potter
Health Facilities Coordinator

cc: Ronnie Wilhelm, CommuniCare Health Services
Holli Norelli, CommuniCare Health Services
Richard Odenthal, CommuniCare Health Services
Jack Eller, Esquire
Wynee Hawk, Director, Health Care Facilities Planning and Development
Jeanne Marie Gawel, Acting Chief, Certificate of Need
Alexa Bertinelli, Assistant Attorney General
Kisha Davis, M.D., Health Officer, Montgomery County Health Department



Ruby Potter -MDH- <ruby.potter@maryland.gov>

Fwd: CommuniCare Exemption Request - Follow Up to Questions on Completeness

1 message

Jeanne-Marie Gawel -MDH- <jeanne-marie.gawel@maryland.gov>

Wed, Apr 24, 2024 at 2:58 PM

To: Ruby Potter -MDH- <ruby.potter@maryland.gov>, "deanna.dunn4@maryland.gov" <deanna.dunn4@maryland.gov>

Hi Ruby and Deanna- Here is the email Howard Sollins sent withdrawing the exemption request for CommuniCare.
Thanks! JM

----- Forwarded message -----

From: **Sollins, Howard** <hsollins@bakerdonelson.com>

Date: Mon, Apr 22, 2024 at 4:21 PM

Subject: RE: CommuniCare Exemption Request - Follow Up to Questions on Completeness

To: Wynee Hawk -MDH- <wynee.hawk1@maryland.gov>, Eller, Jack <jeller@bakerdonelson.com>

Cc: Jeanne-Marie Gawel -MDH- <jeanne-marie.gawel@maryland.gov>, Alexa Bertinelli -MDH- <alexa.bertinelli@maryland.gov>, Ben Steffen -MDH- <ben.steffen@maryland.gov>, Holly Norelli <hnorelli@chs-corp.com>

Wynee:

We have been discussing the Commission's response below. We appreciate the Staff's recognition of the benefits of the project. However, in keeping with the guidance from our exchange, CommuniCare has determined that it will withdraw its Merger and Consolidation Exemption request for the relocation of the Kensington beds, reserving the right to resubmit it in the future. In the meantime, the relocation of Bel Pre to the Silver Spring location will proceed. Thank you for the meeting and call to discuss these matters.

Regards, Howard

Howard L. Sollins

Shareholder

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North Carolina, South Carolina, Tennessee, Texas, Virginia and Washington, D.C.

From: Wynee Hawk -MDH- <wynnee.hawk1@maryland.gov>
Sent: Thursday, April 18, 2024 4:34 PM
To: Sollins, Howard <hsollins@bakerdonelson.com>; Eller, Jack <jeller@bakerdonelson.com>
Cc: Jeanne-Marie Gawel -MDH- <jeanne-marie.gawel@maryland.gov>; Alexa Bertinelli -MDH- <alexa.bertinelli@maryland.gov>; Ben Steffen -MDH- <ben.steffen@maryland.gov>
Subject: Communicare Exemption Request - Follow Up to Questions on Completeness

Dear Howard and Jack,

This is follow up to our meeting yesterday discussing Communicare's concerns raised in staff's request for more information related to Communicare's Merger and Consolidation Exemption Request to relocate 34 CCF beds from Kensington Healthcare Center to Bel Pre Healthcare Center.

Prior to Communicare's March 28, 2024 Merger and Consolidation Exemption Request, the Commission determined that a CON was not needed for the relocation of Bel Pre, all 92 beds, to a new facility on the property formerly operating as an assisted living facility called The Landings of Silver Spring.

In our meeting, the completeness question issues were distilled into two main concerns: obligating a capital expenditure before Commission review and approval and the inability to meet Standard .05A8 Quality Rating -- a requirement for the Commission to approve the Exemption Request.

On the first issue, staff questioned CommuniCare's stated plans to enter into a binding agreement on April 30, 2024 for the relocation of Bel Pre, as well as renovations to accommodate the relocation of the 34 Kensington beds. COMAR 10.24.01.15 was referenced, which states "A person may not incur an obligation for a capital expenditure for a project that is subject to review under these regulations until the applicant receives a CON or other required Commission approval." The plain language of the regulation is clear that CommuniCare may not enter into a binding obligation for the merger and consolidation project until it receives the Commission's approval.

In response to these two issues, you presented options on how to proceed; first, either hold the Merger and Consolidation Exemption Request in abeyance or withdraw it; second, move forward with the relocation of Bel Pre, and third, to concurrently seek a preliminary ruling from the Commission on the quality standard.

While staff are sympathetic to the project's positive impact, the regulations do not allow the flexibility to allow this proposed project to move forward without Commission review and approval of the merger and consolidation. What is permitted at this time, however, is the relocation of Bel Pre only, as that is within the scope of the regulations and has been previously approved.

On the quality standard, the option of going before the Commission to seek a ruling is certainly permitted within the scope of the regulations. However, as you are aware, legislation passed in the most recent legislative session that requires the adoption of regulations on or before January 1, 2025. Those regulations will revise COMAR 10.24.20, the relevant SHP chapter. Given that the revisions to the regulations are in process, including the quality standard, the Commission's consideration at this time may not necessarily provide a significantly earlier resolution or the desired outcome.

I hope this response is helpful, and we appreciate the candid discussions. Please let us know how you would like to proceed.

Wynee

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Wynee E. Hawk, RN, JD

Director, Center for Health Care Facilities

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Jeanne Marie Gawel, LNHA, MA, MGS

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