



GEORGIA DEPARTMENT OF
COMMUNITY HEALTH

Rhonda M. Medows, MD, Commissioner

Sonny Perdue, Governor

2 Peachtree Street, NW
Atlanta, GA 30303-3159
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WRITER'S DIRECT DIAL
404-657-7198

June 30, 2008

Gene B. Wright
Chief Executive Officer
Upson Regional Medical Center
801 West Gordon Street
P.O. Box 1059
Thomaston, GA 30286

RE: Senate Bill 433 Clarification Regarding Non-Clinical Project Exemption

Dear Mr. Wright:

The Georgia Department of Community Health, Division of Health Planning (the Department) is in receipt of your request, dated May 21, 2008, seeking clarification with respect to the non-clinical project exemption provisions contained in Senate Bill 433. Your request was submitted in response to the Department's invitation to submit questions regarding the impact and applicability of Senate Bill (SB) 433, a Certificate of Need (CON) reform bill passed during the 2008 session of the Georgia General Assembly.

The CON reform changes contained within SB 433 are effective on July 1, 2008. One of the new exemptions from prior CON review and approval in the legislation is for expenditures for nonclinical projects, including parking lots, parking decks, and other parking facilities; computer systems, software, and other information technology; medical office buildings; and state mental health facilities. O.C.G.A. § 31-6-47(a)(16). {Note: all citations referenced are effective July 1, 2008}.

Your letter asks whether a proposed \$4,000,000.00 project to replace antiquated kitchen and dietary services areas is covered by the statutory exemption referenced above. Please be advised that the Department interprets the nonclinical project exemption to be limited to the specific types of projects listed in the language of the exemption. The exemption does not say, "expenditures for nonclinical projects, including but not limited to, etc." It specifically says only including a list of projects that are then referenced. As a result, it is the Department's position the project you propose would not be eligible for this exemption because it is not of the type specifically listed.

SB 433 provides that on or after July 1, 2008, any new institutional health service shall be required to obtain a certificate of need before such service could be offered. O.C.G.A. § 31-6-40(a). A new institutional health service includes any expenditure by or on behalf

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of a health care facility in excess of \$2,500,000.00 which, under generally accepted accounting principles consistently applied, is a capital expenditure ... O.C.G.A. § 31-6-40(a)(2). If the proposed kitchen and dietary services project could be accomplished for an amount under the new capital expenditure threshold of \$2.5m (effective July 1, 2008), the project would not be subject to prior CON review and approval. If the cost were \$4m as indicated in your letter, the project would be subject to review under the CON rules' General Considerations only.

Please be advised that a party wishing to avail itself of this exemption analysis, or capital threshold analysis, on or after July 1, 2008, must submit a specific and factual determination request to the Department on the existing published Determination form, along with the proper filing fee. The Department will respond as appropriate, and the Department response shall be the written confirmation of exemption required in SB 433. This letter is not an official written confirmation of any activity to be undertaken on or after July 1, 2008 pursuant to SB 433.

I hope this letter is responsive to your request. If there are any further questions or concerns, please feel free to contact me at the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde L. Reese, III". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Clyde L. Reese, III
General Counsel