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Jun 23 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable H.W. Funderburk, Jr. Administrative Law Judge

APPELLATE CASE No.: 2021-000617

ADMINISTRATIVE LAW COURT CASE No.: 20-ALJ-07-0235-CC

MRI at Belfair, LLC d/b/a 3T MRI at Belfair.....Appellant.

v.

South Carolina Department of Health and Environmental Control
and Beaufort Memorial Hospital.....Respondents.

CONSENT MOTION FOR VOLUNTARY DISMISSAL OF APPEAL

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MOTION AND MEMORANDUM

The Appellant MRI at Belfair, LLC d/b/a 3T MRI at Belfair (“Belfair”), the Respondent South Carolina Department of Health and Environmental Control (“Department”), and the Respondent Beaufort Memorial Hospital (“BMH”) (collectively, the “Parties”), by and through their undersigned attorneys, hereby respectfully move the Court pursuant to Rules 222, 240, 260(b) and 261, SCACR, for an order dismissing this appeal upon such terms as have been agreed to by the Parties as set forth below.

On July 1, 2020, the Department issued a non-applicability determination finding the Certificate of Need Act is not applicable to BMH’s project for relocation of its 1.5T magnetic resonance imaging (“MRI”) scanner from Port Royal to Okatie. Belfair requested contested case review of that decision before the Administrative Law Court (“ALC”). The ALC granted a Motion to Dismiss filed by BMH. Belfair appealed the decision of the ALC to this Court. On May 16, 2023, Governor McMaster signed into law 2023 S.C. Act No. 20 (S. 164), which, among other things, repealed the requirement that a person or health care facility obtain a Certificate of Need (“CON”) before undertaking the acquisition of medical equipment which is to be used for diagnosis or treatment if the total project cost is in excess six hundred thousand dollars (\$600,000.00). Currently, only nursing homes are required to obtain a CON before undertaking the acquisition of medical equipment if the total project cost is in excess of the monetary threshold set in regulation. *See* S.C. Code Ann. § 44-7-160(A)(6) (as amended by Act 20). BMH is not a nursing home. As a result of the passage and signing of Act. No. 20, the Parties agree that Belfair’s appeal is moot.

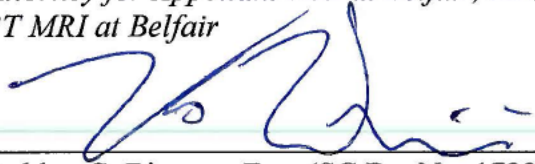
Therefore, in light of the impact of the new law, the parties jointly move the Court for voluntary dismissal of this matter with all parties to bear their own costs, fees, and expenses

incurred with respect to this appeal; and with the bond deposited with the Clerk of the Court
of Appeals to be returned to Belfair.

Respectfully submitted,

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