

JUN 24 2013

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June 21, 2013

Phyllis Powell, Assistant Director Medical Facilities
Division of Licensing & Regulatory Services
Department of Health & Human Services
11 Station House Station
41 Anthony Avenue
Augusta, ME 04333-0011**Re: OA Centers for Orthopaedics
Expansion of ASU**

Dear Phyllis:

This office represents OA Centers for Orthopaedics ("OA"), a Maine professional association. At a recent meeting with representatives of your office on a related matter, I informed the attendees of plans by OA to renovate and expand the existing ambulatory surgical unit in order to allow for the introduction of new vascular procedures. I now wish to formalize that notice.

On behalf of OA, this letter serves as a Letter of Intent pursuant to 22 M.R.S.A. § 337(1) and Chapter 6 of the Maine Certificate of Needs Manual, as well as a request for a determination from your office that the proposed renovations of the ambulatory surgical unit (ASU) at OA will not trigger CON review.

OA initially developed a two operating room ASU in 1989 as part of its medical practice. In 2003, OA undertook to expand its ASU to four operating rooms, together with additional second floor renovations. In a letter dated April 29, 2003, the CON unit informed OA that the expansion proposal would not be subject to CON review because the proposed capital expenditures were less than the threshold requiring review. OA followed up with an October 28, 2003 letter, verifying that the actual costs associated with the expansion project were consistent with, and in fact below, the projected estimates supplied to the CON Unit.

OA now proposes to renovate space to accommodate a fifth operating room within the ASU. This expansion will occur principally on the second floor of the facility, converting what

are now administrative offices to clinical and operating room space including pre-operative and post-operative space for the new procedures. The second floor space was actually equipped in 2003 for clinical use as part of the expansion, in such areas as air exchanges, plumbing and adherence to Life Safety Codes, but the space has been used for administrative purposes since that time. While the four existing operating rooms on the first floor will continue to be utilized for orthopedic procedures, this new fifth operating room on the second floor will principally be used to perform vascular nephrology and interventional radiology procedures. Plans call for the procedures to be performed by physicians within Spectrum Medical Group, in conjunction with a lease agreement between Spectrum and OA for the utilization of the second floor space.

The inclusion of interventional radiology and nephrology procedures at the existing ASU represents a "new health service" being offered at OA's ASU. Therefore, if the capital expenditures associated with the renovation of the facility for the new procedures, or the incremental annual operating expenses for the third fiscal year of operation attributable to the introduction of these new procedures, exceed the thresholds under Section 328(17-A), then this proposed expansion would be subject to CON review. However, OA projects that the entire capital cost of the renovation of the second floor space, to develop the fifth operating room as well as all associated pre and post-op space, falls far below the \$3M capital expenditure threshold for a new health service. In fact, the projected construction cost comes to only \$276,667, and the projected start-up costs for equipment, supplies and leases comes to \$476,223.

Moreover, in terms of incremental annual operating costs directly attributable to the addition of the new health service in the third year of operation, OA projects such incremental annual costs at approximately \$767,849, conservatively assuming for this analysis that the new operating room is utilized at full capacity (the figure would be lower if full capacity is not attained). This projected figure is inclusive of incremental third year staffing costs of \$297,977, based on the addition of one x-ray technician, two registered nurses and one medical receptionist, together with costs for medical supplies, utilities, interest on loans, waste disposal, laundry, and other monthly expenses. Again, these third year operating expenses are well below the threshold for review.

I am enclosing estimates received for the construction costs as well as OA's internal summaries of the projected third-year costs, inclusive of incremental staffing increases. OA plans to commence construction on this renovation project in October 2013.

While this new expansion of the ASU is associated with a new relationship between OA and Spectrum for the performing of these new procedures on the second floor of the ASU, the expansion does not depend upon closing on the proposed integration of OA into Spectrum, as described in a separate letter of intent you received dated April 19, 2013 from Brett Witham, counsel for Spectrum. Therefore, independent of the review your office is undertaking of the proposed integration of the two practices, OA is seeking a determination from your office as to

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whether the proposed expansion of the ASU to incorporate the new procedures on the second floor is subject to a certificate of need review.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Gleason". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John D. Gleason

JDG/ml

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