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December 18, 2017

VIA FIRST CLASS MAIL

Ms. Alexandria Hicks, Coordinator
State of Alaska
Department of Health and Social Services
Certificate of Need Program
3601 C Street, Suite 978
Anchorage, Alaska 99503



Re: Request for Determination
Our File No. 3240-7

Dear Ms. Hicks,

We represent Muldoon ASC, LLC (Muldoon), ASC North, LLC (North), and South Anchorage Surgery Center, LLC (SASC) for the limited purpose of this Request for Determination. Please direct all communications regarding this request to us. Thank you. Muldoon, North and SASC hereby request a determination by Department of Health and Social Services (DHSS) that the proposed business reorganization and relocation described herein is exempt from the Alaska Certificate of Need statute.

Muldoon, North, and SASC are all currently licensed ambulatory surgery centers within Anchorage. ASC North and SASC have one operating room each and Muldoon operates as a co-located but temporally separated facility from North in accordance with the DHSS determination dated January 6, 2016. Muldoon, North, and SASC desire to engage in business reorganization in accordance with AS 10.55.201 *et. seq.* of the Alaska Entity Transaction Act. Upon the completion of this reorganization the new business entity desires to relocate all of the existing facilities to a new single consolidated site within Anchorage to be comprised of two operating rooms and to provide the same categories of health services as currently provided in accordance with AS 18.07.031(c).¹

With regard to the reorganization, any exchange of interests and capital necessary to achieve the AS 10.55.201 reorganization does not involve a qualified expenditure for the

¹ It is contemplated that the new site will contain a yet-to-be-determined number of procedure rooms. However, since procedure rooms are not within the scope of the CON statute, the number of procedure rooms and associated costs are not relevant to this request. See *Mat-Su Medical Center v. Surgery Center of Wasilla, LLC; State of Alaska, Department of Health and Social Services*, Trial Brief of State of Alaska, p. 4 (November 30, 2015).

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“(1) construction of a health care facility; (2) alteration of the bed capacity of a health care facility; or (3) addition of a category of health services provided by a health care facility” within the meaning of AS 19.07.031 and 7 AAC 07.010.

With regard to the relocation, the proposal is to relocate the same number of operating rooms and categories of health services – ambulatory surgery services – within the same community of the Municipality of Anchorage. The cost of this relocation is expected to exceed \$1.5 million dollars. This relocation is within the scope of AS 18.07.031(c) and the recent DHSS determinations *in re Surgery Center of Wasilla*, January 9, 2015 and *in re Alaska Spine Center*, October 24, 2016. As such, no certified cost estimate is required as it is stipulated, for the purposes of this Request for Determination, that the cost will exceed \$1.5 million dollars.

The anticipated timeline to complete the reorganization is ninety days after receipt of the DHSS determination and relocation is expected to be complete within twelve months.

We believe that this request contains all of the information necessary for the DHSS to make a determination; however, we are happy to provide additional information upon reasonable request. We look forward to your response.

Sincerely,

CLAYTON & DIEMER, LLC



Peter M. Diemer

PMD:rs/njc