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CURTIS THAXTER STEVENS BRODER & MICOLEAU LLC
ATTORNEYS AT LAW

ONE CANAL PLAZA, P.O. BOX 7320, PORTLAND, MAINE 04112-7320/TEL: 207-774-9000 FAX: 207-775-0612/www.curtisthaxter.com

John D. Gleason
jgleason@curtisthaxter.com

February 5, 2008

Ms. Phyllis Powell
Certificate of Need Unit
Division of Licensing & Regulatory Services
11 State House Station
Augusta, Maine 04333-0011

RE: **InterMed**

Dear Ms. Powell:

This office represents InterMed, a professional association located at 100 Foden Road, South Portland, Maine.

On behalf of InterMed, this letter will serve as a Letter of Intent pursuant to 22 M.R.S.A. § 337(1), and Chapter 6 of the Maine Certificate of Need Procedures Manual, with respect to InterMed's plan to move its existing ambulatory surgical facility ("ASF") location to new premises at 84 Marginal Way. It is also a request, for the reasons set forth below, that InterMed receive a written confirmation from your office that the plans to relocate the ambulatory surgical unit are not subject to CON review.

InterMed currently owns a two operating room ambulatory surgical facility at its Brighton Avenue location known as "Generations", and its current surgical services are generally limited to Ob/Gyn procedures. The Generations Day Surgery Center received confirmation from the Department of Human Services that the proposed development of the surgery center was not subject to CON review (see Exhibit 1) on January 6, 1997, and it received its provisional license on March 13, 1997 (see Exhibit 2).

InterMed is now undertaking to develop a centralized location for its Portland-based medical and administrative offices, through construction of a medical office building on Marginal Way in Portland. As part of this undertaking, and in keeping with prior disclosures to your office, InterMed plans to move the Generations ASF from Brighton Avenue to Marginal Way. InterMed, however, does not plan to expand the existing two-OR capacity of the ASF when it moves the facility from Brighton Avenue to Marginal Way.

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On December 28, 2006, InterMed filed a letter of intent with respect to its plans to employ additional practitioners at its Generations site on Brighton Avenue in Portland. On July 30, 2007 your office informed InterMed that its proposal would not be subject to review based on the projected capital and third year incremental operating costs associated with the addition of those physicians.

The proposal to move the two-OR ASF to the Marginal Way site does not entail the addition of any new health service. Rather, InterMed will be performing the same services at the Marginal Way ASF as it has been performing in recent years at the ASF on Brighton Avenue. Because there are no new health services associated with the planned relocation, I believe the capital expenditures threshold for health care facilities, initially established at \$2.4 million under 22 M.R.S.A. Section 329 and now standing at \$2,921,872 after cost of living adjustments, should apply in this instance. Moreover, as you will see from the summary below and the accompanying materials, InterMed's projected capital expenditures associated with this ASF relocation fall comfortably below those capital expenditure thresholds.

In preparing an estimate of the capital expenditures associated with the relocation of the ASF (see Exhibit 3), I have adhered to the broad definition of the term "ambulatory surgical facility" set forth in the statute at 22 M.R.S.A. § 328, so that I have included costs not only for the operating rooms but also the recovery rooms, waiting areas and any other space used primarily to support the activities of the ASF. I have also included, at the direction of your office, not only the cost of any new equipment and all fit-up costs associated with the ASF, but I have also included land acquisition costs, architectural fees allocable to the ASF, a portion of the reception area allocable to the ASF, and the pro rata share of overall core building costs attributable to the ASF.

In order to address any question as to the cost of the ASF relocation, I am also enclosing a description of additional costs which do not appear to be called for under the regulations and which have a more tangential relation to the ASF. I have, for example, included such items as corridors between the ASF and other non-facility departments as well as a proportionate share of an additional elevator that was not included in the core building costs, although the elevator has no direct relation to the ASF. I included a figure for capitalized interest on borrowed funds, despite the fact that the practice does not intend to capitalize the interest but rather to include it in current operational expenses.

As you will note from the attached spreadsheet, the projected capital expenditures associated with the relocation and fit-up of the ASF, inclusive of architecture fees, core building costs, land acquisitions, reception and air handling unit, comes to \$1,832,236. If additional costs are included, such as OR booms (for which there is not yet a commitment to purchase), capitalized interest (which, as noted, are not in the plans of the practice), the corridor connecting the ASF with pediatrics, the share of the third elevator cost, and possible additional replacement equipment which may be needed, the overall projected capital expenditure comes to \$2,239,696. Again, this falls well below the new CPI-adjusted threshold of \$2.92 million.

I am including supporting documentation from Wright-Ryan Construction, Inc. regarding the estimated costs for the ASF fit-up (see Exhibit 4), and a statement from Atlantic Bayside

Trust setting forth the costs per square foot of leasable space for the overall core building, inclusive of construction costs, change orders, contingencies, permits, fees, land acquisition and capitalized interest on borrowed funds (see Exhibit 5).

Based on the projections I have summarized and the supporting documentation, I am requesting a determination from your office that the proposed relocation of the Generations ASF is not subject to a Certificate of Need review. If it would be helpful to have a meeting to discuss these projections, please let me know and I will work with Dan McCormack and your office to find an appropriate time in the near future for such a meeting.

Thank you for your consideration.

Sincerely,



John D. Gleason

JDG/ml

Enclosures

cc: Mr. Dan McCormack (w/encl.)