

KELLY, REMMEL & ZIMMERMAN
ATTORNEYS AT LAW
53 EXCHANGE STREET
P.O. BOX 597
PORTLAND, MAINE 04112-0597

DLRS RECEIVED

APR 11 2014

U. CHARLES REMMEL, II
BARRY ZIMMERMAN
GRAYDON G. STEVENS
R. TERRANCE DUDDY
TIMOTHY H. NORTON
MICHAEL A. DUDDY
JOHN A. MCARDLE, III
JENNIFER A. ARCHER
LAURI BOXER-MACOMBER
TIMOTHY E. STEIGELMAN

TELEPHONE
207-775-1020

WATTS
800-540-4212

FAX
207-773-4895

OF COUNSEL
JOHN N. KELLY
ROBERT E. CROWLEY

WEB SITE
www.krz.com

Via telecopy (287-5815), original to follow

April 10, 2014

Larry Carbonneau, Program Manager, CON Program
Division of Licensing and Regulatory Services
41 Anthony Avenue
11 State House Station
Augusta, Maine 04333

Re: Letter of Intent and Request for Determination of Non-Applicability—Urgent Care
Physicians Office

Dear Mr. Carbonneau:

I represent ClearChoiceMD MSO, LLC (“ClearChoiceMD”), an owner and operator of urgent care centers. Marcus J. Hampers, M.D. is the principal of ClearChoiceMD. On behalf of ClearChoiceMD and Dr. Hampers, we submit this Letter of Intent and Request for Determination of Non-Applicability with respect to a proposed urgent care center to be established in Scarborough, Maine (the “Project”). We believe the Project is not subject to Certificate of Need review because (i) the proposed urgent care center is essentially a walk-in physician’s office and not a Health Care Facility; and (ii) the Project does not meet or exceed any of the financial thresholds.

This Letter of Intent fulfills the requirements of Chapter 6, Sections 1 (A) and (B) of the CON Procedures Manual, and requests a determination of non-applicability consistent with Chapter 6, Section 2 (4). We would be happy to provide additional information as necessary.

Description of the Project

The Project will be located in approximate 4,284 sq. ft. of existing space to be leased in a retail mall located at 273 Payne Road, Scarborough. The space will consist of physician and provider offices, treatment and exam areas, and waiting areas. ClearChoiceMD plans to build out the leased premises according to and in compliance with American Institute of Architects (AIA) guidelines.

The Project will be a state of the art, full-service urgent care center, offering high-quality, efficient and economical urgent medical care for a wide variety of illnesses and injuries, 7 days a week, 12 hours a day. There will always a practitioner on site (M.D., D.O., and/or A.P.R.N.) ready to treat most issues in a patient and family friendly environment. The center's primary service area is expected to be a 10 to 12 mile radius around the location, predominantly servicing residents from the towns of Scarborough, Biddeford, Portland, South Portland, Gorham, Westbrook and surrounding communities.

ClearChoiceMD will not require appointments – patients can just walk in and be seen quickly by a ClearChoiceMD team member. Patient's average time from check-in to check-out is expected to be less than an hour and will generate a typical charge a fraction of that from an Emergency Department. ClearChoice intends on having participation agreements with all the major payors in the region including Medicare, MaineCare, MCHO, and commercial carriers. Of course self-pay patients will also be accepted.

The Project will provide a range of basic walk-in services, including the following:

- Treatment of illnesses and injuries for all ages
- Diseases of the respiratory system including Asthma, Bronchitis, Croup and Upper Respiratory Infections (URIs)
- School/Sports/Return to Work Physicals
- Workmen's Compensation Issues
- Smoking Cessation
- Infusion services for rehydration
- Sprains, strains, contusions and fractures
- Laceration repair (sutures and chemical bonding) and wound management
- Influenza and Infections
- Dermatitis and Rashes
- Fever and Headaches
- Nausea, vomiting and dehydration
- Allergic Reactions and chronic environmental and food allergies
- Dispensing of prepackaged, commonly used prescription medications
- Immunizations and Infectious Disease Counseling
- Diabetes, Cholesterol and Hypertension Screening Programs

ClearChoiceMD will also provide a state of the art digital radiology suite capable of imagining all extremities as well as abdominal, pelvic, spinal and thoracic exams. The quality of interpretation will be ensured by teleradiology and consultation with a residency trained

Radiologist for review and interpretation of all studies performed. Other examples of state of the art equipment and supplies that will be available in the urgent care center include:

- Pulse oximetry monitoring and oxygen saturation apparatus
- Pediatric age and size appropriate equipment, supplies and medications
- On site "stat labs" to help diagnose and treat common ailments without the need to outsource the majority of samples
- Breathing Function Testing (Spirometry)
- Interpretive Electrocardiogram (12 Lead) with Electronic Patient Record interface
- Bidirectional interfaces with several of the largest commercial laboratories
- Oxygen and related delivery systems
- Durable Medical Equipment including braces, crutches, etc
- An identified Ob/Gyn examination and treatment area

Finally, the Project will utilize advances in electronic medical records and medical informatics. ClearChoiceMD has contracted with a national vendor to acquire and install an Urgent Care Specific Electronic Patient Record "EPR". Patients will be able to register and log in from home, check on status of laboratory and x-ray results, pay their bill, etc. Since the service is "cloud based", providers will be able to log in and review patient data on any smart device from virtually anywhere on the planet. The system will comply with HIPAA privacy and security standards. Communication with Primary Care Physicians (PCPs) will be as simple as a single key stroke. Copies of records as well as prescriptions can be faxed to an end destination directly from the exam room. This will greatly simplify the process and ensure a more pleasant and expeditious patient experience.

Cost Estimates

The Project will not involve the acquisition of major medical equipment. The most costly item of medical equipment will be the digital radiology system which costs less than \$85,000. Overall costs for new technology will not exceed \$100,000. The total capital expenditures for the Project, including building out the leased premises, will be less than \$800,000. Third year operating costs are estimated at under \$600,000.

Analysis

The CON rules define a "Health Care Facility" to mean a "hospital, psychiatric hospital, nursing facility, kidney disease treatment center including a free-standing hemodialysis facility, rehabilitation facility, ambulatory surgical facility, independent radiological service center, independent cardiac catheterization center or cancer treatment center." The Project is none of those things. Rather, the Project in essence is nothing other than a well equipped, up-to-date physician's office with extended hours and offering walk in service. The CON rules specify that "Health Care Facility" does not include "the office of a private health care practitioner, as

Larry Carbonneau, Program Manager, CON Program

April 10, 2014

Page 4 of 4

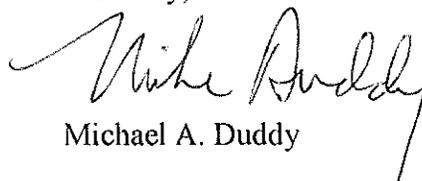
defined in Title 24, section 2502, subsection 1-A, whether in individual or group practice.” Thus, the Project is not a Health Care Facility.

Similarly, the Project does not constitute a New Health Service, as defined in the CON rules. First, as explained above, the Project is not a Health Care Facility. Second, the Project will not entail the acquisition by a private office of a health care practitioner of new technology that costs more than the applicable threshold. In fact, the Project will not meet or exceed any of the possibly applicable thresholds as adjusted through 2014.

Conclusion

Based on the information presented above, we believe that the Project is not subject to CON review. We look forward to receiving a non-applicability ruling at your earliest opportunity. If you have any questions, please don't hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Mike Duddy". The signature is written in black ink and is positioned above the printed name.

Michael A. Duddy