



June 19, 2019

Kevin Mullin, Chair  
Green Mountain Care Board  
89 Main Street, Third Floor City Center  
Montpelier, VT 05620

**Re: Docket No. GMCB-010-15con, Green Mountain Surgery Center  
Request for Process Clarification**

Dear Chair Mullin:

We are writing to request clarification on whether the Board intends to provide a letter confirming that Conditions 1-2, 7-9, 12 and 17-18 of the CON issued July 10, 2017 have been satisfied. On June 4, the Board issued an Order outlining the additional information that would be required for ACTD LLC ("ACTD") to satisfy all the CON conditions. On June 7, ACTD submitted a response with information to satisfy Conditions 7 and 17. On June 12, ACTD submitted additional information to satisfy the remaining Conditions 1-2, 8-9, 12 and 18. Accordingly, we believe that we have now taken all the steps necessary to comply with the Board's orders, and that all CON conditions have in fact been satisfied. We are presently scheduled to open on June 26th, two weeks after the launch of our website, as provided in Condition 8 of our CON.

If the Board believes any additional steps are necessary, immediate clarity regarding their nature and the anticipated schedule is of paramount importance for our business and our patients' wellbeing. In order to prepare for and pass our Joint Commission/Medicare accreditation, we have had to hire and employ a full-time clinical staff beginning in January. Every month that goes by without offsetting revenue puts our business in danger of being insolvent. Of course, we had budgeted to remain in this posture for several months, but now that we are closing in on the end of June, the runway that we had allowed for is nearly spent.

Meanwhile, the far more urgent consideration is that we have over 200 patients scheduled for care before the end of July (and 2000 patients scheduled before the end of the year) who will face substantial and unnecessary hardship if the Center's opening is delayed. Many of these patients have had to wait several months for their procedures due to the long wait times that exist across specialties in this part of the state. These patients, particularly those with high deductibles, are also looking forward to the 40-60% savings that the Green Mountain Surgery Center will offer them. Rescheduling these patients now for care in a hospital setting will delay their care by many more months, and—as we demonstrated in our June 12 letter—will result in many thousands of dollars in unnecessary expenses for the State of Vermont and/or its private health insurers with respect to each of the rescheduled procedures.

It is our understanding that the holder of a finally issued CON who reasonably believes that it is in compliance with all applicable conditions is permitted to commence work. *See Rule*



5.500(2). Given the critical patient interests involved, we expect to act on that understanding absent timely, further instructions from the Board. Of course, we remain happy to comply expeditiously with any further direction from the Board, and to provide any additional information the Board may require.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Amy Cooper".

Amy Cooper

Manager, ACTD LLC

cc: Michael Barber, General Counsel  
Donna Jerry, Senior Health Policy Analyst  
Anne E. Cramer, Esq.  
Julia Shaw, Esq.  
Kaili Kuiper, Esq.  
Jill Berry Bowen  
Karen Tyler, Esq.  
Eric Citron, Esq.