

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In Re: Application of ACTD, LLC)
For Green Mountain Surgery Center) **Docket No. GMCB-010-15con**
)

RULING ON MOTIONS TO CONTINUE HEARING

Background

The Green Mountain Care Board conducted a hearing in the above-captioned matter on April 13, 2017. Although the parties were advised in advance through their attorneys regarding the time constraints, the available time in the hearing room at 133 State Street was insufficient to include several witnesses or to accommodate all public commenters in attendance, and the hearing was recessed until further notice. The applicant, ACTD, LLC (ACTD) and an interested party, Northwestern Medical Center (NMC), moved on April 14 to extend the hearing and present testimony from additional witnesses.

ACTD requests ten minutes for testimony by its expert witness Dr. Elizabeth Wennar Rosenberg, requests to submit written testimony from Dr. Rosenberg and expert witness Andrew Lasser, requests ten minutes of rebuttal testimony by Amy Cooper, a principal of ACTD at the conclusion of the hearing, and requests additional time for public comment. ACTD also opposed Northwestern Medical Center’s (NMC’s) request to present further testimony.

NMC requests five minutes for testimony by Christopher Hickey, Senior Vice President and Chief Financial Officer, regarding the impact of the Vermont Eye Surgical and Laser Center (VESLC) on NMC’s operations, and five minutes for questioning of said witness by the Board and by the Vermont Office of the Health Care Advocate (HCA).

Ruling

- 1) ACTD’s request for ten minutes for testimony by Dr. Rosenberg is GRANTED. This period will include any questions from the Board and from the HCA.
- 2) ACTD’s request to submit written testimony by Dr. Rosenberg and Andrew Lasser is GRANTED. Written testimony should be submitted with an appropriate Verification Under Oath.
- 3) NMC’s request for ten minutes for testimony by Mr. Hickey and questioning of this witness by the Board and the HCA is GRANTED. Prior to the closing of the application review period, NMC raised the issue of the impact of VESLC on NMC in its March 8, 2017 Memorandum in

Opposition. Additionally, the proposed subject of Mr. Hickey's testimony is within the scope of the questioning of other witnesses by Board Member Hogan at the April 13 hearing. Finally, Mr. Hickey was timely disclosed as a witness by NMC according to the established prehearing schedule, and ACTD did not move to exclude Mr. Hickey's testimony at the April 5 pre-hearing conference or at any other time prior to the hearing. Accordingly, ACTD's motion to exclude Mr. Hickey's testimony is DENIED.

4) ACTD's request for ten minutes for rebuttal testimony by witness Amy Cooper at the conclusion of the parties' presentations is GRANTED, recognizing that the Board concludes all Certificate of Need hearings with public comment.

In response to the applicant's request for additional time for public comment, the Board anticipates utilizing up to one hour for such purpose, and will first accept statements from persons who entered their names on the previous sign-in sheet.

So ordered.

Filed on April 17, 2017 at Montpelier, Vermont.

s/Noel Hudson, Esq.

Hearing Officer

Green Mountain Care Board