



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services
Certificate of Need Program

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Anchorage, Alaska 99503
Main: 907.334.2464
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December 11, 2015

Mr. Harold Gear
Muldoon ASC, LLC
11284 Business Boulevard
Eagle River, AK 99557

Re: Muldoon ASC, LLC Request for Determination 11-24-2015

Dear Mr. Gear,

Thank you for your letter dated November 24, 2015, in which you request a determination as to whether Muldoon ASC, LLC's (Muldoon ASC) proposed project requires a certificate of need (CON).

Muldoon ASC seeks to co-locate a single operating room ambulatory surgery center with ASC North, LLC (ASC North), an ambulatory surgery center that will be located in a free-standing building at 6911 DeBarr Road.

You correctly point out that "[a]s we discussed during our meeting on November 5, 2015, this concept is in accordance with CMS guidelines for temporally separate ASCs that share the same location[.]" This is further supported by information that is published on the Alaska Department of Health and Social Services, Division of Health Care Services' website.¹ The information states:

CMS does permit two different Medicare-participating ASCs to use the same physical space, so long as they are temporally separated. That is, the two facilities must have entirely separate operations, records, etc., and may not be open at the same time.

Based on this information, it appears to be valid for two Medicare-participating ASCs to use the same space as long as they are temporally separated. You indicate that Muldoon ASC will be temporally located with ASC North. Since they will be temporally located, Muldoon ASC's costs are estimated using a percentage of the total costs expended, or to be expended, by ASC North, plus other additional costs that are specific to Muldoon ASC.

¹See http://dhss.alaska.gov/dhcs/Pages/hflc/fac_asc.aspx

Given that both facilities will need to maintain entirely separate operations, they can only access and occupy the space at totally distinct times. Accordingly, Muldoon ASC will be operating a maximum of two days per week, and ASC North will be operating a maximum of five days per week. Based on this ratio, you estimate several of Muldoon ASC's costs as two-sevenths of the total costs estimated for or incurred by ASC North.

Using this allocation method, and after factoring in certain additional costs that are specific to Muldoon ASC, total expenditures for the Muldoon ASC is estimated to be \$532,450.00. Based on the documentation presented, the CON program estimates the costs to be \$527,653.77. The CON program's breakdown is as follows:

DESCRIPTION	COSTS (from ASC North Determination 7/30/15)	ALLOCATION	EXPENDITURE
• Building & Land	\$225,840.00	2/7	\$64,525.71
• Tenant Improve	\$994,874.00	2/7	\$284,249.71
• Consulting Fees	\$750.00	2/7	\$214.29
• Equipment	\$182,079.00	2/7	\$52,022.57
• Shipping Costs	\$15,000.00	2/7	\$4,285.71
• Added Equip	<u>N/A</u>	<u>N/A</u>	<u>\$122,355.77</u>
• TOTAL	\$1,418,543.00		\$527,653.77


In order to make a final determination, the CON program requires additional information. Please provide answers to the following questions:

1. Although the difference in total expenditures is small, can you explain why there is a \$4,796.23 difference between Muldoon ASC's estimates and the CON program's breakdown above?
2. You state that you "added equipment costs that are specific to Muldoon ASC and its different surgery specialties." Can you explain what surgery specialties will be offered by Muldoon ASC, and which of those specialties are different from the specialties offered ASC North? The only "added equipment costs" appear to \$122,355.77 for endoscopy equipment. Is this correct?
3. The allocation method used appears to be reasonable as long as Muldoon ASC will be operating for similar hours per day at a similar operational level as ASC North. Can you describe the anticipated hours of operation for both Muldoon ASC and ASC North, and the activities that will occur during those hours of operation?

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Please provide the requested information within 30 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alex Hicks', with a long horizontal flourish extending to the right.

Alexandria Hicks, CON Coordinator