

JUN 17 2019


 CERTIFICATE OF NEED PROGRAM
 DEPARTMENT OF HEALTH

Certificate of Need Application
Determination of Reviewability Ambulatory Surgery Center/Facility
 (Do not use this form for any other type of ASC/F project)

DOH 19-21

Certificate of Need applications must be submitted with a fee in accordance with Washington Administrative Code (WAC) 246-310-990.

The Department of Health (department) will use this application to determine whether my ambulatory surgical center requires a Certificate of Need under state law and rules. Criteria and consideration used to make the required determinations are Revised Code of Washington (RCW) 70.38 and Washington Administrative Code (WAC) 246-310. I certify that the statements in the application are correct to the best of my knowledge and belief. I understand that any misrepresentation, misleading statements, evasion, or suppression of material fact in this application may be used to take actions identified in (WAC) 246-310-500.

My signature authorizes the department to verify any responses provided. The department will use such information as appropriate to further program purposes. The department may disclose this information when requested by a third party to the extent allowed by law.

Owner/Operator Name of the surgical facility as it appears on the UBI/Master Business License Parkway General Surgeons, P.L.L.C.		
UBI # 602 762 505	Federal Tax ID (FEIN) # 26-1639183	
Mailing Address 2940 Squalicum Pkwy, Suite 204		
City Bellingham	County Whatcom	Zip Code 98225-1892
Name and Title of Responsible Officer (Print): Camille Miller, M.D., F.A.C.S., Owner	Signature of Responsible Officer: Date of Signature: June 14, 2019	
Phone number (10-digit): (360) 733-0070	Fax number (10-digit): (360) 676-8351	
Email Address: rwindler@hinet.org	Website Address: parkwaygeneralsurgeons.com	
Identify the purpose of this application:		
<input type="checkbox"/> New Facility	<input type="checkbox"/> Facility Expansion – Operating Room Increase	
<input type="checkbox"/> Change of Ownership	<input type="checkbox"/> Facility Expansion – Service Increase	
<input type="checkbox"/> Facility Relocation	<input checked="" type="checkbox"/> Other (please provide a letter describing)	

Surgical Facility Owner/Operator Information

1. Organization. Check the type of business organization and attach a copy of business formation documents.	
<input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> Professional Services Corporation <input type="checkbox"/> Independent Practice Association (IPA)	<input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Sole Proprietor <input checked="" type="checkbox"/> Other (describe) Professional Limited Liability Company
2. Members/partners/shareholders. Identify persons with an ownership interest in the surgical facility and their respective ownership percentage. If more than one owner, provide a copy of the legal document establishing the ownership interests.	
Name	Percent Ownership
Camille Miller, M.D., F.A.C.S.	50%
Keith Vander Griend, M.D., F.A.C.S.	50%
3. Will the surgical facility be operated under a management agreement? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, attach a copy of the management agreement.	
4. Identify any entity other than the surgical facility owner/operator that has a financial interest in the operation of the surgical facility. This includes, but is not limited to, timeshare agreements and cooperative agreements with administrative service providers. N/A Provide a copy of the agreement.	

Clinical Practice Owner/Operator Information

5. Type of Practice. Check the type of practice.
<input type="checkbox"/> Solo practice <input checked="" type="checkbox"/> Group practice (provide a copy of the group practice agreement) See Exhibit A. <input type="checkbox"/> Independent Practice Association (IPA) <input type="checkbox"/> Other (describe)

6. Is the owner/operator the same for both the ASF and clinical practice?		
<input checked="" type="checkbox"/> Yes – move on to question 7 <input type="checkbox"/> No		
If no, complete the following information for the Clinical Practice .		
Owner/Operator Name of the clinical practice as it appears on the UBI/Master Business License		
UBI #		Federal Tax ID (FEIN) #
Mailing Address		
City	State	Zip Code
Identify persons with an ownership interest in the clinical practice and their respective ownership percentage. If more than one owner, provide a copy of the legal document establishing the ownership interests.		
Name	Percent Ownership	

Facility Information

<p>7. Physical Address (check one). Include any information necessary to locate the site of the clinical practice and surgical facility such as suite or building number. Attach additional pages as necessary.</p> <p> <input checked="" type="checkbox"/> The physical address of the site is the same as the Applicant's mailing address. <input type="checkbox"/> The physical address of the facility is: </p> <p>_____</p> <p> <input type="checkbox"/> The clinical practice has more than one practice site. The additional addresses are below. Attach additional pages as necessary. </p>
<p>8. Although you are not required to apply for an ASF license before a CN determination is issued, have you applied for a license?</p> <p> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>If no, do you intend to apply for an ambulatory surgical facility license?</p> <p> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>

9. Number of Operating Rooms

Identify the number of operating rooms 1

Note: for Certificate of Need purposes, procedure rooms are considered operating rooms.

Floor Plan: Attach a floor plan, to scale, clearly indicating the clinical spaces, surgery center, and operating rooms. See Exhibit B.

Clinical and Surgical Services

10. Clinical Services. Describe the clinical services provided at this site.

Consultation, care and evaluation of patients for gastroenterology, hernia and other areas related to general surgery.

11. Surgical Services. We perform only office-based procedures in the facility.

☐ Yes ☒ No

12. Surgical Procedures. Check all surgical procedures performed in the facility.

- | | | |
|--|---|---|
| <input type="checkbox"/> Ear, Nose, & Throat | <input type="checkbox"/> Gynecology | <input type="checkbox"/> Oral Surgery |
| <input type="checkbox"/> Plastic Surgery | <input type="checkbox"/> Gastroenterology | <input type="checkbox"/> Maxillo facial |
| <input type="checkbox"/> Orthopedics | <input type="checkbox"/> Podiatry | <input checked="" type="checkbox"/> General Surgery |
| <input type="checkbox"/> Ophthalmology | <input type="checkbox"/> Pain Management | <input type="checkbox"/> Urology |
| <input type="checkbox"/> Other (describe) | | |

13. Will you be charging a facility fee related to Medicare reimbursement?

☒ Yes ☐ No

☐ Some, but not all procedures are subject to a facility fee.
Describe the procedures subject to a facility fee:

14. Scheduling Interval. Identify the days and times you schedule the facility for clinical services and surgical procedures. If you schedule clinical services and surgical services on an interval other than daily, such as a weekly or monthly, please describe the interval, specifying the number of hours and the interval that the facility is used for clinical practices and surgical procedures.	
Clinical Practice Day(s) and time(s):	<input type="checkbox"/> Sun: from _____ am/pm to _____ am/pm <input checked="" type="checkbox"/> Mon: from 8 am/pm to 5 am/pm <input checked="" type="checkbox"/> Tue: from 8 am/pm to 5 am/pm <input checked="" type="checkbox"/> Wed: from 8 am/pm to 5 am/pm <input checked="" type="checkbox"/> Thur: from 8 am/pm to 5 am/pm <input checked="" type="checkbox"/> Fri: from 8 am/pm to 5 am/pm <input type="checkbox"/> Sat: from _____ am/pm to _____ am/pm
Surgical Procedures Day(s) and time(s): *The ASC is only open every other Tuesday*	<input type="checkbox"/> Sun: from _____ am/pm to _____ am/pm <input checked="" type="checkbox"/> Mon: from 7:30 am/pm to 5 am/pm <input checked="" type="checkbox"/> Tue: from 9:30 am/pm to 3:30 am/pm <input type="checkbox"/> Wed: from _____ am/pm to _____ am/pm <input type="checkbox"/> Thur: from _____ am/pm to _____ am/pm <input checked="" type="checkbox"/> Fri: from 7:30 am/pm to 5 am/pm <input type="checkbox"/> Sat: from _____ am/pm to _____ am/pm

Physicians Using the Surgical Facility

15. Owner Physicians. Identify the physicians with an ownership interest in the clinical practice that will be using the surgical facility. Attach additional pages as necessary		
Name	Credential #	
16. Employee Physicians. Identify physicians who are employees of the clinical practice that will be using the surgical facility. Attach additional pages as necessary.		
Name	Credential #	% of time employed by applicant's practice

For each employee physician that is not 100% employed by the applicant's practice, please attach a written statement with the following information:

- Identify the physician
- If the physician is employed by other practices, identify the name of other practices;
- Identify the percentage of time the physician is employed by the other practices.

17. Are there physicians who will be using the surgical facility who are not included in the response to question #15 or #16 above?

☐ Yes ☒ No

If yes, please attach a written statement with the following information:

- Provide the name and credential # of the physician
- Identify the name of physician's other practice sites
- Identify the percent of time the physician conducts business at the other practice sites
- Provide a description of services provided at the other practice sites.
- Fully describe the business relationship under which the physician will be using the surgical facility.

EXHIBIT A

PARKWAY GENERAL SURGEONS, P.L.L.C.
OPERATING AGREEMENT

**AMENDED AND RESTATED
PROFESSIONAL LIMITED LIABILITY
AGREEMENT OF
PARKWAY GENERAL SURGEONS, P.L.L.C.**

THIS AMENDED AND RESTATED PROFESSIONAL LIMITED LIABILITY AGREEMENT (this "Agreement") is entered into effective as of the 31st day of December, 2013, by and between **KEITH J. VANDERGRIEND, M.D., P.L.L.C., RILEY SURGICAL, P.L.L.C.** and **PAUL B. FREDETTE, M.D.** (each of whom is individually sometimes referred to as a "Member" and together as the "Members"). In consideration of the mutual promises and covenants set forth herein, the parties agree on the following terms and conditions:

1. Definitions

Capitalized words and phrases used in this Agreement have the following meanings:

"**Act**" means Chapter 25.15 of the Revised Code of Washington, as amended from time to time (or any corresponding provisions of the succeeding law).

"**Agreement**" means this Agreement, as amended from time to time.

"**Capital Account**" means the capital accounts established for each Member in terms of Section 3.2.

"**Code**" means the Internal Revenue Code of 1986, as amended from time to time (or any corresponding provisions of succeeding law).

"**Effective Date**" means the date this Agreement is last signed by a Member.

"**Company**" means the Parkway General Surgeons, P.L.L.C. formed by the Members, the existence of which is confirmed in this Agreement.

"**Percentage Interest**" means with respect to the Members, the ratio that the Capital Accounts bear to one another from time to time.

"**Profits**" and "**Losses**" means, for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Section 703(a) of the Code, including all items of income, gain, loss or deduction required to be separately stated pursuant to such Section.

"**Company Property**" means all real and personal property acquired by the Company and any improvements to it, and shall include both tangible and intangible property.

"Regulations" means the Treasury Regulations promulgated under the Code, as such regulations may be amended from time to time (including provisions of succeeding regulations).

"Company Interest" with respect to a Member means that Member's interest in his/her Capital Account, his/her share of the Profits and Losses of the Company, his/her right to receive distributions from the Company pursuant to this Agreement and the Member's right to participate in the management of the Company.

"Units" with respect to a Member means the number of units owned by him/her as detailed on **Schedule A**, as amended from time to time.

2. Confirmation of Company, Admission of New Member and Formation of a Limited Liability Company

2.1 Formation of Limited Liability Company

Except as otherwise provided in this Agreement, the rights and duties of the Company shall be governed by the Act. The Members agree to cooperate fully with one another to maintain the status of the Company as a Professional limited liability company under the Act during its term.

2.2 Name

The name of the Company is **PARKWAY GENERAL SURGEONS, P.L.L.C.**, and all business of the Company shall be conducted in this name. The Members may change the name of the Company at any time provided they comply with the provisions of the Act.

2.3 Title to, and Ownership of, Company Property

The Company shall hold all Company Property in its own name, as an entity, and not in the name of the Members. All Company Property will be owned by the Company and no Member, individually or as an owner of a Member entity, will have any direct ownership of any Company Property.

2.4 Principal Place of Business

The principal place of business of the Company shall be 2940 Squalicum Parkway, Suite 204, Bellingham, Washington 98225, or at such other place or places as the Members may determine from time to time.

2.5 Business Purposes

The primary purpose of the Company is to operate a general medical practice. In addition, the Company may engage in any other activity that is necessary for, or reasonably incidental to, the Company's primary purpose. In order to carry out any of its purposes, the

Company is authorized to take any lawful action consistent with any purposes that a Company is entitled to take under the laws of the State of Washington.

2.6 Term

The Company shall be deemed to have commenced on the Effective Date and shall be perpetual unless it is dissolved earlier pursuant to Section 13.

3. Capital

3.1 Capital Contributions

The initial Members made the capital contributions to the Company as detailed on the Company's books and records.

3.2 Capital Accounts

3.2.1 Establishment and Maintenance. A separate Capital Account will be maintained for each Member throughout the term of the Company in accordance with the rules of Regulations Section 1.704-1(b)(2)(iv). Each Member's Capital Account will be increased by (1) the amount of money contributed by such Member to the Company; (2) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take the property subject to under Code Section 752); (3) allocations to such Member of any Profits; (4) any items in the nature of income and gain that are specially allocated to the Members pursuant to Section 3.2.2; and (5) allocated to such Member of income and gain exempt from federal income tax. Each Member's Capital Account will be decreased by (1) the amount of money distributed to such Member by the Company; (2) the fair market value of property distributed to such Members by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take the property subject to under Code Section 752); (3) allocations to such Member of expenditures described in Code Section 705(a)(2)(B); (4) any items in the nature of deduction and loss that are specifically allocated to the Member pursuant to Section 3.2.2; and (5) allocations to such Member of any Losses.

3.2.2 Compliance with Regulations. The manner in which Capital Accounts are to be maintained pursuant to this Section 3.2 is intended to comply with the requirements of Code Section 704(b) and associated Regulations. If in the opinion of the Company's legal counsel or accountants the manner in which Capital Accounts are to be maintained pursuant to the preceding provisions of this Section 3.2 should be modified in order to comply with Code Section 704(b) and associated Regulations, then the method in which Capital Accounts are maintained shall be modified accordingly. However, the Members shall ensure that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between them.

3.2.3 Withdrawal or Reduction of Members' Contributions to Capital. A Member shall not receive out of the Company Property any part of the Member's capital contribution until all liabilities of the Company, except liabilities to Members on account of the capital contributions, have been paid or there remains Company Property sufficient to pay them. A Member, irrespective of the nature of his/her capital contribution, has only the right to demand and receive cash in return for his/her capital contribution.

3.2.4 Additional Capital Contributions. The Members shall not be required to make additional capital contributions to the Company without a two-thirds (2/3) majority vote of all the Members. If additional capital contributions are approved, the Members shall make such additional capital contributions in proportion to their respective Percentage Interests.

(a) Should any Member fail to make any approved additional capital contribution, such Member shall be in breach of his/her obligations under this Agreement and shall be regarded as having disassociated himself/herself from the Company for as long as he/she remains in default of his/her duty to contribute the approved additional capital contribution. However, the compulsory purchase provisions of Section 12.2 shall not apply to this event of disassociation as described in Section 12.1.

(b) In addition, the other Members may advance the noncontributing Member's share to the Company on a prorate basis, or any other basis that they choose, and treat such amounts as loans to the noncontributing Member (a "Default Loan"). Such Default Loan shall bear interest at the lesser of (a) the maximum rate permitted by law, or (b) the Wall Street Journal's published prime rate in effect as of the first day of each calendar month, but in any event no less than the interest paid by a contributing Member on funds borrowed to make the Default Loan. Default Loans shall be repayable within thirty (30) days after written demand, and if not sooner repaid or demand made, shall be repaid from any cash distributions otherwise to be made to the noncontributing Member by the Company or offset against any amount to be paid to the noncontributing Member in purchase of his/her interest in the Company.

4. Loans

4.1 A Member may, but will not be required to, advance additional monies to the Company as a loan upon such terms as the lending Member and the Company may agree.

4.2 No loan under the provisions of this Section 4 will result in an increase in the Percentage Interest of the lending Member, nor will it be credited to the lending Member's Capital Account. It will constitute an obligation of the Company to the lending Member, with interest, and will be repaid to the lending Member according to its terms before any distributions may be made to any Member with respect to a Percentage Interest. Interest on such loans will be payable without regard to the Profits or Losses of the Company and will be treated as a transaction with a Member other than in his/her capacity as a member of the Company pursuant to Section 707(a) of the Code. All such loans will be repayable solely from Company Property and represented by promissory notes executed by the Company.

5. Allocation of Profits and Losses

5.1 Allocation of Profits and Losses – In General

5.1.1 Allocation of Net Profit or Loss. After giving effect to the special allocations referred to in Section 5.2, the Profit or Loss for any fiscal year of the Company shall be allocated among the Members by applying the following formula:

$$PL = (B + FI) - FE$$

Where:

PL means the per Member profit or loss being computed;

B means Member billings;

FI means sundry income allocated to a Member pursuant to the formula referred to in Section 6.1.2;

FE means the aggregate of expenses allocated to a Member pursuant to the formula referred to in Section 6.1.3.

5.1.2 Changes to the Profit and Loss Allocation. In the event that the Company elects to distribute the cash earnings of the Company based on something other than the productivity of each Member, the above formula shall be revised to reflect the substantial economic effect of the cash distributions and allocation of actual expenses.

5.1.3 Limitation. The Loss allocated to each Member for any Company fiscal year pursuant to Section 5.1.1 shall not exceed the maximum amount of Loss that can be so allocated without causing such Member to have a deficit Capital Account at the end of the fiscal year. All Losses in excess of the limitation set forth in this Section 5.1.3 shall then be allocated proportionately to the other Members who do not have deficit Capital Accounts.

5.2 Determination of Net Profit or Loss

5.2.1 Computation of Net Profit or Loss. The Profit or Loss of the Company for each fiscal year shall be an amount equal to the Company's taxable income or loss for such period, determined in accordance with Code Section 703(a). For this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1), including income and gain exempt from federal income tax, shall be included in taxable income or loss.

5.2.2 Adjustments to Net Profit or Loss. For purposes of computing taxable income or loss on the disposition of an item of Company Property or for purposes of determining the cost recovery, depreciation, or amortization deduction with respect to any Company Property, the Company shall use such property's book value determined in accordance with

Regulation Section 1.704-1(b). Consequently, the book value of Company Property shall be equal to its adjusted basis for federal income tax purposes, except the initial book value of any property contributed by a Member to the Company shall be the gross fair market value of such property at the time of contribution.

5.2.3 Allocations for Contributed Property. In accordance with Section 704(c) of the Code and the Regulations, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated between the Members to take account of any variation between the adjusted basis of such Property to the Company for federal income tax purposes and its initial gross fair market value.

5.2.4 Daily Calculation. For purposes of determining the Profits, Losses, or any other item allocable to any period, Profits, Losses, and any such other times shall be determined on a daily basis, as determined by the Members using any permissible method under Code Section 706 and the Regulations.

5.2.5 Special Allocations for Tax Purposes.

(a) Company Minimum Gain Chargeback. If there is a net decrease in Company Minimum Gain during any fiscal year, each Member shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Company Minimum Gain, determined in accordance with Regulation Sections 1.704-2(f) and 1.704-2(g)(2). The items to be so allocated, and the manner in which those items are to be allocated among the Members, shall be determined in accordance with Regulation Sections 1.704-2(f) and 1.704-2(j)(2). This Section is intended to satisfy the minimum gain chargeback requirement in Regulation Section 1.704-2(f) and shall be interpreted and applied accordingly.

(b) Member Minimum Gain Chargeback. If there is a net decrease in Member Minimum Gain during any Company fiscal year, each Member who has a share of that Member Minimum Gain, determined in accordance with Regulation Section 1.704-2(i)(5) shall be specially allocated to items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Member Minimum Gain, determined in accordance with Regulation Sections 1.704-2(i) and 1.704-2(i)(5). The items so allocated, and the manner in which those items are to be allocated among the Members, shall be determined in accordance with Regulation Sections 1.704-2(h)(4) and 1.704-2(j)(2). This Section is intended to satisfy the minimum gain chargeback requirement in Regulation Section 1.704-2(i)(4) and shall be interpreted and applied accordingly.

(c) Qualified Income Offset. In the event that any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulation Sections 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Company income and gain shall be specially allocated to such Member in an amount and in a manner sufficient to eliminate as quickly as possible, to the extent required by Regulation Section 1.704-1(b)(2)(ii)(d), the Deficit Capital Account of the Member (which Deficit Capital Account shall be determined as if all other

allocations provided for this Section 5 have been tentatively made as if this Section 5.2.5(c) were not in this Agreement).

6. Distributions

6.1 Calculation

From time to time, the Company shall, in respect of each Member make the following calculation ("Draw Calculation") to determine each Member's periodic draw ("Draw"):

6.1.1 Determine the aggregate fees collected by the Company during such quarter on account of such Member's billings;

6.1.2 Determine the aggregate of any sundry income, such as interest on money market funds, received by the Company during such quarter and allocated to such Member;

6.1.3 Offset against the aggregate of the amounts referred to in Sections 6.1.1 and 6.1.2 all expenses paid by the Company during such quarter as allocated to each Member in accordance with the policies of the Company.

6.1.4 The allocation of sundry income shall be determined by a two-thirds (2/3) majority vote of the Members.

6.2 Distribution

If the Draw Calculation yields a positive balance, the Company shall distribute a Member's Draw to that Member at such times as the Company determines. If the Draw Calculation for any Member yields a negative balance, the Company shall not be required to make any distribution to such Member, and the deficit may be regarded as a loan to the Member, which shall be repaid on demand by the Company or out of any monies owed by the Company to the Member.

6.3 Procedures

The Members agree that the Company shall collect all accounts receivable and retain the same until their distribution as determined under this Agreement. These funds are not required to be retained prior to distribution in segregated accounts. No Member shall have any ownership of or interest in accounts receivable but shall only be entitled to distributions in accordance with this Agreement. The Members agree that the Company may make purchases, payments and collections, and maintain records utilizing the name of the Member or the name of the Company.

6.4 Statements of Account

The Company shall provide quarterly statements of account to each Member itemizing the Company accounts including fees collected and the quarterly cash receipts and disbursement

allocations, calculated in the manner set forth above. Accounting records shall be maintained on the cash basis.

6.5 Distributions in Liquidation

Notwithstanding the previous provisions of this Section 6, distributions in liquidation of the Company shall be made to each Member in the manner provided for in Section 13.2.

6.6 Transfer of Interest

If a Member transfers his/her Company Interest in accordance with this Agreement during any accounting period, all distributions made on or prior to such transfer shall be made to the transferor and all distributions made after such transfer shall be made to the transferee.

7. Management

7.1 General Decisions and Representation

7.1.1 In all matters of general management and policy, the Members shall consult with one another before making Company decisions and, whenever possible, make decisions unanimously. Should the Members fail to reach unanimity in any case, the decision shall be put to the two-thirds (2/3) majority vote. Where a matter is put to the vote, each Member shall have one vote.

7.1.2 Each Member shall have the power to represent the Company in carrying out any Company decision made in terms of Section 7.1.1.

7.2 Limitation on Authority of Members

No Member shall engage in any of the following acts without the prior written consent of the other Members given as provided in Section 7.1:

7.2.1 do any act in contravention of this Agreement;

7.2.2 sell, exchange, dispose, pledge, assign, hypothecate, lease or acquire any Company Property;

7.2.3 amend, terminate, dissolve, or liquidate the Company;

7.2.4 do any act which would make it impossible to carry on the ordinary business of the Company;

7.2.5 possess any Company Property for any purpose other than a Company purpose;

7.2.6 cause the Company to merge with or into any other entity;

7.2.7 extend the credit of the Company in any way except in the ordinary course of the business of the Company;

7.2.8 confess to a judgment against the Company;

7.2.9 incur any Company debt, or refinance any Company debt in excess of Five Hundred Dollars (\$500.00);

7.2.10 incur any capital or inventory expense in any single transaction, or in multiple transactions amounting in substance to a single transaction, in excess of Five Hundred Dollars (\$500.00);

7.2.11 grant any security interest in any Company Property;

7.2.12 admit, or purport to admit, any new person as a Member; or

7.2.13 institute or defend any legal proceedings in connection with the Company's business.

7.3 Execution of Documents

One or more Members may execute any documents prepared in connection with carrying out a decision of the Company as provided in Section 7.1. Any documents (including, without limitation, checks, notes, negotiable instruments, deeds of trust, security agreements, contracts and agreements) prepared in connection with any of the acts provided in Section 7.2 shall be executed by all the Members unless written consent is given by the non-signing Member or Members. The Members may file a statement of authority with the Secretary of State, Washington, to reflect the authority of the Members to execute documents in accordance with this Section 7.3.

7.4 No Salary

No Member shall be entitled to any salary or other compensation for services rendered to the Company. A Member shall be reimbursed for those costs and expenses to be borne by the Company pursuant to Section 8.6 which have been paid or incurred by such Member on behalf of the Company.

7.5 Outside Business Interests

A Member shall be allowed to be associated with, participate in or carry on any business which is competitive with the business carried on by the Company; provided, however, that the interests of the Company takes priority at all times.

7.6 Indemnification Provisions

7.6.1 Subject to the provisions of Section 7.6.2, the Members agree that the Company shall indemnify each Member against all loss or damage, including attorneys' fees actually and reasonably incurred, resulting from any act performed by each Member in good faith and on behalf of the Company or in furtherance of the Company's interests, other than acts or omissions which involve intentional misconduct or a knowing violation of the law, or which constitute gross negligence.

7.6.2 Notwithstanding the provisions of Section 7.6.1, each Member hereby agrees to defend and indemnify all the other Members and the Company against all liability arising from any act of professional negligence committed by him/her to the full extent that such damages and expenses are not paid or reimbursed under a policy of insurance. Each Member further hereby indemnifies the Company and the other Members against all liabilities, losses, and expenses suffered or sustained (including, without limitation, any judgment, settlement, reasonable attorneys' fees, or other costs or expenses incurred in connection with the defense of any actual or threatened action or proceeding) resulting from or arising out of the grossly negligent or reckless act or omission of such Member or any act beyond such Member's authority under this Agreement or in contravention of the provisions of this Agreement.

7.7 Additional Members

No additional Members may be added to the Company without prior written consent of all Members, who shall set the price and terms of such admission.

8. Accounting Matters

8.1 Books of Account

At all times during the existence of the Company, the Members shall cause complete and accurate books of account to be kept, including documentation verifying all disbursements of Company funds, and which reflect all of the Company's operations and transactions in accordance with generally accepted accounting principles consistently applied. All of such books of account shall be available at the principal office of the Company for inspection by the Members, and the Members shall be entitled to make copies of them at all reasonable times. The Members shall cause the Company to maintain and preserve such books of account during the term of the Company and for four (4) years thereafter or the final resolution of all tax controversies affecting the Company and the running of all applicable statutes of limitation.

8.2 Method of Accounting

The Company shall use such permitted method of accounting for federal and state income tax purposes and reporting purposes as the Members determine.

8.3 Company Year

The fiscal year and taxable year of the Company shall be the calendar year.

8.4 Income Tax Matters

8.4.1 Company Informational Returns. The Members shall arrange for the preparation and filing of all necessary federal and state informational tax returns of the Company.

8.4.2 Subchapter K. No election shall be made by any Member to be excluded from the application of the provisions of Subchapter K of the Code, as amended, pursuant to Section 761(a) thereof.

8.4.3 Section 754. The Members may cause the Company to file an election under Section 754 of the Code to cause the basis of the Company's assets to be adjusted for federal income tax purposes as provided by Section 734 and 743 of the Code.

8.4.4 Tax Matters Member. The Members, on an annual basis, shall determine who shall be the "tax matters member" within the meaning of Section 6231(a) of the Code and is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including resulting judicial and administrative proceedings.

8.5 Bank Accounts

The bank accounts of the Company shall be maintained in such banking institutions as the Members shall determine. All Company funds shall be deposited in the Company's name and shall be subject to withdrawal upon the signature of all Members or a Member designated in writing by the other Members. The funds of the Company shall not be commingled with the funds of any other person, firm, corporation, or other association or entity.

8.6 Company Expenses

The Company shall bear all costs and expenses attributable to the conduct of the business of the Company in accordance with generally accepted accounting principles, including, without limitation: (i) the acquisition of Company Property and the development, management, operation, leasing and ownership of the Company Property; (ii) interest and principal payments, loan fees, and other expenses related to the indebtedness of the Company; and (iii) expenses related to the administration of the internal affairs of the Company.

9. Medical Malpractice Insurance

Each Member will maintain medical malpractice insurance for himself/herself at all times during the term of this Company with such liability limits and terms as the Members shall determine. In the event of the withdrawal of any Member for any reason, the withdrawing

Member shall purchase a claims made tail policy, fully paid up, to insure the Company against vicarious professional liability arising from the practice of the withdrawing Member. The Company may offset the cost of this tail policy against any amounts owed by the Company for the buyout of the withdrawing Member.

10. Transfer and Pledge of Company Interest Prohibited

10.1 Except as may be provided otherwise in this Agreement, no Member shall have the right to:

10.1.1 sell, assign, transfer, exchange or otherwise transfer for consideration, (collectively, "sell" or "sale"),

10.1.2 gift, bequeath or otherwise transfer for no consideration whether or not by operation of law, except in the case of bankruptcy (collectively "gift"),

all or any part of his/her Company Interest to any other person, provided that a Member may transfer all or any part of his/her Company Interest to a trust of which the Member and his/her spouse are the sole beneficiaries. Each Member hereby acknowledges the reasonableness of the restrictions on sale and gift of Company Interests imposed by this Agreement in view of the Company's purposes and the relationship of the Members. Accordingly, these restrictions on sale and gift shall be specifically enforceable.

10.2 No Member may pledge, mortgage, or otherwise encumber his/her Company Interest without the prior written consent of the other Members.

11. Notice of Voluntary Withdrawal

A Member may withdraw from the Company at any time. A Member wishing to do so shall give the Company and the other Members at least one hundred eighty (180) days advance notice of such withdrawal ("Notice Period"). Upon a Member's withdrawal becoming effective, the withdrawing Member shall be deemed to have dissociated himself/herself from the Company, and the provisions of Section 12 shall then apply.

12. Dissociation

12.1 Events of Dissociation

A Member shall be dissociated from the Company upon the occurrence of any of the following:

12.1.1 withdrawal at the end of the Notice Period, and written notice by the Member to the Company that such Member intends to withdraw from the Company prior to the end of the Notice Period;

12.1.2 the Member's expulsion by a two-thirds (2/3) majority vote of the other Members because, in the determination of the other Members:

(a) that Member is engaged in wrongful conduct that adversely and materially affects the Company business;

(b) that Member has willfully or persistently committed a material breach of the Company Agreement or of a duty owed to the Company or to the other Members;

(c) that Member has engaged in conduct relating to the Company which makes it not reasonably practicable for the other Members to carry on the business in Company with him/her.

12.1.3 the Member is:

(a) becoming a debtor in bankruptcy;

(b) executing an assignment for the benefit of creditors;

(c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator to him/her or all or substantially all of his/her property; or

(d) failing to have the appointment of a trustee, receiver, or liquidator to him/her or of all or substantially all of his/her property obtained without his/her consent or acquiescence vacated or stayed within ninety (90) days after, or failing within ninety (90) days after the expiration of a stay, to have the appointment vacated;

12.1.4 in the case of a Member who is an individual:

(a) the Member's death;

(b) the Member's Disability (as outlined in Section 12.1.7);

(c) the appointment of a guardian for the Member; or

(d) a judicial determination that the Member has otherwise become incapable of performing the Member's duties under the Company Agreement.

12.1.5 in the case of a Member who is an entity:

(a) the death of the owner of the entity;

(b) the Disability of the owner of the entity;

(c) the appointment of a guardian for the owner of the entity; or

(d) a judicial determination that the owner of the entity has otherwise become incapable of performing the duties under the Company Agreement.

12.1.6 any circumstance by a Member, who is also a Member of Parkway Surgical Center, L.L.C., which is described as an Event pursuant to Section 15.1 of that certain Amended and Restated Limited Liability Company Agreement of Parkway Surgical Center, L.L.C. (the "LLC Agreement").

12.1.7 Definition of Disability. A Member shall be considered disabled if:

(a) he is under a legal decree of incompetency (the date of such decree being deemed to be the date on which such disability occurred);

(b) he submits any claim for disability insurance benefits or for early distribution of any amounts from a qualified pension or profit-sharing plan maintained by the Company on account of more than fifty percent (50%) disability (the date of the earliest of such claims shall be the date on which such disability shall be deemed to have occurred); or

(c) he is subject to a medical determination that the Member, because of a medically determinable disease, injury, or other mental or physical disability, is unable to perform substantially all of his/her regular duties, and that such disability is determined or reasonably expected to last at least twelve (12) months, based on then available medical information. A medical determination of disability will exist upon the receipt by the Company of the written opinion of a physician who has examined the Member whose disability is in question.

12.2 Consequences of Dissociation

If a Member is dissociated from the Company pursuant to Section 12.1 (a "Dissociated Member"), then the Dissociated Member immediately (i) shall cease to be a Member under this Agreement and under the Act, (ii) shall be entitled to receive payment for his/her or her Company Interest in accordance with the further provisions of this Section 12, and (iii) shall not be entitled to any other rights set forth in the Act attributable to a Dissociated Member. A Dissociated Member shall have no authority to bind the Company or the Members.

12.3 Value of a Dissociated Member's Units

The value of a Dissociated Member's Units shall be determined by the Company's accounting firm, using the same methodology as was used by to determine the value of the Units purchased by Paul B. Fredette, M.D. effective October 1, 2010. In the event a Dissociated Member retires from the active practice of medicine without giving a six (6) month written notice to the Company, or the Dissociated Member is involved in any of the following circumstances:

(a) the loss or suspension of active hospital surgical privileges at St. Joseph Hospital;

(b) any occurrence which causes the Dissociated Member to no longer meet the Minimum Qualifications or the insurance requirements, as outlined in Section 14.3 of the LLC Agreement;

(c) an act by the Dissociated Member which violates the spirit and/or intent of 42 U.S.C. Section 1395nn; or

(d) the failure of the Dissociated Member to execute a personal guaranty as required herein;

then the value of such Dissociated Member's Units as described above shall be reduced by ten percent (10%).

12.4 Closing and Terms of Purchase

The closing of the purchase and sale of the Dissociated Member's Units (the "Closing") shall take place within thirty (30) days after the value of the Dissociated Member's Units is determined pursuant to Section 12.3 (the "Purchase Price"). The Purchase Price shall be paid in equal monthly installments, amortized over a fifteen (15) year period, bearing interest at the prime rate (as determined by Peoples Bank, or its successor) as of the Closing. Interest shall accrue on the day after the date of Closing. The monthly payments shall begin thirty (30) days after the date of Closing. Notwithstanding the above, the balance of the Purchase Price shall be paid in full five (5) years after the date of Closing. There shall be no prepayment of interest penalty for paying the Purchase Price sooner than five (5) years.

12.5 Dissolution and/or Legal Separation

In the event that a Member become divorced or legally separated, such Member and the spouse of such Member hereby agree that the Company Interest of the Member spouse shall pass to the Member spouse and, to the extent possible, the non-member spouse shall receive assets of the marital community other than the Company Interest. In the event that such assets are insufficient, then the Member spouse shall purchase from the non-member spouse the community interest, if any of the non-member spouse in the Company Interest at the price and on the terms determined according to this Section 12.

13. Winding Up of Company Business

13.1 Events Causing Dissociation and Winding Up of Company Business

The Company shall be dissolved and business wound up upon the first to occur of the following events:

13.1.1 two-thirds (2/3) majority of the Member's voluntarily electing to terminate the Company; or

13.1.2 following the dissociation of a Member, if two-thirds (2/3) majority of the remaining Members vote within ninety (90) days of the event of dissociation to dissolve the Company.

13.2 Distribution of Company Assets

Upon the dissolution of the Company in terms of Section 13.1, those Members eligible under the Act to do so, or other persons duly authorized by law, shall wind up the affairs of the Company. They shall do so by liquidating the assets of the Company and distributing the assets of the Company as promptly as possible always in an orderly and businesslike manner. The Members (or such other persons duly authorized by law to wind up the affairs of the Company) may, in the exercise of their business judgment and if commercially reasonable, determine not to sell all or any portion of the Company Property. The Members shall distribute any Company Property not sold in kind pursuant to this Section 13.2. The proceeds of the sale of Company Property shall be applied and distributed in the following order of priority:

13.2.1 to the payment of the debts and liabilities of the Company (including debts and liabilities owed to any Member) and the expenses of liquidation;

13.2.2 to the setting up of any reserves which the Members (or such other persons duly authorized by law to wind up the affairs of the Company) determine to be reasonably necessary for contingent, unliquidated, or unforeseen liabilities or obligations of the Company or of the Member arising out of or in connection with the Company; and

13.2.3 thereafter, to Members in accordance with their Percentage Interest.

13.3 No Obligation to Restore Negative Capital Account Balance on Liquidation

Notwithstanding anything to the contrary in this Agreement, upon a liquidation, if any Member has a negative Capital Account balance (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all taxable years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution to the Company, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever.

14. Amendment

This Agreement may be amended only upon the unanimous consent of the Members. Any amendment to this Agreement must be made by written instrument and executed by all the Members.

15. Dispute Resolution

In the event of any dispute between the Members (i) regarding any matter arising out of or relating to this Agreement, or (ii) regarding the operation of the Company, which operational

issue cannot be resolved by a two-thirds (2/3) majority vote of the Members because of deadlock, they shall, within fifteen (15) days of any Member giving the other notice of intent to mediate ("Notice"), designate a neutral third party ("Mediator") to facilitate an agreement. If the Members cannot agree on a Mediator within such fifteen (15) day period, each Member shall designate a mediator and the mediators so chosen shall designate the Mediator, who shall facilitate discussions between the Members in an effort to reach a mutually acceptable agreement. The Members shall pay the cost of their own mediators and shall share equally the cost of the Mediator.

If the Members are unable to reach an agreement for whatever reason within sixty (60) days following the giving of the Notice, the Members shall proceed to binding arbitration. If the Members cannot agree on a single arbitrator ("Arbitrator") within fifteen (15) days, they shall each choose their own arbitrator, and those arbitrators shall, within fifteen (15) days, designate the Arbitrator who shall conduct the arbitration. The Members shall each bear the cost of their arbitrator and shall share equally the cost of the Arbitrator. Such arbitration shall be conducted in accordance with the rules then pertaining of the American Arbitration Association. The Federal Rules of Civil Procedure regarding discovery and joinder of parties shall apply to the extent permitted and interpreted by the Arbitrator. The decision of the Arbitrator shall be final and binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

16. Miscellaneous Provisions

16.1 Attorneys' Fees

If suit or action is instituted in connection with any controversy arising out of this Agreement or in the enforcement of any rights under it, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorneys' fees, including any fees on any appeal.

16.2 Binding Nature

The provisions of this Agreement shall be binding upon and inure to the benefit of the Members and their estates, heirs, legatees, successors, and assigns.

16.3 Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same agreement, notwithstanding that the Members are not signatory to the original or the same counterpart.

16.4 Severability

Any provision of this Agreement which shall prove to be invalid, void or illegal shall in no way affect, impair or invalidate any of its other provisions, and its remaining provisions shall nevertheless remain in full force and effect.

16.5 Integration

This Agreement contains the entire agreement and understanding of the Members with respect to its subject matter and supersedes all prior and contemporaneous agreements among them with respect to its subject matter.

16.6 Execution

Each of the Members shall execute acknowledge, and deliver any instruments or documents necessary to carry out the purposes of this Agreement.

16.7 Number and Gender

For purposes of this Agreement, and where necessary to its meaning, singular terms shall be deemed to include the plural, plural terms shall be deemed to include the singular, and either masculine, feminine or the neuter pronoun shall be deemed to include the masculine, the feminine, and the neuter, as the context may require.

16.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

16.9 Notices

A notice, demand, consent, approval, request or other communication required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to have been delivered when personally delivered, when sent by fax, or on the seventh (7th) business day following its mailing by registered or certified mail (return receipt requested), postage prepaid, by deposit at an installation regularly maintained by the United State Postal Service, to the parties at their addresses as last provided to Company.

(This space intentionally left blank – signature page to follow)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

KEITH J. VANDERGRIEND, M.D., P.L.L.C.

By: _____

KEITH J. VANDERGRIEND, M.D.,
Member

PAUL B. FREDETTE, M.D., Member

RILEY SURGICAL, P.L.L.C.

By: _____

CAMILLE MILLER, M.D.,
Member

SCHEDULE A

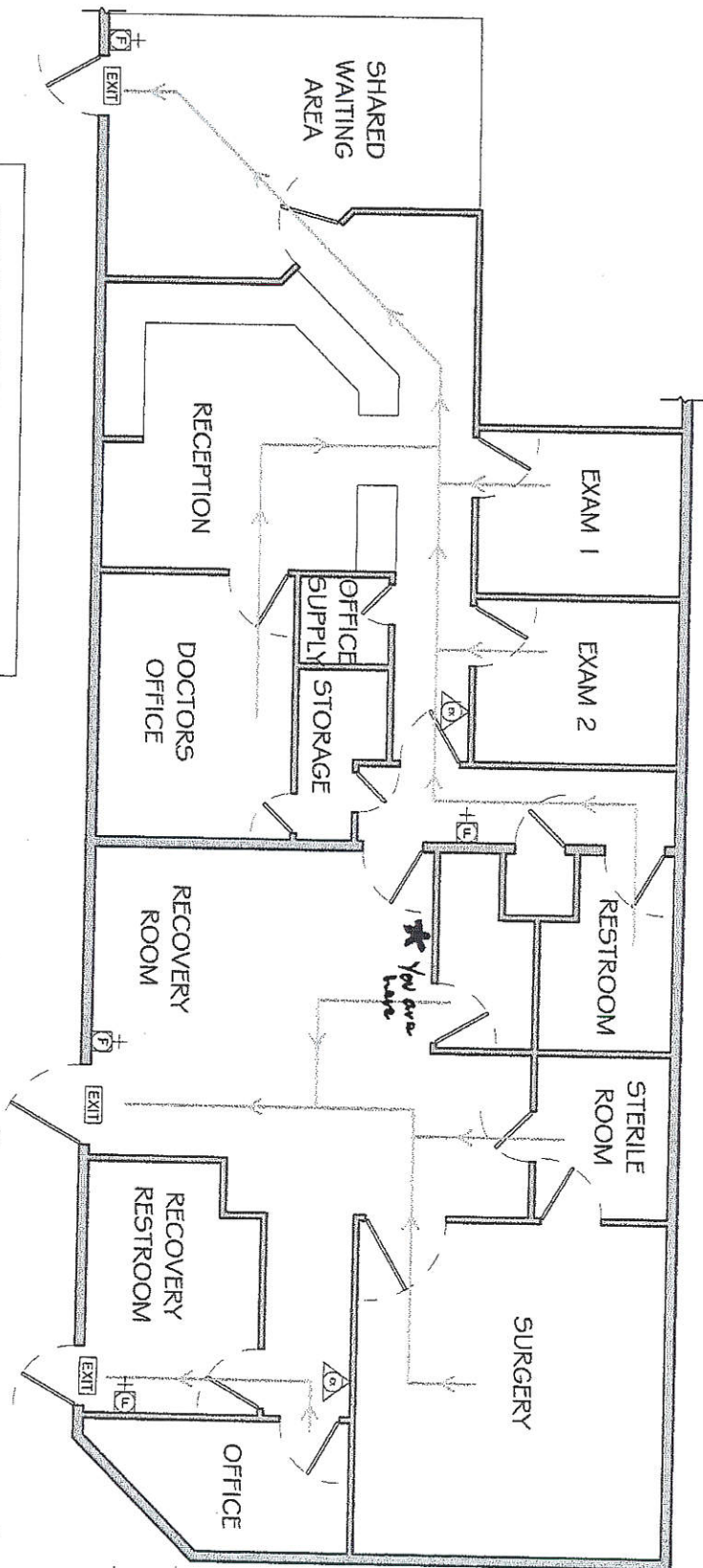
Member Name and Address	Ownership Percentage	Company Units
KEITH J. VANDERGRIEND M.D., P.L.L.C. Keith J. VanderGriend, M.D. 1733 Edgewater Lane Bellingham, Washington 98226	33.34%	3,333.34
RILEY SURGICAL, P.L.L.C. Camille Miller, M.D. 2675 Strawberry Shore Drive Bellingham, Washington 98229	33.33%	3,333.33
PAUL B. FREDETTE, M.D. 914 Jersey Street Bellingham, Washington 98225	33.33%	3,333.33

EXHIBIT B

FLOOR PLAN

PARKWAY GENERAL SURGEONS PARKWAY SURGICAL CENTER

2940 SQUALICUM PARKWAY SUITE 204 BELLINGHAM, WA. 98225



FIRE SYMBOL LEGEND

SYMBOLS	DESCRIPTION
	FIRE ALARM PULL STATION
	FIRE EXTINGUISHER
	EXIT

FRONT OFFICE

SURGICAL CENTER

STUDEBAKER|NAULT

EMILY R. STUDEBAKER, ESQ.
11900 N.E. 1st Street, Suite 300
Bellevue, WA 98005
estudebaker@studebakernault.com

March 4, 2019

RECEIVED

VIA U.S. Mail

MAR 04 2019

Janis Sigman, Manager
Certificate of Need Program
Washington Department of Health
P.O. Box 47852
Olympia, WA 98504

CERTIFICATE OF NEED PROGRAM
DEPARTMENT OF HEALTH

Re: Parkway Surgical Center, L.L.C.

Dear Ms. Sigman:

Our office represents Parkway Surgical Center, L.L.C. ("Parkway Surgical Center"). This correspondence responds to your letter dated February 8, 2019 to Keith Vander Griend, M.D., F.A.C.S. Your letter indicates that Parkway Surgical Center is out of compliance with the certificate of need law, chapter 70.38 RCW, and its implementing regulations, chapter 246-310 WAC. By this letter, Parkway Surgical Center provides information showing it obtained an exemption from the certificate of need review requirements in 1989 and the exemption remains valid.

In 1989, Drs. Orville K. Vander Griend, M.D. and George R. Wreggit, M.D. applied for an exemption from the certificate of need review requirements for a then new ambulatory surgery center. In response to the exemption request, Kristina M. Sparks of the Department of Social and Health Services Certificate of Need Program issued a letter granting the exemption. The letter was addressed to Drs. Vander Griend and Wreggit at their then current office address, 800 E. Chestnut Suite 3E, Bellingham, WA 98225 (the "1989 Exemption Letter"). The 1989 Exemption Letter states:

This is in response to your letter regarding a determination of Certificate of Need applicability for an ambulatory surgery facility, WAC 248-19-220 (5) defines an ambulatory surgery as follows:

“Ambulatory surgical facility” means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital (sic). This term (sic) does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

It is my understanding this facility is a part of the offices of Drs. Vander Griend, Wreggit, and Hecht and is not open to any other physicians. Accordingly, this is not the establishment of an ambulatory surgical facility as defined above and is not subject to Certificate of Need review.

See Exhibit A (emphasis added).

As part of the exemption request, Drs. Vander Griend and Wreggit advised the Department that the location of the proposed surgical facility, which would adjoin its clinical office, would be 2940 Squalicum Parkway, Suite 204 in Bellingham. In a letter addressed to Jim Bettridge with Department of Social and Health Services Health Facilities Planning and received on June 7, 1989, Drs. Vander Griend and Wreggit stated:

This letter is in direct response to yours dated May 22, 1989. As we understand the provisions of the State Health Planning Resources Development act, RCW 70.38, this construction is not subject to a prior Certificate of Need Review.

Enclosed please find a copy of our program synopsis submitted for a State of Washington Stand-up Review Committee in February. Outlined are practice arrangement and staffing planned as well as anticipated procedures to be performed.

The surgical facility adjoins our private offices and is located at 2940 Squalicum Parkway, Suite 204 in Bellingham. If there are additional requirements we should be aware of at the present time or information you need from us, please let us know.

See Exhibit B (emphasis added). Note Mr. Bettridge’s handwritten note on the letter, which reads, “Not subject to CN review in my opinion.”

Since the 1989 Exemption Letter was issued, there has been no change to the facility that has invalidated the exemption. While there are additional physician owners since the exemption was granted nearly 30 years ago, there has been no change of ownership within the meaning of WAC 246-330-010(8) that would cause the facility to lose its exempt status under Interpretive Statement No. CN 01-18. The exemption remains valid.

If you would like to discuss this facility or its exemption, please do not hesitate to contact me.

March 4, 2019
Page 3

Regards,

STUDEBAKER NAULT, PLLC

A handwritten signature in black ink, appearing to read "E. Studebaker", with a stylized flourish at the end.

Emily R. Studebaker

cc: Renae Windler, CPC, CGSC

EXHIBIT A

Harkway Surgical Center

*determ. ^{file} other
ASC*

JULE M. SUGARMAN
Secretary



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington 98504-0095

July 12, 1989

Orville K. Vander Griend, M.D.
George R. Wreggit, M.D.
Chestnut Medical Center
800 E. Chestnut Suite 3E
Bellingham, Washington 98225

Dear Drs. Vander Griend and Wreggit:

This is in response to your letter regarding a determination of Certificate of Need applicability for an ambulatory surgery facility WAC 248-19-220(5) defines an ambulatory surgery as follows:

"Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

It is my understanding this facility is a part of the offices of Drs. Vander Griend, Wreggit, and Hecht and is not open to any other physicians. Accordingly, this is not the establishment of an ambulatory surgical facility as defined above and is not subject to Certificate of Need review.

If you have any further questions regarding this matter please feel free to contact me at 753-5857.

Sincerely,

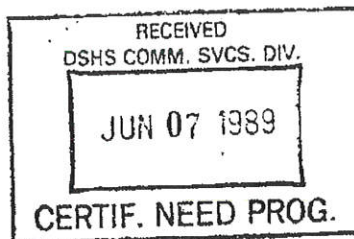
Kristina M. Sparks
Kristina M. Sparks,
Certificate of Need Program
OB-43E

cc: Ken Lewis

EXHIBIT B

O. VANDER GRIEND, M. D.
GEORGE R. WREGGIT, M. D.

GENERAL SURGERY
DIPLOMATES AMERICAN
BOARD OF SURGERY



CHESTNUT MEDICAL CENTER
800 E. CHESTNUT, SUITE 3E
BELLINGHAM, WA. 98225
TEL. 676-8350

Jim Bettridge
Health Facilities Planning
Department of Social and Health Services
State of Washington
Olympia, WA 98504-0095

Dear Mr. Bettridge:

Thank you for your prompt response to our request for additional materials outlining requirements for certification of our surgical facility under construction.

This letter is in direct response to yours dated May 22, 1989. As we understand the provisions of the State Health Planning Resources Development act, RCW 70.38, this construction is not subject to a prior Certificate of Need Review.

Enclosed please find a copy of our program synopsis submitted for a State of Washington Stand-up Review Committee in February. Outlined are practice arrangement and staffing planned as well as anticipated procedures to be performed.

The surgical facility adjoins our private offices and is located at 2940 Squalicum Parkway, Suite 204 in Bellingham. If there are additional requirements we should be aware of at the present time or information you need from us, please let us know. We can be contacted at 206-676-8350.

3. Doctors not in practice together
Share staff lounge, OR, waiting
room

Sincerely,

Orville K. Vander Griend M.D.

One of

George R. Wreggit M.D.

This I called the above phone number and was told that only physicians in the group practice that have offices in the building where ambulatory surgery would be performed would utilize the ORs. Not subject to C.N. review in my opinion Jim Bettridge

STUDEBAKER | NAULT

EMILY R. STUDEBAKER, ESQ.
11900 N.E. 1st Street, Suite 300
Bellevue, WA 98005
estudebaker@studebakernault.com

June 17, 2019

RECEIVED

JUN 17 2019

VIA E-mail and Messenger

CERTIFICATE OF NEED PROGRAM
DEPARTMENT OF HEALTH

Nancy Tyson, Executive Director
Health Facilities and Certificate of Need Program
Washington Department of Health
P.O. Box 47852
Olympia, WA 98504

Re: Parkway Surgical Center, L.L.C.

Dear Ms. Tyson:

On behalf of Parkway Surgical Center, L.L.C. ("Parkway Surgical Center"), please find enclosed a Certificate of Need Exemption Application filed in response to the Department of Health's May 17, 2019 demand for the same. As you are aware, Parkway Surgical Center continues to dispute the Department's position that Parkway Surgical Center is required to submit a new exemption application. Parkway Surgical Center continues to assert the validity of its exemption that the Department granted it in 1989 and, as such, it should not be required to apply for a new exemption. By filing the enclosed application, Parkway Surgical Center does not waive, and it specifically reserves, its rights or remedies related to the Department's demand that it file a new exemption application.

We look forward to a resolution to this matter. If you would like to discuss further, please do not hesitate to contact me.

Regards,

STUDEBAKER NAULT, PLLC



Emily R. Studebaker

N. Tyson
June 17, 2019
Page 2

Enclosures

cc: Camille Miller, M.D., F.A.C.S, Owner
Keith VanderGriend, M.D., F.A.C.S, Owner
Renae Windler, CPC, CGSC, Practice Manager

Parkway General Surgeons

Parkway Surgical Center

Keith VanderGriend, MD, FACS & Camille Miller, MD, FACS

2940 Squalicum Parkway, Suite 204 Bellingham, Washington 98225

DOR
19-21

Washington State Department of Health

June 14, 2019

Certificate of Need Program

P.O. Box 47852

Olympia, Washington 98504-7852

To Whom It May Concern,

Please find the enclosed check (# 1470) in the amount of \$1,925.00 for Parkway Surgical Center's Determination of Reviewability application that is being sent separately from the office of Studebaker and Nault. Please contact Emily Studebaker, Esq directly at 206-406-2729 if any questions or concerns regarding this matter.

With Kind Regards,

Renae Windler, CPC, CGSC

Practice Manager

360-733-0070 (phone)

rwindler@hinet.org



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

*PO Box 47852 • Olympia, Washington 98504-7852
Tel: 360-236-2955 • TTY Relay: 800-833-6384*

February 8, 2019

Keith VanderGriend, M.D., F.A.C.S.
Parkway Surgical Center
2940 Squalicum Parkway Suite 204
Bellingham, WA 98225

CERTIFIED MAIL # 7014 2120 0002 7627 2193

Dear Dr. VanderGriend,

Upon reviewing your most recent license update and comparing it to our records, it appears your facility remains out of compliance with the Certificate of Need (CN) statute and program rules. In June of 2012¹ the department determined your facility met the definition of an ambulatory surgical facility under CN rules that was subject to full Certificate of Need review. You did not request an adjudicative hearing to contest our determination. To date, the department has not received a CN application or a new exemption request.

The CN program cannot recommend that the credentialing office process your annual update until you comply with CN statute and rules. RCW 70.38.125 (4). Moreover, the Department may bring an action to impose a penalty of up to \$100.00 a day for each *day* you have engaged in an undertaking that requires CN review and to enjoin violation of the CN statute. RCW 70.38.125 (5) and (6).

As of January 2018, the CN program is looking at exemptions differently than in the past. Interpretive Statement CN 01-18 provides guidance for facilities in making the decision to apply for an exemption or to apply for full Certificate of Need review. Interpretive Statement CN 01-18 is attached to this message – you can also find it on our website.

Please submit either (a) an exemption request or (b) a letter of intent by March 11, 2019 so that the CN program can recommend that credentialing process your annual update and avoid legal action to compel you to comply with chapter 70.38 RCW.

¹ Determination of Reviewability #12-34 issued June 8, 2012.

STUDEBAKER | NAULT

EMILY R. STUDEBAKER, ESQ.
11900 N.E. 1st Street, Suite 300
Bellevue, WA 98005
estudebaker@studebakernault.com

March 4, 2019

RECEIVED

MAR 08 2019

VIA U.S. Mail

CERTIFICATE OF NEED PROGRAM
DEPARTMENT OF HEALTH

Janis Sigman, Manager
Certificate of Need Program
Washington Department of Health
P.O. Box 47852
Olympia, WA 98504

Re: Parkway Surgical Center, L.L.C.

Dear Ms. Sigman:

Our office represents Parkway Surgical Center, L.L.C. ("Parkway Surgical Center"). This correspondence responds to your letter dated February 8, 2019 to Keith Vander Griend, M.D., F.A.C.S. Your letter indicates that Parkway Surgical Center is out of compliance with the certificate of need law, chapter 70.38 RCW, and its implementing regulations, chapter 246-310 WAC. By this letter, Parkway Surgical Center provides information showing it obtained an exemption from the certificate of need review requirements in 1989 and the exemption remains valid.


In 1989, Drs. Orville K. Vander Griend, M.D. and George R. Wreggit, M.D. applied for an exemption from the certificate of need review requirements for a then new ambulatory surgery center. In response to the exemption request, Kristina M. Sparks of the Department of Social and Health Services Certificate of Need Program issued a letter granting the exemption. The letter was addressed to Drs. Vander Griend and Wreggit at their then current office address, 800 E. Chestnut Suite 3E, Bellingham, WA 98225 (the "1989 Exemption Letter"). The 1989 Exemption Letter states:

This is in response to your letter regarding a determination of Certificate of Need applicability for an ambulatory surgery facility, WAC 248-19-220 (5) defines an ambulatory surgery as follows:

March 4, 2019
Page 3

Regards,

STUDEBAKER NAULT, PLLC

A handwritten signature in black ink, appearing to read "E. Studebaker", with a stylized flourish at the end.

Emily R. Studebaker

cc: Renae Windler, CPC, CGSC

Highway Surgical Center

*determ. file other
ASC*

JULE M. SUGARMAN
Secretary



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Olympia, Washington 98504-0095

July 12, 1989

Orville K. Vander Griend, M.D.
George R. Wreggit, M.D.
Chestnut Medical Center
800 E. Chestnut Suite 3E
Bellingham, Washington 98225

Dear Drs. Vander Griend and Wreggit:

This is in response to your letter regarding a determination of Certificate of Need applicability for an ambulatory surgery facility. WAC 248-19-220(5) defines an ambulatory surgery as follows:

"Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.

It is my understanding this facility is a part of the offices of Drs. Vander Griend, Wreggit, and Hecht and is not open to any other physicians. Accordingly, this is not the establishment of an ambulatory surgical facility as defined above and is not subject to Certificate of Need review.

If you have any further questions regarding this matter please feel free to contact me at 753-5857.

Sincerely,

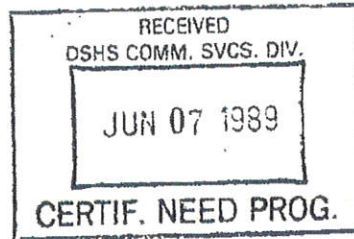
Kristina M. Sparks

Kristina M. Sparks,
Certificate of Need Program
OB-43E

cc: Ken Lewis

O. VANDER GRIEND, M. D.
GEORGE R. WREGGIT, M. D.

GENERAL SURGERY
DIPLOMATES AMERICAN
BOARD OF SURGERY



CHESTNUT MEDICAL CENTER
800 E. CHESTNUT, SUITE 3E
BELLINGHAM, WA. 98225
TEL. 676-8350

Jim Bettridge
Health Facilities Planning
Department of Social and Health Services
State of Washington
Olympia, WA 98504-0095

Dear Mr. Bettridge:

Thank you for your prompt response to our request for additional materials outlining requirements for certification of our surgical facility under construction.

This letter is in direct response to yours dated May 22, 1989. As we understand the provisions of the State Health Planning Resources Development act, RCW 70.38, this construction is not subject to a prior Certificate of Need Review.

Enclosed please find a copy of our program synopsis submitted for a State of Washington Stand-up Review Committee in February. Outlined are practice arrangement and staffing planned as well as anticipated procedures to be performed.

The surgical facility adjoins our private offices and is located at 2940 Squalicum Parkway, Suite 204 in Bellingham. If there are additional requirements we should be aware of at the present time or information you need from us, please let us know. We can be contacted at 206-676-8350.

3 Doctors not in practice together
Share staff lounge, OR, waiting
room

Sincerely,

Orville K. Vander Griend M.D.

One of

George R. Wreggit M.D.

This I called the above phone number and was told that only physicians in the group practice that have offices in the building where ambulatory surgery would be performed would utilize the ORs. Not subject to C/N review in my opinion Jim Bettridge