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MARYLAND HEALTH CARE COMMISSION

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August 3, 2017

By E-Mail and USPS

David Sokolow, Esquire
Fox Rothschild, LLP
2000 Market Street, 20th Floor
Philadelphia, PA 19103-3222

Re: Plastic Surgery Specialists, P.C.
Certificate of Need Application
Docket No. 16-02-2381

Dear Dr. Wagner and Mr. Sokolow:

During the course of its review of the Certificate of Need (“CON”) application filed by Plastic Surgery Specialists, P.C. (“PSS”), the staff of the Maryland Health Care Commission (“MHCC” or “Commission”) has determined that a CON is not necessary for the facility to execute its plan to convert from a facility that performs a single surgical specialty (plastic surgery) to an ambulatory surgical facility offering surgical services in multiple specialties and to make a capital expenditure for new equipment, as described in the application.

The Commission staff’s determination is that PSS is, under existing law, an ambulatory surgical facility that has the ability to offer surgical services in multiple specialties. It may make a capital expenditure for equipment of the type proposed without obtaining a CON. A CON would be required to relocate the facility, to add operating rooms at the facility, or to make a capital expenditure in excess of the current capital threshold used in defining the scope of CON regulation (currently \$6 million).

The determination of coverage issued by the Maryland Health Resources Planning Commission on May 8, 1989 that the center was not a health care facility subject to CON requirements was correct under the law that existed at that time for single-specialty surgical centers. Our initial review mistakenly assumed that a CON would be required because the status of this surgical center in seeking reimbursement from payors as an ambulatory surgical facility was proposed to change. We recently revisited that question and came to the conclusion that our

initial assessment was in error. Please accept our apologies for the delay in implementation of your plans that resulted from this error.

Although a CON is not needed to implement your plans, because those plans involve a future change in ownership, you will need to provide timely notice of the acquisition of this facility, in accordance with the provisions of COMAR 10.24.01.03A, if the change in ownership being implemented ultimately falls within the definition of an "acquisition" at COMAR 10.24.01.01B. Any transfer of stock or assets that results in a change of the person or persons who control a health care facility or the transfer of any stock or ownership interest in excess of 25 percent are defined as a health care facility acquisition.

Additionally, in going forward with your plans, please notify MHCC of any changes in the physical plant or ownership changes described in the CON application. If you have further questions on this matter, please contact me at 410-764-5982.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin McDonald", with a long horizontal flourish extending to the right.

Kevin McDonald
Chief, Certificate of Need

cc: David Wagner
Paul E. Parker
Suellen Wideman, AAG
Christine Parent