

# BAKER DONELSON

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January 9, 2018

**VIA EMAIL & FIRST CLASS MAIL**

Kevin McDonald, Chief  
Certificate of Need Division  
Maryland Health Care Commission  
4160 Patterson Avenue  
Baltimore, Maryland 21215

**Re: Thomas Johnson Surgery Center, LLC  
Matter No. 17-10-2410  
Response to Supplemental Completeness Questions Received January 5, 2018**

Dear Mr. McDonald:

On behalf of Thomas Johnson Surgery Center, LLC ("TJSC"), we are hereby submitting the required two (2) copies of our responses to the January 5, 2018 completeness questions regarding the above-referenced project. We will also provide a Word and electronic copies of our responses and exhibits as appropriate.

I hereby certify that a copy of this response has also been forwarded to the appropriate local health planning agency, as noted below.

If any further information is needed, please let us know.

Sincerely,  
BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC

  
John J. Eller, Senior Counsel

JJE/tjr  
Enclosures

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cc: Barbara Brookmeyer, M.D., MPH, Health Officer, Frederick County  
Ms. Ruby Potter, Health Facilities Coordination Office  
Naomi Allen, CEO  
Kristine Lowther, Vice President, Operations  
Andrew Solberg, CON Consultant, A.L.S. Healthcare Consultant Services

**Thomas Johnson Surgery Center  
Matter No. 17-10-2410  
Responses to Additional Information Questions Received on 1/5/18**

- MHCC Staff found a slight discrepancy in utilization data presented in different parts of the application. Utilization data in Table 1 on page 22 of the CON application shows OR caseloads of 1,309 in 2014, 1,780 in 2015, 1,654 in 2016, and 1,904 in 2017. However, subsequent tables presented on pages 24 and 29 show caseloads of 1,308 in 2014, 1,779 in 2015, 1,660 in 2016, 1,827 in 2017. Please confirm which data is accurate, based on your best knowledge, in order for MHCC Staff to include the correct data in our recommendation.**

TJSC has reviewed the tables on pages 22 (Table 1), 23-24 (Table 3), and both 29 and the CON Table Package (duplicate submissions of CON Table Package Table 1). Tables 3 and Table 1 in the CON Table Package agree. Table 1 on page 22 is the one that differs. The cause of the discrepancy is that Table 1 on page 22 was based on a different data source than the other tables. Table 1 on page 22 reflected an earlier set of data before TJSC obtained the data by Physician. MHCC Staff should rely on Tables 3 and CON Table Package Table 1. A corrected Table 1 (Page 22) that matches the other tables follows:

**TABLE 1 (Revised)  
OR Cases, OR Minutes, and Needed ORs  
TJSC  
2012-2017**

	<b>OR Cases</b>	<b>OR Minutes</b>	<b>TAT</b>	<b>Total Minutes</b>	<b>ORs @ 97,920/OR</b>
2012	474	24,383	11,850	36,233	0.37
2013	866	43,572	21,650	65,222	0.67
2014	1,308	57,811	32,700	90,511	0.92
2015	1,779	73,375	44,475	117,850	1.20
2016	1,660	65,100	41,500	106,600	1.09
2017	1,827	73,898	45,675	119,573	1.22

- TJSC's total project budget is \$183,031. The amount projected for CON Application Assistance within this budget is \$65,000, which accounts for more than one-third of the total project budget. Please detail what is included in this expense, including any previous research or market study costs that also might be included in this line item. Based on MHCC's experience, this is a much higher amount and percentage for this line item for a project of this scope.**

The fees identified in the Project Budget for CON Assistance (c1. Legal Fees - \$40,000 and c2. Other (Specify/add rows if needed) - \$25,000) are budgeted to be able to accommodate unanticipated problems that might arise during the CON process, such as potential opposition to the project, and represent a "worst case" scenario for incurring such fees. TJSC has not spent the budgeted amount for either legal or consultant fees and hopes that they would not all be needed. The fees are a higher percentage of project costs than the MHCC usually sees because the other project costs are smaller than in other applications. This is because (as explained on Page 5 of the application) the original ASC purchased by TJSC had two ORs, and TJSC was required to convert the second OR to a Procedure Room. There is not much work to be done to convert the Procedure Room back to an OR.

## **Exhibits**

### **1. Affirmations**

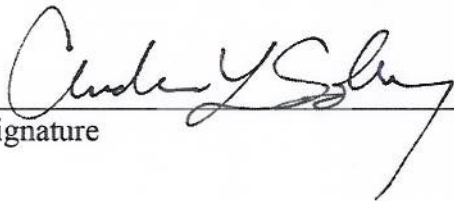


I hereby declare and affirm under the penalties of perjury that the facts stated in this Additional Information response are true and correct to the best of my knowledge, information, and belief.

Naomi Allen  
Signature

1-8-18  
Date

I hereby declare and affirm under the penalties of perjury that the facts stated in this Additional Information response are true and correct to the best of my knowledge, information, and belief.

  
Signature

1/8/18  
Date