

GENERAL COUNSEL'S REPORT COVER PAGE

October 26, 2016

- B. Campbell Clinic Surgery Center, Germantown (Shelby County), TN –
CN1208-040AE

Request for 24 month extension, January 1, 2017 to January 1, 2019.

On November 14, 2012, the Agency unanimously approved the request to expand the surgery center, from 5 surgical rooms (4 operating rooms and 1 procedure room) to 10 surgical rooms (8 operating rooms and 2 procedure rooms), on its present site. It will add approximately 21,000 SF of space to the facility. The estimated project cost is \$13,277,258. The facility is licensed by the Department of Health as an ambulatory surgical treatment center. Its services are limited to orthopaedics and pain management.

On November 19, 2014, the Agency unanimously approved a request for a 24 month extension of the expiration date of the certificate of need, to January 1, 2017, due to 1) assessing needs in light of its acquisition of an additional licensed surgery center, and 2) additional design and approval issues pertaining to the medical office building in which it would be located.

This request for a 24 month extension is due to the continued design and approval issues pertaining to the medical office building in which it would be located, and zoning change and site plan variances it has obtained. The requested time anticipates the possibility of seeking any necessary modifications of the CON.

BASS BERRY + SIMS_{nc}

W. Brantley Phillips, Jr.
bphillips@bassberry.com
(615) 742-7723

September 29, 2016

VIA HAND DELIVERY

Melanie Hill
Executive Director
Tennessee Health Services & Development Agency
Andrew Jackson Building, Ninth Floor
502 Deaderick Street
Nashville, TN 37243

**Rc: Campbell Clinic Surgery Center LLC – CN1208-040A
Request for Extension of Expiration Date**

Dear Ms. Hill:

Our firm represents the Campbell Clinic Surgery Center LLC (“CCSC”) in connection with the above-referenced Certificate of Need, which was approved on November 14, 2012 without opposition.

Following the approval of the CON, CCSC encountered certain unexpected developments that could have a potentially significant impact on the implementation of the project. We will discuss those developments again in more detail below. In the wake of these developments, CCSC sought an extension of the CON’s expiration date to January 1, 2017 in order to fully assess their impact. That request for an extension was unanimously approved without opposition. Since that time, CCSC has been working actively to assess the full impact of these developments on the plan for implementation of the pending CON. Despite all reasonable diligence on CCSC’s part, however, that process continues. Accordingly, please allow this letter to serve as a formal request for a 24-month extension of the CON to and including **January 1, 2019**. This is the second request for an extension of this CON project.

Addition of Midtown Surgery Center.

The first unexpected development occurred in late Summer 2013 when the CCSC was presented with an opportunity to tender an offer on the sale of Midtown Surgery Center (“Midtown”). As noted in the CCSC’s CON application, Midtown was a multi-specialty ambulatory surgery center with four operating rooms and no procedure rooms located roughly 20 miles (27 minutes) from the existing site of CCSC (the “Germantown Location”). CCSC’s offer for Midtown was ultimately accepted, and the transaction closed several months later. In consultation with Health Services & Development Agency staff, ownership of Midtown was transferred to CCSC effective October 15, 2013 pursuant to T.C.A. § 68-11-1620. CCSC began treating patients at Midtown in April 2014.

At the time of CCSC's first extension request, the Midtown facility did not yet have its own TennCare or Medicare provider numbers. As we explained in making that request, CSCC needed at least 12-months' experience with active provider numbers at Midtown in order to know with reasonable certainty where cases for that facility would originate and how that patient origin might impact utilization at the Germantown Location. Having now had time to make that evaluation, it is clear that the addition of Midtown has not resulted in any meaningful reduction in utilization at the Germantown Location.

In fact, on a per-case basis, utilization at the Germantown Location has continued to *increase* during the 2014-15 timeframe. Specifically, as noted in CCSC's Joint Annual Report filings, OR case volumes increased from 3,089 to 3,483 in this period. Likewise, in 2015, the procedure room case volume at the Germantown Location remained steady at *more than 140%* of the state's full capacity standard. Simply stated, notwithstanding the addition of Midtown, the acute need for the additional capacity authorized by the pending CON remains. The need to increase the size of the Germantown Location's hallways, storage areas and patient waiting area in order to fully comply with the Department of Health's new and more stringent Life Safety Standard remains as well.

Medical Office Building Development at Germantown Location.

At the time CCSC's CON application was presented to the Agency in November 2012, we indicated that a master planning process for the Campbell Clinic organization's main campus in Germantown would be undertaken at some point in the future. That master planning process is nearing completion. Even as of now, however, that process has confirmed that there is a need for a new state-of-the-art medical office building ("MOB") on the Campbell Clinic's Germantown campus.

More important, the process has confirmed that it is possible to design the MOB to accommodate all of CCSC's Germantown Location needs – that is, CCSC's existing operating/procedure rooms *and* the operating/procedure rooms authorized by CN1208-040A. Such an arrangement has numerous advantages to the phased expansion approach authorized by the pending CON, including less disruption to patient care and the potential for meaningful savings over the original \$13 million project cost. With this confirmation in hand, CCSC has moved forward to obtain the requisite rezoning classification and several unique site plan variances from the City of Germantown that are necessary in order to develop the MOB. And, while that process took much longer than the 9-12 months that was initially anticipated, we are happy to report that it is now complete. Having obtained the necessary zoning change and site plan variances, CCSC is now in a position to proceed with the extensive and time-consuming design and cost-estimate work associated with the MOB. At present, we anticipate that it will require an additional six (6) months beyond the current CON expiration date to complete all of the design, planning and cost-estimate work. Once that work is complete, CCSC will return to update the Agency and request any necessary modifications to the existing CON with all the certainty required for approval.

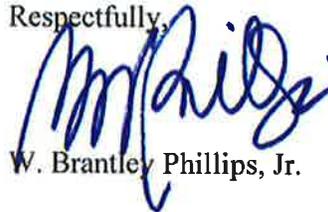
Accordingly, pursuant to HSDA Rule 0720-10-.06, we respectfully request a 24-month extension of the pending CON to and including January 1, 2019. As documented herein, the need for this extension results from the intervening events described above and the additional information that CCSC has obtained since the approval of the CON in November 2012. The additional time afforded by the requested extension will allow CCSC to finalize plans for the new MOB in an orderly fashion and, well before January 2019, to seek any modification to the CON that may be necessary for implementation. Finally, as neither the original CON application nor the first extension request was opposed, we submit that the further extension requested herein will not prejudice other providers in any meaningful way. Indeed, of the 27 ambulatory surgery centers located in Shelby County, only CCSC and its affiliated Midtown facility specialize in orthopedic procedures.

To date, CCSC has submitted a total of \$45,000 in application fees in connection with the CN1208-040A project application. Per 2016 Public Chapter 1043, Section 23, we understand that to be the maximum amount of fees applicable to the project and, thus, have submitted no additional fee with this request. Please advise if any additional fee is required.

Thank you for your attention in this matter. Please do not hesitate to contact me with any questions regarding this request, which we would ask to have added to the Agency's October agenda. Along with representatives of CCSC, we will plan to be in attendance to answer any questions and provided additional information as needed.

With kind regards, I remain,

Respectfully,



W. Brantley Phillips, Jr.

WBP/

cc: James B. Christoffersen
George A. Hernandez
John Wellborn



STATE OF TENNESSEE
HEALTH SERVICES AND DEVELOPMENT AGENCY
500 Deaderick Street
Suite 850
Nashville, Tennessee 37243
741-2364

December 12, 2012

John L. Wellborn, Consultant
Development Support Group
4219 Hillsboro Road, Suite 203
Nashville, TN 37215

RE: Campbell Clinic Surgery Center - CN1208-040A

Dear Mr. Wellborn:

As referenced in our recent letter, please find enclosed your Certificate of Need for the above-referenced application that was approved at the November 14, 2012, meeting of the Tennessee Health Services and Development Agency.

The Health Services and Development Agency Rules require that an *Annual Progress Report be submitted each year* and a *Final Project Report form is to be submitted within ninety (90) days after completion of a project* which shall include completion date, final costs, and other relevant information in regards to the project, pursuant to Public Acts 2002, Chapter No. 780, § 16-11-1609(d). Also required is the registration of certain medical equipment pursuant to Tennessee Code Annotated § 68-11-1607(i), which states "*The owners of the following types of equipment shall register such equipment with the health services and development agency: computerized axial tomographers, lithotripters, magnetic resonance imagers, linear accelerators and positron emission tomography.*" "*The survey shall include but not limited to the identification of the equipment and utilization data according to source of payment.*"

The aforementioned forms can be found on the Agency's website at www.tennessee.gov/HSDA. Should you have any questions or require further information regarding this Certificate, please do not hesitate to contact this office.

Sincerely,

Melanie M. Hill
Executive Director

MMH/MAB

cc: Teresa Hendricks, Division of Health Statistics, Office of Policy, Planning & Assessment
Ann R. Reed, Health Care Facilities - Licensure
Bill Harmon, Director of Engineering, Health Care Facilities

STATE OF TENNESSEE
Health Services and Development Agency



Certificate of Need No. CN1208-040A is hereby granted under the provisions of T.C.A. § 68-11-1601, *et seq.*, and rules and regulations issued thereunder by this Agency.

To: Campbell Clinic Surgery Center, LLC
1410 Brierbrook Road
Germantown, TN 38138

For: Campbell Clinic Surgery Center

This Certificate is issued for: To expand the surgery center, from five (5) surgical rooms (four (4) operating rooms and one (1) procedure room) to ten surgical rooms (eight (8) operating rooms and two (2) procedure rooms), on its present site. The project does not include any new major medical equipment, or any additional health services, or any change in scope from the facility's current surgical specialties. It will add approximately 21,000 SF of space to the facility. The facility is licensed by the board for Department of Health as an ambulatory surgical treatment center. Its services are limited to orthopaedics and pain management. No change in licensure is proposed.

On the premises located at: 1410 Brierbrook Road
Germantown (Shelby County), TN 38138

For an estimated project cost of: \$13,277,258.00

The Expiration Date for this Certificate of Need is

January 1, 2015

or upon completion of the action for which the Certificate of Need was granted, whichever occurs first. After the expiration date, this Certificate of Need is null and void.

Date Approved: November 14, 2012


Chairman

Date Issued: December 12, 2012


Executive Director