

**HEALTH SERVICES AND DEVELOPMENT AGENCY
AUGUST 25, 2021
APPLICATION SUMMARY**

NAME OF PROJECT: Poplar Ridge Surgery Center, LLC

PROJECT NUMBER: CN2103-008

ADDRESS: 6584 Poplar Avenue, Suite 102
Memphis, (Shelby County), TN 38138

LEGAL OWNER: Sanjeev Kumar, M.D.
6584 Poplar Avenue
Memphis, (Shelby County), TN 38138

OPERATING ENTITY: Not Applicable

CONTACT PERSON: Roger Manning, Consultant
(314) 399-2335

DATE FILED: March 10, 2021

PROJECT COST: \$2,012,000

FINANCING: Commercial Loan

PURPOSE FOR FILING: Establishment of a multi-specialty ambulatory surgical treatment center (ASTC)

DESCRIPTION:

Poplar Ridge Surgery Center LLC is seeking approval for the establishment of a multi-specialty ambulatory surgical treatment center ("ASTC"), for the performance of surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The ASTC will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138. The applicant plans to initially have three operating rooms (OR) and zero procedure rooms (PR).

SERVICE SPECIFIC CRITERIA AND STANDARD REVIEW

Ambulatory Surgical Treatment Centers (*Revised May 23, 2013*)

The following apply:

1. Need. The minimum numbers of 884 Cases per Operating Room and 1867 Cases per Procedure Room are to be considered as baseline numbers for purposes of determining Need.² An applicant should demonstrate the ability to perform a minimum of 884 Cases per Operating Room and/or 1867 Cases per Procedure Room per year, except that an applicant may provide information on its projected case types and its assumptions of estimated average time and clean up and preparation time per Case if this information differs significantly from the above-stated assumptions. It is recognized that an ASTC may provide a variety of services/Cases and that as a result the estimated average time and clean up and preparation time for such services/Cases may not meet the minimum numbers set forth herein. It is also recognized that an applicant applying for an ASTC Operating Room(s) may apply for a Procedure Room, although the anticipated utilization of that Procedure Room may not meet the base guidelines contained here. Specific reasoning and explanation for the inclusion in a CON application of such a Procedure Room must be provided. An applicant that desires to limit its Cases to a specific type or types should apply for a Specialty ASTC.

Proposed ASTC Utilization by Room Type (Projected)

Project Year	Three Operating Rooms		Zero Procedure Rooms	
	# Surgical Cases	% Meeting 884 Optimum OR Capacity	# PR Procedures	% Meeting 1,867 Optimum PR Capacity
Year 1	2,937	111%	N/A	N/A

Source: CN2103-008, Original Application, Page 18

With 3 proposed operating rooms (OR), the applicant projects 2,937 cases/OR in Year 1 which is 979 per OR and is above the optimum requirement of 884 cases per operating room. There is no procedure room associated with this project.

It appears that this criterion has been met.

2. Need and Economic Efficiencies. An applicant must estimate the projected surgical hours to be utilized per year for two years based on the types of surgeries to be performed, including the preparation time between surgeries. Detailed support for estimates must be provided.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 2

The applicant provides the following estimates for projected surgical hours:

Percentage of Schedulable Time Used Year 1 (2022):

Surgeon	Total Procedures (3 ORs)	Procedures/ Operating Room	Min per Case	Minutes Used**	Average Turnaround Time	Turnaround Used	Schedulable Minutes*	% of Schedulable Time Used
Doctor #1	1,321	440.33	65 min	85,865	30 min	39,630	120,000	104.5%
Doctor #2	808	269.33	65 min	52,520	30 min	24,240	120,000	64%
Doctor #3	808	269.33	65 min	52,520	30 min	24,240	120,000	64%
Total Surgical Cases	2,937	979	65 min	190,905	30 min	88,110	360,000	77.5%

Source: CN2103-008, Original Application, Page 18

* defined as the summation of the minutes by each room available for scheduled cases Example: 7:30 AM to 4:30 PM, 5 days per week, 50 weeks/ year, equates to 8 hrs./day X 60 min/hr. = 480 minutes/day X 5 days/week = 2,400 minutes / week X 50 weeks/year=120,000 schedulable minutes/room X 3 operating rooms=surgical suite schedulable capacity

** (Minutes Used) reports the sum total of all minutes used for surgeries, procedures, and turnaround time for the ORs.

Based on an average of 65 minutes per operating room case plus 30 minutes for turnover/prep, the operating room projected surgical hours will be 93.0 hours per week or 31.0 hours per OR in Year One reaching 77.5% of room capacity.

It appears this criterion has been met.

3. Need; Economic Efficiencies; Access. To determine current utilization and need, an applicant should take into account both the availability and utilization of either: a) all existing outpatient Operating Rooms and Procedure Rooms in a Service Area, including physician office-based surgery rooms (when those data are officially reported and available³) OR b) all existing comparable outpatient Operating Rooms and Procedure Rooms based on the type of Cases to be performed. Additionally, applications should provide similar information on the availability of nearby out-of-state existing outpatient Operating Rooms and Procedure Rooms, if that data are available, and provide the source of that data. Unstaffed dedicated outpatient Operating Rooms and unstaffed dedicated outpatient Procedure Rooms are considered available for ambulatory surgery and are to be included in the inventory and in the measure of capacity.

According to Joint Annual Report (JAR) data for ASTCs from 2018-2020, East Memphis Surgery Center performed the highest number of outpatient Gynecological surgeries in 2018 (1,100), 2019 (803), and 2020 (669) and Methodist Surgery Center Germantown performed the second highest number 2018 (222), 2020 (284). UCH Vascular Access ASC was the only ASTC provider that performed vascular surgeries from 2018-2020 with none in 2018, 2019 (300), and 2020 (999). Oral

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 3

Maxillofacial surgeries were performed by LeBonheur East Surgery Center in 2018 (437), 2019 (80) and 2020 (540). Tables reflecting ASTC utilization are included in this summary on page 13.

Service area hospitals performed Gynecological (5,012), Vascular (1,072), and Oral Maxillofacial (12) outpatient surgery case types in 2019. The highest volume of gynecological cases were performed at Methodist Hospital Germantown (1,890), Baptist Memorial Hospital for Women (1,530), and St. Francis Hospital Shelby (565). The highest volume of vascular cases were performed at Baptist Hospital Collierville (390), Methodist HC – Memphis (275), and St. Francis Bartlett (132). There were only (12) oral maxillofacial cases in the service area with (11) taking place at St. Francis Bartlett. Overall outpatient surgical cases of the type being proposed by the applicant represented 8.0% of all hospital outpatient surgery cases in the service area in 2019. The hospitals with the highest percentage of their total outpatient cases represented by these surgery types are Baptist Memorial Hospital for Women (27.9%), Methodist Germantown (16.7%) and Methodist Hospital South (16.6%).

The applicant has provided to required information in response to this criterion. It appears that this criterion has been met.

Note to Agency members: The tables for service area ASTC utilization by specialty provided by the applicant in CN2103-008 Supplemental #1 Page 7 contain errors and are reconstructed for this summary in the tables above to reflect ASTC utilization for Gynecologic, Vascular, and Oral Maxillofacial Surgery Types for 2018-2020.

4. Need and Economic Efficiencies. An applicant must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON application to establish an ASTC or to expand existing services of an ASTC should not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed, if those services are known and relevant, within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above.

There are 6 other existing ASTCs in the service area that have performed one or more of the same types of specialties (Gynecology, Vascular Access and Oral Maxillofacial) proposed by the applicant. Only 5 ASTC facilities are included in the 2020 Utilization Table as North Surgery Center did not report any data in the Joint Annual Report for 2020. North Surgery Center is listed by the Tennessee Department of Health as a closed facility.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 4

Service Area ASTC Utilization 2020

Facility Name	Single or Multi-specialty	Operating Rooms	Operating room cases	*Operating rooms cases % full capacity (1,263 cases)
Memphis Surgery Center	Multi-specialty	4	2,802	55.46%
Le Bonheur East Surgery Center, II	Multi-specialty	4	2,727	53.98%
East Memphis Surgery Center	Multi-specialty	6	3,215	42.43%
Methodist Surgery Center Germantown	Multi-specialty	4	3,771	74.64%
UCH Vascular Access ASC	Single-specialty	1	999	79.09%
TOTAL		19	13,514	56.32%

Source: 2020 ASTC JAR and CN2103-008, Supplemental #1, Page 8

Note: North Surgery Center did not report any ASTC JAR data for 2018 or 2017.

In 2020, two of the five service area ASTCs - UCH Vascular Access ASC (79.09%) and Methodist Surgery Center Germantown (74.64%) exceeded the optimum (70% of full capacity of 1,263 cases per operating room) utilization standard.

It appears this criterion has been partially met for the single-specialty and multi-specialty ASTCs that perform (Gynecology, Vascular Access and/or Oral Maxillofacial) cases in the service area.

- 5. Need and Economic Efficiencies.** An application for a Specialty ASTC should present its projections for the total number of cases based on its own calculations for the projected length of time per type of case, and shall provide any local, regional, or national data in support of its methodology. An applicant for a Specialty ASTC should provide its own definitions of the surgeries and/or procedures that will be performed and whether the Surgical Cases will be performed in an Operating Room or a Procedure Room. An applicant for a Specialty ASTC must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON proposal to establish a Specialty ASTC or to expand existing services of a Specialty ASTC shall not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above. An applicant that is granted a CON for a Specialty ASTC shall have the specialty or limitation placed on the CON.

The proposed ASTC will be a multi-specialty ASTC.

It appears that this criterion is not applicable.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 5

6. Access to ASTCs. The majority of the population in a Service Area should reside within 60-minute average driving time to the facility.

The applicant states the site of the proposed project is within a 60-minute drive of the majority service area population.

It appears that this criterion has been met.

7. Access to ASTCs. An applicant should provide information regarding the relationship of an existing or proposed ASTC site to public transportation routes if that information is available

The applicant indicates the project site is served by the public bus line route on Poplar Avenue in Memphis, TN.

It appears that this criterion has been met.

8. Access to ASTCs. An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project the origin of potential patients by percentage and county of residence and, if such data are readily available, by zip code, and must note where they are currently being served. Demographics of the Service Area should be included, including the anticipated provision of services to out-of-state patients, as well as the identity of other service providers both in and out of state and the source of out-of-state data. Applicants shall document all other provider alternatives available in the Service Area. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

The applicant provides the following patient origin data for service area ASTCs.

Service Area ASTC Patient Origin 2019

County	ASTC Sample TOTAL	% of TOTAL
Shelby	31,139	64.99%
Fayette	1,942	4.05%
Hardeman	287	0.60%
Haywood	146	0.30%
Lauderdale	261	0.54%
Tipton	2,448	5.11%
Arkansas	1,873	3.91%
Mississippi	9,765	20.38%
Alabama	56	0.12%
TOTAL	47,917	

Source: CN2103-008, Pages 21-22

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 6

The applicant projected utilization by county of origin as follows:

<i>County</i>	<i>Number of Procedures for County Residents Year 1 (2022)</i>	<i>% of Total Procedures</i>
<i>Shelby</i>	2,056	70%
<i>Fayette</i>	117	4%
<i>Hardeman</i>	30	1%
<i>Tipton</i>	147	5%
<i>Haywood</i>	15	0.5%
<i>Lauderdale</i>	15	0.5%
<i>E. Arkansas</i>	117	4%
<i>NW Mississippi</i>	440	15%
TOTAL	2,937	100%

Source: CN2103-008, Page 23

It appears that this criterion has been met.

9. Access and Economic Efficiencies. An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

The applicant projected annual utilization on page 23 of the original application with total cases increasing from 2,937 in Year 1 (2022) to 3,127 in Year 2 (2023).

Projected Utilization and Percentage of Optimum Standard Years 1 & 2

	<i>Year 1</i>	<i>Year 2</i>
<i>Cases</i>	2,937	3,172
<i># of Operating Rooms</i>	3	3
<i>Cases per Operating Room</i>	979	1,057
<i>Optimum Utilization (70%)</i>	884	884
<i>Percentage of Optimum Utilization</i>	110.7%	119.6%

Source: CN2103-008, Supplemental #1, Page 9

It appears this criterion has been met.

10. Patient Safety and Quality of Care; Health Care Workforce.

- a. An applicant should be or agree to become accredited by any accrediting organization approved by the Centers for Medicare and Medicaid Services, such as the Joint Commission, the Accreditation Association of Ambulatory Health Care (AAAHC), the American Association for Accreditation of Ambulatory

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 7

Surgical Facilities, or other nationally recognized accrediting organization.

The applicant states that it intends to become accredited by the Centers for Medicare and Medicaid Services as well as the Accreditation Association of Ambulatory Health Care (AAAHC).

It appears this criterion has been met.

- b. An applicant should estimate the number of physicians by specialty that are expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel. An applicant should provide documentation on the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.

The proposed ASTC will initially be owned and operated by three physicians – Sanjeev Kumar, MD, Salil Joshi, MD, and Jorge Salazar, MD. Anesthesia services will be provided by Anesthesia Health Consultants, LLC as documented on page 32 of Supplemental #1.

It appears this criterion has been met.

11. Access to ASTCs. In light of Rule 0720-11.01, which lists the factors concerning need on which an application may be evaluated, and Principle No. 2 in the State Health Plan, "Every citizen should have reasonable access to health care," the HSDA may decide to give special consideration to an applicant:

- a. Who is offering the service in a medically underserved area as designated by the United States Health Resources and Services Administration;

The applicant does not request special consideration for this item.

- b. Who is a "safety net hospital" or a "children's hospital" as defined by the Bureau of TennCare Essential Access Hospital payment program;

Since the applicant is not a hospital, this standard is not applicable to this proposed project.

- c. Who provides a written commitment of intention to contract with at least one TennCare MCO and, if providing adult services, to

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 8

participate in the Medicare program; or

The applicant plans to contract with at least one TennCare MCO and Medicare.

- d. Who is proposing to use the ASTC for patients that typically require longer preparation and scanning times. The applicant shall provide in its application information supporting the additional time required per Case and the impact on the need standard.

Not applicable. The applicant is not seeking special consideration for case times.

Staff Summary

The following information is a summary of the original application and all supplemental responses. Any staff comments or notes, if applicable, will be a Note to Agency members in bold italics.

Application Synopsis

The applicant proposes a multi-specialty ambulatory surgical treatment center ("ASTC") for the performance of surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The proposed ASTC will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138.

Note to Agency members: In Supplemental #1, Page 4 the applicant states that is will accept a CON condition to limit surgical procedures to oral maxillofacial procedures, gynecological surgery, and interventional radiologic vascular access surgeries.

The proposed project is expected to be completed in February 2022.

Facility Information

- The ASTC will contain three (3) operating rooms, and zero (0) procedure rooms, (5) prep/recovery rooms, a private patient consultation room, a waiting room, mechanical room, and equipment storage area.
- Per a fully executed option to lease agreement, Poplar Ridge Surgery Center will lease 4,100 SF of renovated space with an initial term of 7 years. The lease expense the first year is expected to be based on a rate of \$18 per square foot.
- A floor plan drawing is included in attachment page 51 of the application as Attachment A-6B-2.

Ownership

- Poplar Ridge Surgery Center LLC, is a three member Tennessee limited liability company owned in equal shares by Sanjeev Kumar, MD (33.3%), Salil Joshi, MD (33.3%), Jorge Salazar, MD (33.3%) who will be the initial practitioners at this ASTC.
- The applicant is registered with the Tennessee Secretary of State as a professional limited liability company that was originally formed December 1, 2020.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 10

NEED

Project Need

The applicant states a Certificate of Need for a multi-specialty ambulatory surgical treatment center ("ASTC"), for the performance of surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgeries is being requested for the following reasons:

- The applicant projects that the optimum utilization standard (884 cases per OR) for the proposed three ASTC operating rooms will be met and exceeded.
- To improve access to patient care in Shelby County. The applicant highlights that only three ASTC providers in Shelby County offer gynecologic procedures.
- To reduce wait time for surgical procedures.
- A complete summary of project need is provided on page 4 of the original application.

Service Area Demographics

Poplar Ridge Surgery Center's primary service area (PSA) consists of Shelby, Fayette, Hardeman, Tipton, Haywood, and Lauderdale Counties in Tennessee as well as DeSoto and Tunica Counties in Mississippi, and Mississippi and Crittenden Counties in Arkansas.

- The applicant highlights the high rates of obesity, diabetes, and kidney disease in the service area population with Shelby County having an obesity rate of 33.4% which is higher than Tennessee overall - 31.1%, and the national rate of 27.6%.
- Vascular surgeries will serve a high number of obese patients, many with diabetes and kidney disease. The applicant highlights the higher mortality rate from these conditions among the black population (44%) vs. the white population (16%).
- The total population of the PSA is estimated at 1,114,681 residents in CY 2021 increasing by approximately 0.8% to 1,123,973 residents in CY 2025.
- The overall Tennessee statewide population is projected to grow by 3% from 2021 to 2025.
- The applicant identifies a target population of adults age 18 and older for this project. The target population of adults 18+ in 2021 for the service area is projected to be 845,293 increasing 1.1% to 854,537 in 2025.
- The number of residents enrolled in TennCare is approximately 16.1% of the total PSA population compared to 13% statewide.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 11

Service Area Historical Utilization

There are 6 other existing ASTCs and several hospitals in the service area that have performed the same types of outpatient surgical specialties that the applicant expects to perform at the proposed ASTC (Gynecology, Vascular Access and Oral Maxillofacial). The applicant provides the service area ASTC utilization by specialty for 2018-2020.

ASTCs

Service area ASTCs performing the surgery types proposed by the applicant are detailed in the tables below.

Service Area ASTCs Operating Room Cases by Gynecologic, Vascular, and Oral Maxillofacial Type 2020

Facility Name	TOTAL Operating room cases	Gynecologic Operating Room Cases	% of OR Cases	Vascular Operating Room Cases	% of OR Cases	Oral Maxillofacial Operating Room Cases	% of OR Cases
Memphis Surgery Center	3,416	41	1.2%	0	0%	0	0%
Le Bonheur East Surgery Center	2,727	0	0%	0	0%	540	19.8%
East Memphis Surgery Center	3,605	669	18.5%	0	0%	0	0%
Methodist Surgery Center Germantown	3,771	284	7.5%	0	0%	1	0%
UCH Vascular Access ASC	999	0	0%	999	100%	0	0%

Source: Joint Annual Report for ASTCs 2020

Service Area ASTCs Operating Room Cases by Gynecologic, Vascular, and Oral Maxillofacial Type 2019

Facility Name	TOTAL Operating room cases	Gynecologic Operating Room Cases	% of OR Cases	Vascular Operating Room Cases	% of OR Cases	Oral Maxillofacial Operating Room Cases	% of OR Cases
Memphis Surgery Center	3,791	27	0.7%	0	0%	0	0%
Le Bonheur East Surgery Center	3,455	0	0%	0	0%	80	2.3%
East Memphis Surgery Center	3,611	803	22.2%	0	0%	0	0%
Methodist Surgery Center Germantown	4,275	0	0%	0	0%	0	0%
North Surgery Center	959	0	0%	0	0%	0	0%
UCH Vascular Access ASC	300	0	0%	300	100%	0	0%

Source: Joint Annual Report for ASTCs 2019

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 12

**Service Area ASTCs Operating Room Cases by Gynecologic, Vascular, and Oral
Maxillofacial Type 2018**

Facility Name	TOTAL Operating room cases	Gynecologic Operating Room Cases	% of OR Cases	Vascular Operating Room Cases	% of OR Cases	Oral Maxillofacial Operating Room Cases	% of OR Cases
Memphis Surgery Center	3,352	47	1.4%	0	0%	0	0%
Le Bonheur East Surgery Center	2,907	0	0%	0	0%	437	15.0%
East Memphis Surgery Center	3,191	1,100	34.5%	0	0%	0	0%
Methodist Surgery Center Germantown	4,019	222	5.5%	0	0%	1	0%
North Surgery Center	2,133	3	0.1%	0	0%	0	0%

Source: Joint Annual Report for ASTCs 2018

Based on 2020 ASTC data, the largest volume of gynecologic outpatient surgeries were performed at East Memphis Surgery Center (669) and Methodist Surgery Center Germantown (284). All vascular surgeries were reported by UHC Vascular Access ASC (999) and Le Bonheur East Surgery Center performed nearly all reported oral maxillofacial surgeries (540) at a service area ASTC.

Note to Agency members: The tables for service area ASTC utilization by specialty provided by the applicant in CN2103-008 Supplemental #1 Page 7 contain errors and are reconstructed for this summary in the tables above to reflect ASTC utilization for Gynecologic, Vascular, and Oral Maxillofacial Surgery Types for 2018-2020.

Hospitals

Service area hospitals performing the surgery types proposed by the applicant are detailed in the tables below.

Service Area Hospital Outpatient Surgeries by Gynecology, Vascular, and Oral Maxillofacial Cases 2019

Hospital	County	Gyn OP Cases	% of Total OP Cases	Vasc OP Cases	% of Total OP Cases	Oral/Max OP Cases	% of Total OP Cases	TOTAL OP Cases	All types as % of TOTAL OP Cases
Baptist Memorial Hospital	Shelby	212	1.7%	97	0.7%	0	0%	12,218	2.5%
Baptist Collierville	Shelby	0	0%	390	12.5%	0	0%	3,111	12.5%
Baptist Memorial for Women	Shelby	1,530	27.9%	0	0%	0	0%	5,481	27.9%
Methodist Germantown	Shelby	1,890	16.3%	45	0.3%	0	0%	11,590	16.7%
Methodist HC Memphis	Shelby	242	1.6%	275	1.9%	0	0%	14,558	3.6%
Methodist Hospital North	Shelby	0	0%	45	1.4%	0	0%	3,207	1.4%
Methodist Hospital South	Shelby	284	16.5%	0	0%	0	0%	1,712	16.6%
Regional One Health	Shelby	34	0.3%	31	0.3%	0	0%	8,754	0.7%
St. Francis Hospital Shelby	Shelby	565	5.5%	57	0.5%	1	0%	10,207	6.1%
St. Francis Bartlett	Shelby	255	6.0%	132	3.1%	11	0.2%	4,204	9.5%
Lauderdale Community	Lauderdale	0	0%	0	0%	0	0%	189	0%
Baptist Memorial Tipton	Tipton	0	0%	0	0%	0	0%	609	0%
TOTAL		5,012	6.6%	1,072	1.4%	12	0%	75,840	8.0%

Source: CN2103-008, Supplemental #1, Page 8

- The number of gynecologic outpatient surgical procedures conducted by Dr. Kumar in service area hospitals are listed below:

Gynecologic Outpatient Surgical Procedures by Dr. Kumar 2018-2020

Surgeon/Location	2018	2019	2020
	# Surgeries	# Surgeries	# Surgeries
Sanjeev Kumar, MD			
Baptist Hospital for Women	165	56	98
Baptist Memorial Hospital	35	27	7
Methodist Germantown	58	31	72
Methodist Memphis	0	0	0
St. Francis Hospital	51	49	71
TOTAL	309	163	248

Source: CN2103-008, Supplemental #1, Page 8

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 14

- Dr. Kumar's outpatient gynecologic surgeries represent 3.2% of the total outpatient case volumes at these respective hospitals in 2019.
- The two surgeon partners who will perform interventional radiology vascular access surgeries at the proposed ASTC previously performed their procedures at Vascular Access Centers in Memphis, which is a facility that has since closed as a result of bankruptcy. The vascular surgeries performed by these surgeons are detailed in the tables below:

Vascular Outpatient Surgical Procedures by Dr. Joshi 2018-2020

Surgeon/Location	2018	2019	2020
Salil Joshi, MD	# Surgeries	# Surgeries	# Surgeries
Vascular Access Centers	1,121	1,456	808

Source: CN2103-008, Supplemental #1, Page 8

Vascular Outpatient Surgical Procedures by Dr. Salazar 2018-2020

Surgeon/Location	2018	2019	2020
Jorge Salazar, MD	# Surgeries	# Surgeries	# Surgeries
Vascular Access Centers	1,233	1,318	808

Source: CN2103-008, Supplemental #1, Page 8

- The oral maxillofacial surgeons operating at the ASTC will be Ronald Staples, MD, and Ricky Meekins, MD. The applicant states that both physicians will keep their existing hospital-based surgeries in the hospital as they are considered oral maxillofacial trauma cases. The total number of oral maxillofacial surgeries performed by these surgeons from 2018-2020 and projections for the first three years of the new ASTC are listed below:

Historical Oral Maxillofacial Surgeries at Hospital and Outpatient 2018-2020

Surgeon	2018	2019	2020
Ronald Staples	3,512	3,012	2,808
Ricky Meeks	3,484	2,912	2,318

Source: CN2103-008, Supplemental #1, Page 5

Projected Oral Maxillofacial Surgeries at ASTC Year 1-Year 3

Surgeon	Year 1 (2022)	Year 2 (2023)	Year 3 (2024)
Ronald Staples	150	200	275
Ricky Meeks	150	200	275

Source: CN2103-008, Supplemental #1, Page 5

Applicant's Historical and Projected Utilization

There is no historical utilization for the applicant to report. The following chart provides the applicant's projected capacity volumes for the proposed ASTC.

Projected Utilization Year 1 and Year 2

	Year 1	Year 2
OR Cases	2,937	3,172
# of Operating Rooms	3	3
Cases per Operating Room	979	1,057
Optimum Utilization Standard (70%)	884	884
Percentage of Optimum Standard Utilization	110.7%	119.6%

Source: CN2103-008, Supplemental #1, Page 9

- Based on the information above the applicant will attain OR optimal standard utilization by the first year of operation.

Projected Patient Origin Year 1 and Year 2

Service Area Counties	Projected Utilization - County Residents - Year 1 (2022)	Projected Utilization - County Residents - Year 2 (2023)	% of Total by County
Shelby	2,056	2,220	70%
Fayette	117	127	4%
Hardeman	30	32	1%
Tipton	147	159	5%
Haywood	15	16	0.5%
Lauderdale	15	16	0.5%
E. Arkansas	117	127	4%
N Mississippi	440	475	15%
TOTAL	2,937	3,172	100%

Source: CN2103-008 Supplemental #1, Replacement Page 23R

- The majority of patients are projected to reside in Shelby County and two northwest Mississippi Counties (DeSoto and Tunica).

ECONOMIC FEASIBILITY

Project Cost

Major costs of the \$2,012,000 total estimated project cost are as follows:

- Construction Cost - \$950,000 or approximately 47.2% of total cost
- Building - \$516,000 or 25.6% of the total project cost.
- Moveable Equipment - \$270,000 or 13.4% of total project cost
- For other details on Project Cost, see the Project Cost Chart on page 36 of the application.

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 16

Financing

Poplar Ridge Surgery Center will fund the proposed \$2,012,000 project with a commercial loan.

- A letter dated April 28, 2021 from Financial Federal attests to the availability of a commercial loan totaling up to \$2,500,000 with over a 5-year term for the buildout of the new facility at a fixed interest rate of 4.5%.

Net Operating Margin Ratio

- Net operating margin ratio is 17.6% for Year One and 19.4% for Year 2.

Note to Agency Members: The net operating margin demonstrates how much revenue is left over after all the variable or operating costs have been paid.

Capitalization Ratio

- The applicant is a newly formed entity and has no long-term debt or assets.

Note to Agency Members: The capitalization ratio measures the proportion of debt financing in a business's permanent financing mix.

Historical Data Chart

- Since this is a new proposed ASTC project, there is no historical data chart.

Projected Data Chart

The applicant projects \$10,390,236 in total gross revenue on 2,937 surgical OR cases during the first year of operation and \$11,221,454 on 3,172 surgical cases in Year 2 (approximately \$3,537 per case). The Projected Data Chart reflects the following:

- Net Balance (Net Income - (Annual Principal Debt Repayment + Annual Capital Expenditure)) for the applicant will equal \$716,973 in Year 1 increasing to \$890,945 in Year 2.
- Net operating revenue after bad debt, charity care, and contractual adjustments is expected to reach \$5,442,401 or approximately 48.4% of total gross revenue in Year 2.
- Charity care included as approximately 0.5% of total gross revenue in Year 1 and Year 2 equaling to \$51,952 and \$56,111, respectively.
- Charity Care calculates to 14.7 cases in Year 1 and 15.8 cases in Year 2.

Charges

In Year 1 of the proposed project, the average charge per surgical case is as follows:

- Average Gross Charge-**\$3,538**
- Average Deduction from Operating Revenue-**\$1,822**
- Average Net Charge-**\$1,716**

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 17

Payor Mix

The applicant's projected payor mix in Year 1 is displayed in the following table:

Payor Source	Projected Gross Operating Revenue	As a % of Total
Medicare/Medicare Managed Care	\$3,527,483	70%
TennCare/Medicaid	\$503,926	10%
Commercial/Other Managed Care	\$907,067	18%
Self-Pay	\$100,785	2%
Other (Specify)	\$0	0%
Total	\$5,039,262	100%
Charity Care	\$50,393	1%

Source: CN2103-008 Original Application, Page 46

Note: The applicant calculates the Payor Mix using Net Operating Revenue instead of Gross Operating Revenue

- Medicare and TennCare/Medicaid charges will equal 80% of total revenue.
- Commercial and other Managed Care will equal 18% of total revenue.
- The applicant expects to contract with all the TennCare Managed Care Organizations that serve the region.

PROVIDE HEALTHCARE THAT MEETS APPROPRIATE QUALITY STANDARDS

Licensure

- Poplar Ridge Surgery Center will seek licensure by the Tennessee Department of Health.

Certification

- The applicant plans to apply for Medicare and Medicaid certification.

Accreditation

The applicant will seek accreditation by the Accreditation Association of Ambulatory Health Care (AAAHC).

Other Quality Standards

- The applicant commits to obtaining and/or maintaining the following:
 - Staffing levels comparable to the staffing chart presented in the CON application
 - Licenses in good standing
 - TennCare/Medicare certifications
 - Self-assessment and external peer assessment processes

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 18

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTHCARE

Agreements

- The applicant states that it will maintain a transfer agreement with Baptist Memorial Hospital, Methodist Healthcare Memphis Hospitals, and Saint Francis Hospital.

Impact on Existing Providers

- The applicant believes that the proposed ASTC facility will reduce patient wait times in the service area from 6 months to approximately 15 days for renal failure patients (compared to other area facilities offering services to renal fistula patients). The applicant states that there is one other renal care provider in the service area which is not an ASTC and this facility does not have the ability to create arteriovenous grafts or fistulas.
- The applicant states that the proposed ASTC will improve patient access to gynecologic surgeries and oncolytic therapies while providing a non-hospital option for patients.
- The applicant does not identify negative effects on the health care system.

Staffing

The applicant's proposed direct patient care staffing in Year One includes the following:

Position Type	Year One FTEs
Nursing Director	1.0
PreOp/PAC U RN	2.0
Surg Tech / MAT Mgr / Instrument Tech	3.0
Medical Assistant	2.0
C-Arm Tech	3.0
Total Direct Care Staff	11.0
Receptionist	2.0
Biller / Collections / Pre Auth	3.0
Business Operations Specialist	1.0
Other Clerical / MA	1.0
Total Non-Patient Care Positions	7.0
TOTAL STAFF	18.0

Source: CN2103-008, Supplemental #1, Page 29

Should the Agency vote to approve this project, the CON would expire in **two** years.

CERTIFICATE OF NEED INFORMATION FOR THE APPLICANT:

There are no other Letters of Intent, denied or pending applications, or Outstanding Certificates of Need on file for this applicant.

CERTIFICATE OF NEED INFORMATION FOR OTHER SERVICE AREA FACILITIES:

There are no other Letters of Intent, denied or pending applications on file for similar service area entities proposing this type of service.

Outstanding Certificates of Need

Jackson Madison Surgery Center, CN2007-020A has a Certificate of Need that will expire on December 1, 2022. The project was approved at the October 28, 2020 Agency meeting for the establishment of a multi-specialty freestanding ambulatory surgical treatment center (ASTC) in the current location of West Tennessee Surgery Center located at 700 West Forrest Avenue, Suite 100, Jackson (Madison County), TN 38301. The proposed primary service area consists of Madison, Gibson, Carroll, Henderson, Hardeman, Haywood, Crockett, and Chester Counties. The secondary service area consists of McNairy, Hardin, Lake, Decatur, Henry, Weakley, Benton, Dyer, Obion, and Lauderdale Counties. The applicant is owned by Jackson Madison Surgery Center, LLC which is 100% owned by the Jackson-Madison County General Hospital District. **The estimated project cost is \$19,939,873.** *Project Status Update: A July 29, 2021 update from a project representative indicated the Jackson Madison Surgery Center development schedule called for renovations to the West Tennessee Healthcare North Hospital so volumes from the current West Tennessee Surgery Center would be moved. The Surgery Center would then close for a short period of time for licensure conversion to an ambulatory surgical treatment center. Due to COVID issues and shortages in building materials (especially HVAC), renovations to the West Tennessee Healthcare North Hospital have been delayed with anticipated completion of January 2022. All orthopedic and other surgery cases will then move to the North Hospital, and conversion completed. The Applicant is continuing to pursue a joint venture as described in the Certificate of Need.*

West Surgery Center, CN1809-040A, has a Certificate of Need that will expire on April 1, 2022. The project was approved at the February 27, 2019 Agency meeting for the establishment of a multi-specialty ASTC with four operating rooms and one procedure room at 7945 Wolf River Road, Germantown (Shelby County), TN 38138. The West Surgery Center was a collaboration between Methodist Le Bonheur Healthcare (Methodist), the University of Tennessee Health Science Center (UT), and the West Clinic. The business relationship between the three parties ended January 1, 2019. Since the surgery services provided were billed as an outpatient

Poplar Ridge Surgery Center, LLC

CN2103-008

August 25, 2021

PAGE 20

hospital department of Methodist, it was necessary for the West Surgery Center to apply as an ASTC for outpatient surgery as a result of the change in ownership.

The proposed service area is Shelby County. The applicant is owned by The West Clinic, P.C. **The estimated project cost is \$6,198,422.16.** *Project Status Update: A July 29, 2021 update from a project representative indicated COVID has severely impacted and disrupted the provision of health care services and this has affected the planning process for the surgery center. The West Clinic is in the process of evaluating its options regarding CN1809-040A for the surgery center.*

PLEASE REFER TO THE REPORT BY THE DEPARTMENT OF HEALTH, DIVISION OF HEALTH STATISTICS, FOR A DETAILED ANALYSIS OF THE STATUTORY CRITERIA OF NEED, ECONOMIC FEASIBILITY, HEALTH CARE THAT MEETS APPROPRIATE QUALITY STANDARDS, AND CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE IN THE AREA FOR THIS PROJECT. THAT REPORT IS ATTACHED TO THIS SUMMARY IMMEDIATELY FOLLOWING THE COLOR DIVIDER PAGE.

TPP
7/19/2021



**State of Tennessee
Health Services and Development Agency**

Andrew Jackson Building, 9th Floor, 502 Deaderick Street, Nashville, TN 37243
www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

CERTIFICATE OF NEED APPLICATION

SECTION A: APPLICANT PROFILE

IDENTIFYING INFORMATION

1. Name of Facility, Agency, or Institution

Poplar Ridge Surgery Center, LLC

Name

6584 Poplar Avenue, Suite 102

Shelby

Street or Route

County

Memphis

Tennessee

38138

City

State

Zip Code

Website address: Will be developed once licensed and open.

*Note: The facility's name and address **must be** the name and address of the project and **must be** consistent with the Publication of Intent.*

2. Contact Person Available for Responses to Questions

Roger Manning

Managing Partner

Name

Title

Excellentia Advisory Group LLC

roger@excellentiagroup.com

Company Name

Email address

1101 St. Peters Howell Rd.

Saint Peters

MO

63376

Street or Route

City

State

Zip Code

ASC Consultant (contracted)

314-399-2335 office / 636-219-6018 cell

Association with Owner

Phone Number

Please answer all questions on 8½" X 11" white paper, clearly typed and spaced, single sided, in order and sequentially numbered. In answering, please type the question and the response. All questions must be answered. If an item does not apply, please indicate "N/A" (not applicable). Attach appropriate documentation as an Appendix at the end of the application and reference the applicable Item Number on the attachment, i.e., Attachment A.1, A.2, etc. The last page of the application should be a completed signed and notarized affidavit.

3. EXECUTIVE SUMMARY

A. Overview

Please provide an overview not to exceed three pages in total explaining each numbered point.

- 1) Description – Address the establishment of a health care institution, initiation of health services, bed complement changes, and/or how this project relates to any other outstanding but unimplemented certificates of need held by the applicant;
- 2) Ownership structure;
- 3) Service area;
- 4) Existing similar service providers;
- 5) Project cost;
- 6) Funding;
- 7) Financial Feasibility including when the proposal will realize a positive financial margin; and
- 8) Staffing.

RESPONSE-EXECUTIVE SUMMARY

Please provide an overview not to exceed three pages in total explaining each numbered point.

1. Description – Address the establishment of a health care institution, initiation of health services, bed complement changes, and/or how this project relates to any other outstanding but unimplemented certificates of need held by the applicant;

RESPONSE 3 A-1: DESCRIPTION: This multi-specialty CON application is for a new ASTC facility and is not associated with any other CON applications or projects by this owner. Therefore, there are no changes to existing facility beds or services. The vision for Poplar Ridge Surgery Center, LLC (ASTC) comes from three (3) physician partners who desire to create a better quality of care environment for patients, increasing operational efficiencies, creating better start times and end times and thus greater convenience for both patient and physician as well as more economical healthcare services for all payors involved. This facility will provide some services that are not really popular at other ASTCs in Shelby County or any other neighboring five Tennessee counties in regards to gynecologic surgery and interventional radiologic vascular access. This facility will also offer a very new technology called InterStim for bladder control. Lastly, we will provide a limited amount of oral maxillofacial surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms and will provide twenty-three (23) hour patient care. There will be no overnight twenty-four (24) hour service at this ASTC. The ASTC will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building offering safe and easy access for all patients including handicapped accessible and on the Memphis 50 bus route. The ASTC will take as many payor sources as possible including TennCare and other Third-Party payor Managed Medicaid and Medicare programs.

RESPONSE 3A-2: OWNERSHIP STRUCTURE: The ASTC is a domestic L.L.C. created on December 20, 2020. The L.L.C. will consist of three (3) Members: Sanjeev Kumar, MD owning 33.33%; Salil Joshi, MD owning 33.33% and Jorge Salazar MD owning 33.33%.

RESPONSE 3A-3: SERVICE AREA: The ASTC will provide the majority of surgical services to patients in Shelby County and surrounding five (5) counties of Fayette, Hardeman, Haywood, Tipton and Lauderdale. A small percentage of patients will come to the ASTC from the Marion, AR and Northeast Arkansas area as well as from Northern Mississippi.

RESPONSE 3A-4: EXISTING SIMILAR SERVICE PROVIDERS: The ASTC will provide gynecological surgery and gynecologic oncology by one surgeon and interventional radiologic vascular access procedures by two (2) other surgeon partners.

A significant amount of vascular access procedures were performed at *Vascular Access Centers*. Recently, *Vascular Access Centers* has ceased business due to Chapter 7 bankruptcy and was where our two vascular surgeons were on staff (employed) thus creating a new need for an alternate location. In the greater Memphis area, there is a six (6) month waiting period for kidney patients to get fistula insertion procedures. The Poplar Ridge Surgery Center will provide quicker and more convenient access for these patients and thus reduce that lengthy waiting time period. Regarding interventional radiology/vascular access surgical procedures, there appear to be no licensed ASTCs providing this service since *Vascular Access Centers* went out of business in 2020. Our ASTC will absorb those patients from *Vascular Access Centers* and expand the marketplace for this specific need.

The only three Shelby County ASTCs that provide gynecology procedures are:

1. East Memphis Surgery Center (Shelby) **803 gyn cases** in 2019
2. Memphis Surgery Center (Shelby) **27 gyn cases** in 2019
3. Methodist Surgery Center – Germantown (Shelby) **245 gyn cases** in 2019

The remaining ASTCs are either multi-specialty without these procedures or single specialty that do not provide these similar procedures as Poplar Ridge Surgery Center. There are no ASTCs in the remaining neighboring five (5) counties of Fayette, Hardemann, Haywood, Lauderdale, or Tipton. Dr. Kumar is not doing gyn procedures at these ASTCs at the present time therefore will not replace patients from these facilities.

RESPONSE 3A-5: PROJECT COST: The ASTC will be built on the first floor of an existing multi-story office building on Poplar Avenue in Memphis, TN and will occupy Suite #120. The projected cost of the ASTC is estimated to be \$2,012,000.00 and the ongoing monthly lease for 7 years will be a separate \$516,000.

RESPONSE 3A-6: FUNDING: The funding will come from Financial Federal Bank. See Funding commitment letter in ATTACHMENTS B-Economic Feasibility -2.

RESPONSE 3A-7: FINANCIAL FEASIBILITY: A productivity study of the three physician owners has been done and it is projected that first-year annual revenues will be: \$10,390,236 with contractual write-offs of \$5,195,118 and with EBITDA of \$623,415 based upon 111% of optimal utilization of the three (3) Operating Rooms during the first twelve months after opening, it is expected that the ASTC will be profitable by the end of its first year. Break-Even and profitability on this ASTC project will be December 2022.

RESPONSE 3A-8: STAFFING: The new ASTC will have a full time Director of Nursing Registered Nurse providing leadership to a licensed nursing staffing model consistent with the AORN standards and required by both CMS regulations, State of Tennessee and A.A.A.H.C. guidelines. The ASTC will provide new jobs for approximately 10-15 full time employees and 5 or more part-time or PRN nurses.

B. Rationale for Approval

A certificate of need can only be granted when a project is necessary to provide needed

health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of adequate and effective health care in the service area.

Provide a brief description of how the project meets the criteria necessary for granting a CON using the data and information points provided in Section B of the application.

- 1) Need;
- 2) Economic Feasibility;
- 3) Quality Standards;
- 4) Orderly Development of adequate and effective health care.

RESPONSES 3B

3B-1: NEED:

Physicians of the Poplar Avenue Clinic and their collaborating practices, all located within the medical office building of Poplar Ventures; at 6584 Poplar Avenue, Memphis, TN wish to propose a multispecialty Ambulatory Treatment Surgery Center (ATSC). The focus of operations within this ATSC will be outpatient surgical procedures catering to the volume of the Poplar Avenue Clinic primarily.

- (1) The optimum utilization of the ASTC operating rooms will be met and exceeded. It is expected that the applicant's utilization will be 2937 cases in year one compared to the minimum optimization of 884 cases per year per operating room or 2652 cases for three Operating Rooms and will increase to 3171 in year two. Based on prior year case log information, the annual number of cases by each member partner is expected to be:

Physicians	Year One: 2022	Year Two: 2023
Sanjeev Kumar, MD	1321	1427
Salil Joshi, MD	808	872
Jorge Salazar, MD	808	872

(2) To improve access to patient care in Shelby county

The medical care in the city of Memphis is very fragmented and can be a nightmare to navigate for the patient, family and the clinical surgeon. For example, Blue Cross Blue Shield is contracted to Baptist; Cigna is contracted to Methodist whereas Wellcare is contracted to Saint Francis Memphis. If a surgeon has three of these patients belonging to these insurances, they have no choice but to operate in three different hospitals in the same day—a colossal waste of a surgeon's time and reduces the effective time to operate by about 50% causing long wait times for needy patients. In fact, longer wait times for cancer surgery are associated with worse survival in gynecologic cancers [https://www.gynecologiconcology-online.net/article/S0090-8258\(16\)30146-9/pdf](https://www.gynecologiconcology-online.net/article/S0090-8258(16)30146-9/pdf). It can also pose safety concerns. By having an independent ATSC in the same building as the surgeons, we will be able to save time and will be able to serve more patients with unmatched convenience.

Second, due to contractual restrictions, the interventional radiologists cannot practice in the hospitals or the hospital owned ATSCs in the city of Memphis unless they are employed by the main radiology groups contracted by the respective hospitals. This immediately restricts the choice of the patients served by the interventional radiology physicians working with the Poplar Avenue Clinic. The proposed ATSC will hence fulfil that need of patients of our own practice and will not affect any other existing Hospital or ASTC.

Hence, the physicians of the Poplar Avenue Clinic will be able to accommodate surgical volume of the Poplar Avenue Clinic in the ATSC located in the same building. This will reduce the surgeons travel time,

improve patient comfort & choice, reduce cost and complications.

(3) To reduce wait times for life & limb saving surgical procedures-

Vast majority of work done by the physicians of the Poplar Avenue Clinic is for life saving (gynecologic cancer treatment, dialysis care) or limb saving procedures (limb ischemia, peripheral arterial disease). Both of these groups of patients are underserved in the city of Memphis and Shelby county. In addition, vast majority of our patients (66%) are morbidly obese compared to the Shelby County obesity rate of 33.4%, minority (African American), women and belong to lower socio-economic strata. The Poplar Ridge Surgery Center will help these patients immensely.

At the Poplar Avenue Clinic, we have a very unique setup where we can evaluate our patients the same day (on the 4th floor) and render the procedure the same or the next day (on the ground floor). Our model of care follows the Mayo Clinic care model; which has been proven to be most cost effective, convenient and high quality.

The average wait time for a mature arteriovenous access ready for cannulation in Shelby county is 3 to 6 months, indicating a pressing need to increase capacity. This predisposes renal failure patients to catheter related complications including frequent breakdowns, fibrin sheath, catheter replacements and worst of all, infection. Infection leading to sepsis in an End Stage Renal Disease (ESRD) patient is associated with high mortality due to the indwelling catheter and continued need for dialysis. The National DOKI guidelines mirror these arguments. The ESRD patient population is growing and needs highly coordinated care. The Poplar Ridge ASTC will change the paradigm of care for a unique, large, and growing base of patients with ESRD. There is no other coordinated system of care in which ESRD patients can receive the percutaneous and surgical services needed to maintain their ongoing schedule of dialysis, at one convenient location drastically reducing the wait times for access related procedures.

ESRD patients have urgent/semi-emergent need for their access procedures, often required to be performed the same day in order to maintain vascular access and to continue routine dialysis treatment. None of the existing hospitals or ambulatory surgery options in Shelby County are currently focused on or designed to meet the specific vascular access needs of this population with such set up where consultations and procedures can happen the same day under one roof. Poplar Ridge Surgery Center will be able to provide all ESRD vascular access needs in one location from vein mapping & surgical planning, to venography and access creation, to fistula maturation and access maintenance, (thru thrombectomy, angioplasty and stenting). In so doing, Poplar Ridge Surgery Center will substantially raise the level of the clinical care of an increasing patient population with very specific needs.

Similar to ESRD, limb salvage remains a national priority. Shelby county has a very high prevalence of limb ischemia due to diabetes, ESRD, severe obesity and smoking. Interventional Radiologists at the ASTC will be able to provide limb saving revascularization services under anesthesia with no treatment delays for this high-risk population where otherwise there is great risk of losing a limb with amputation.

3B-2: ECONOMIC FEASIBILITY: Gynecological surgeries are performed at three (3) other ASTCs, one ASTC in Desoto County, Mississippi and seven (7) area hospitals. Of the seven Arkansas hospitals, only three of them provide any significant number of cases which are:

- Baptist Women's Hospital with 2380 total inpatient and outpatient cases in 2019
- Methodist Germantown Hospital with 2760 total inpatient and outpatient cases in 2019
- St. Francis Hospital with 724 total inpatient and outpatient cases in 2019
- The remain 4 hospitals totaled 1668 total inpatient and outpatient cases in 2019

Vascular access procedures are performed at no other ASTCs and at seven (7) area hospitals. There are 3104 (2019 JARS data) vascular access procedures performed in our proposed service area by these seven area hospitals. It is expected that our ASTC will provide 808 V.A. cases per OR (1 doc per OR) per year due to our two physician's prior employer, *Vascular Access Centers*, filing Chapter 7 and those

patients being displaced. Limited facilities for the provision of interventional radiologic and vascular access has created long wait times for patients with diabetes and kidney disease increasing the likelihood of limb amputations or worse, death. Also, it is unfortunate in the Memphis area that many other gynecologists or family practice physicians will shy away from managing the overly obese woman's gyn-related issues. Therefore, Dr. Sanjeev Kumar has become the leading referral for women patients of BMI greater than 40. This new facility can be seen as moving in the right direction for providing unique services that solve a public health problem in western Tennessee and thus reducing the cost of healthcare ultimately if the need is not met. The rise of high-deductible insurance options is making patients more price-sensitive, and copays tend to be lower in ASTCs than in HOPDs thus driving a higher demand for these services at the ASTC as well as the convenience factor for the patient. Sanjeev Kumar, MD and his partners are very sensitive to the fact that there a large number of lower income patients and particularly young females with transportation issues that need a provider that is willing to accept TennCare and be located conveniently for them to access the services.

3B-3: QUALITY STANDARDS: Our ASTC will be Medicare certified and A.A.A.H.C. accredited. The ASTC facility development, creation and implementation of Policies & Procedures, training of Director of Nursing and staff will be managed and oversight by a prior CMS and accreditation surveyor turned consultant, Cathy Montgomery, RN, CASC of Excellentia Advisory Group, www.excellentiagroup.com. This ASTC will follow the 10-Step Quality Assurance Performance Improvement process that is outlined in A.A.A.H.C. Our ASTC Policies & Procedures will be developed utilizing and following guidelines & recommendations published by the likes of AORN (nursing), CDC (infection control), AAMI (sterilization), FGI (Facility Guidelines Institute) and NFPA (life safety code). Our Quality Improvement Program, Risk Management Plan and Accreditation and Quality Attestation Letter can be found in Attachments Section B-Quality 1 and 2. Our Quality Improvement record-keeping form will be that of A.A.A.H.C. format.

4B-4: ORDERLY DEVELOPMENT of ADEQUATE and EFFECTIVE HEALTHCARE – The ASTC will have the following committees in place that report to the Governing Body on a quarterly basis and will provide the backbone for providing high quality, operationally efficient & effective services as well as cost effective healthcare:

- Safety Committee
- Risk Management Committee
- Infection Control committee
- QAPI Committee
- Emergency Operations Management Committee
- Pharmacy Utilization
- Peer Review committee
- Credentialing Committee

Dr. Kumar has hospital privileges at the three (3) main hospitals in the area which is Baptist, Methodist and St. Francis. Due to Dr. Kumar having these hospital privileges, our ASTC will have the ability to transfer patients due to recent guidelines established by CMS. As well, hospitals are required to take emergent patients as a result of calling "911".

Our ASTC will propose to have a transfer agreement in place with either Methodist Germantown Hospital of Baptist Memorial Hospital after receiving our CON and obtaining licensure.

Once licensed, ASTC will pursue having referral arrangements in place with support services such as

- Translation services
- Social Service consultation
- Financial consultation
- Home Healthcare
- Physical therapy rehab referral sources

Languages spoken by the providers: English, Arabic, Hindi and Spanish.

C. Consent Calendar Justification

If Consent Calendar is requested, please provide the rationale for an expedited review.

A request for Consent Calendar must be in the form of a written communication to the Agency's Executive Director at the time the application is filed _____

RESPONSE: N/A

PROJECT DETAILS

A. <u>Owner of the Facility, Agency or Institution</u> See attachment for list of owners; A-4			
Sanjeev Kumar, M.D.		(248) 924-1791 cell	_____
Name		Phone Number	
6584 Poplar Avenue		_____	
Street or Route		Shelby County	
Memphis	TN	13138 zip Code	
City	State		
B. <u>Type of Ownership of Control (Check One)</u>			
1) Sole Proprietorship	_____	6) Government (State of TN or Political Subdivision)	_____
2) Partnership	_____	7) Joint Venture	_____
3) Limited Partnership	_____	8) Limited Liability Company	X
4) Corporation (For Profit)	_____	9) Other (Specify) _____	_____
5) Corporation (Not-for-Profit)	_____		
Completed			
<p>Attach a copy of the partnership agreement, or corporate charter and certificate of corporate existence. Please provide documentation of the active status of the entity from the Tennessee Secretary of State's web-site at https://tnbear.tn.gov/ECommerce/FilingSearch.aspx. RESPONSE: Attachment Section A-4AB.</p> <p>Describe the existing or proposed ownership structure of the applicant, including an ownership structure organizational chart. Explain the corporate structure and the manner in which all entities of the ownership structure relate to the applicant. As applicable, identify the members of the ownership entity and each member's percentage of ownership, for those members with 5% ownership (direct or indirect) interest.</p> <p>RESPONSE: See Attachments Section 4-AB</p>			
5. <u>Name of Management/Operating Entity (If Applicable)</u> NOT APPLICABLE AT THIS TIME			

Name _____

Street or Route _____

County _____

City _____

State _____

Zip Code _____

Website address: _____

For new facilities or existing facilities without a current management agreement, attach a copy of a draft management agreement that at least includes the anticipated scope of management services to be provided, the anticipated term of the agreement, and the anticipated management fee payment methodology and schedule. For facilities with existing management agreements, attach a copy of the fully executed final contract. Attachment Section A-5.

6A. Legal Interest in the Site

(Check the appropriate line and submit the following documentation)

The legal interest described below must be valid on the date of the Agency consideration of the certificate of need application.

- Ownership** (Applicant or applicant's parent company/owner)
Submit a copy of the title/deed.
- Lease** (Applicant or applicant's parent company/owner)
Attach a fully executed lease that includes the terms of the lease and the actual lease expense.
- Option to Purchase**
Attach a fully executed Option that includes the anticipated purchase price
- Option to Lease**
Attach a fully executed Option that includes the anticipated terms of the Option and anticipated lease expense
- Other** (Specify)

Check appropriate line above: For applicants or applicant's parent company/owner that currently own the building/land for the project location, attach a copy of the title/deed. For applicants or applicant's parent company/owner that currently lease the building/land for the project location, attach a copy of the fully executed lease agreement. For projects where the location of the project has not been secured, attach a fully executed document including Option to Purchase Agreement, Option to Lease Agreement, or other appropriate documentation. Option to Purchase Agreements **must include** anticipated purchase price. Lease/Option to Lease Agreements **must include** the actual/anticipated term of the agreement **and** actual/anticipated lease expense. The legal interests described herein **must be valid** on the date of the Agency's consideration of the certificate of need application.

Attachment Section A-6A

6B. Briefly describe the following and attach the requested documentation on an 8 ½" x 11" sheet of white paper, legibly labeling all requested information.

- 1) Plot Plan **must include:** See Attachment Section A
 - a) Size of site (*in acres*);
 - b) Location of structure on the site;
 - c) Location of the proposed construction/renovation; and
 - d) Names of streets, roads or highway that cross or border the site.

- 2) Floor Plan – If the facility has multiple floors, submit one page per floor. If more than one page is needed, label each page.
- a) Patient care rooms (private or semi-private) –
 - b) Ancillary areas
 - c) Equipment areas
 - d) Other (specify)

See Attachment Section A – 6B 1 & 2 for Floor Plan and Picture of building

- 3) Public Transportation Route - Describe the relationship of the site to public transportation routes, if any, and to any highway or major road developments in the area. Describe the accessibility of the proposed site to patients/clients.

See Attachment Section A-6B-1 a-d, 6B-2, 6B-3.

7. Type of Institution (Check as appropriate--more than one response may apply)

- | | | | |
|--|-------------------------------------|---------------------------------|-------|
| A. Hospital (Specify) _____ | - | H. Nursing Home | _____ |
| B. Ambulatory Surgical Treatment Center (ASTC), Multi-Specialty | <input checked="" type="checkbox"/> | I. Outpatient Diagnostic Center | _____ |
| C. ASTC, Single Specialty | - | J. Residential Hospice | _____ |
| D. Home Health Agency | - | K. Nonresidential Substitution- | _____ |
| E. Hospice | _____ | L. Based Treatment Center for | _____ |
| F. Mental Health Hospital | _____ | Opiate Addiction | |
| G. Intellectual Disability | - | Other (Specify) _____ | |
| Institutional Habilitation Facility | | M. _____ | _____ |
| ICF/IID | | | |

8. Purpose of Review (Check appropriate lines(s) – more than one response may apply)

- | | | | |
|--|-------------------------------------|--|-------|
| A. Establish New Health Care Institution | <input checked="" type="checkbox"/> | G. MRI Unit Increase | _____ |
| B. Change in Bed Complement | _____ | H. Satellite Emergency Department | _____ |
| C. Initiation of Health Care Service as Defined in TCA 68-11-1607(4) (Specify) _____ | - | I. Addition of ASTC Specialty | _____ |
| D. Relocation and/or Replacement | _____ | J. Addition of Therapeutic Catheterization | _____ |
| E. Initiation of MRI | _____ | K. Other (Specify) _____ | _____ |
| F. Initiation of Pediatric MRI | _____ | | |

9. Medicaid/TennCare, Medicare Participation

MCO Contracts [Check all that apply]

AmeriGroup United Healthcare Community Plan BlueCare TennCare Select

Medicare Provider Number WILL APPLY WHEN PROJECT COMPLETED

Medicaid Provider Number WILL APPLY WHEN PROJECT COMPLETED

Certification Type _____

If a new facility, will certification be sought for Medicare and/or Medicaid/TennCare?

Medicare Yes ___ No ___ N/A Medicaid/TennCare Yes No ___ N/A

10. Bed Complement Data - NOT APPLICABLE

A. Please indicate current and proposed distribution and certification of facility beds.

	<u>Current Licensed</u>	<u>Beds Staffed</u>	<u>Beds Proposed</u>	<u>*Beds Approved</u>	<u>**Beds Exempted</u>	<u>TOTAL Beds at Completion</u>
1) Medical	_____	_____	_____	_____	_____	_____
2) Surgical	_____	_____	_____	_____	_____	_____
3) ICU/CCU	_____	_____	_____	_____	_____	_____
4) Obstetrical	_____	_____	_____	_____	_____	_____
5) NICU	_____	_____	_____	_____	_____	_____
6) Pediatric	_____	_____	_____	_____	_____	_____
7) Adult Psychiatric	_____	_____	_____	_____	_____	_____
8) Geriatric Psychiatric	_____	_____	_____	_____	_____	_____
9) Child/Adolescent Psychiatric	_____	_____	_____	_____	_____	_____
10) Rehabilitation	_____	_____	_____	_____	_____	_____
11) Adult Chemical Dependency	_____	_____	_____	_____	_____	_____
12) Child/Adolescent Chemical Dependency	_____	_____	_____	_____	_____	_____
13) Long-Term Care Hospital	_____	_____	_____	_____	_____	_____
14) Swing Beds	_____	_____	_____	_____	_____	_____
15) Nursing Home – SNF (Medicare only)	_____	_____	_____	_____	_____	_____
16) Nursing Home – NF (Medicaid only)	_____	_____	_____	_____	_____	_____
17) Nursing Home – SNF/NF (dually certified Medicare/Medicaid)	_____	_____	_____	_____	_____	_____
18) Nursing Home – Licensed (non-certified)	_____	_____	_____	_____	_____	_____
19) ICF/IID	_____	_____	_____	_____	_____	_____
20) Residential Hospice	_____	_____	_____	_____	_____	_____
TOTAL	_____	_____	_____	_____	_____	_____

**Beds approved but not yet in service*

***Beds exempted under 10% per 3 year provision*

B. Describe the reasons for change in bed allocations and describe the impact the bed change will have on the applicant facility's existing services. – N/A

C. Please identify all the applicant's outstanding Certificate of Need projects that have a licensed bed change component. If applicable, complete chart below. -N/A

<u>CON Number(s)</u>	<u>CON Expiration Date</u>	<u>Total Licensed Beds Approved</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. Home Care Organizations – Home Health Agency, Hospice Agency (excluding Residential Hospice), identify the following by checking all that apply: NOT APPLICABLE

	Existing Licensed County	Parent Office County	Proposed Licensed County		Existing Licensed County	Parent Office County	Proposed Licensed County
Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lauderdale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bedford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lawrence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lewis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bledsoe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Lincoln	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Blount	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Loudon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bradley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	McMinn	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Campbell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	McNairy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cannon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Macon	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carroll	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Madison	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cheatham	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Marshall	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chester	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Maury	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Claiborne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Meigs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Monroe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cocke	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Montgomery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Coffee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Moore	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crockett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Morgan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cumberland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Obion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Davidson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Overton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Decatur	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Perry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DeKalb	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pickett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dickson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Polk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dyer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Putnam	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fayette	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rhea	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fentress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Roane	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Franklin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Robertson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gibson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rutherford	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Giles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scott	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Grainger	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sequatchie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greene	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sevier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Grundy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Shelby	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hamblen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Smith	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Stewart	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hancock	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sullivan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hardeman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sumner	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hardin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tipton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hawkins	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Trousdale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Haywood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unicoi	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Van Buren	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Hickman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Warren	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Houston	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Washington	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Humphreys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wayne	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jackson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Weakley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jefferson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	White	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Williamson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knox	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

12. Square Footage and Cost Per Square Footage Chart

Unit/Department	NA	NA	NA	Proposed Final Location	Proposed Final Square Footage		
	Existing Location	Existing SF	Temporary Location		NA Renovated	New	Total
3 Operating Rooms						1215	1215
PreOp/PACU area						475	475
Waiting Room area						400	400
Decontam / Instrument Cleaning						100	100
Sterile Supplies						128	128
Staff Locker Room						70	70
Clean Linen Room						36	36
Staff Lounge						100	100
Consult Room/ DON						98	98
Nurse Station						80	80
Unit/Department GSF Sub-Total						2702	2702
Other GSF Total						1398	1398
Total GSF						4100	4100
*Total Cost						\$950,000	\$950,000
**Cost Per Square Foot						\$232.70	\$232.70
<p>Cost per Square Foot Is Within Which Range (For quartile ranges, please refer to the Applicant's Toolbox on www.tn.gov/hsga)</p>					<input type="checkbox"/> Below 1 st Quartile <input type="checkbox"/> Between 1 st and 2 nd Quartile <input type="checkbox"/> Between 2 nd and 3 rd Quartile <input type="checkbox"/> Above 3 rd Quartile	<input type="checkbox"/> Below 1 st Quartile <input type="checkbox"/> Between 1 st and 2 nd Quartile <input checked="" type="checkbox"/> Between 2 nd and 3 rd Quartile <input type="checkbox"/> Above 3 rd Quartile	<input type="checkbox"/> Below 1 st Quartile <input type="checkbox"/> Between 1 st and 2 nd Quartile <input checked="" type="checkbox"/> Between 2 nd and 3 rd Quartile <input type="checkbox"/> Above 3 rd Quartile

* The Total Construction Cost should equal the Construction Cost reported on line A5 of the Project Cost Chart.

** Cost per Square Foot is the construction cost divided by the square feet. Please do not include contingency costs.

- A. Describe the construction and renovation associated with the proposed project. If applicable, provide a description of the existing building, including age of the building and the use of space vacated due to the proposed project.

13. MRI, PET, and/or Linear Accelerator - NOT APPLICABLE

- 1. Describe the acquisition of any Magnetic Resonance Imaging (MRI) scanner that is adding a MRI scanner in counties with population less than 250,000 or initiation of pediatric MRI in counties with population greater than 250,000 and/or
- 2. Describe the acquisition of any Positron Emission Tomographer (PET) or Linear Accelerator if initiating the service by responding to the following:

- A. Complete the chart below for acquired equipment.

<input type="checkbox"/> Linear Accelerator	_____ Types: <input type="checkbox"/> SRS <input type="checkbox"/> IMRT <input type="checkbox"/> IGRT <input type="checkbox"/> Other _____ <input type="checkbox"/> By Purchase Total Cost*: _____ <input type="checkbox"/> By Lease Expected Useful Life (yrs) ____ <input type="checkbox"/> New <input type="checkbox"/> Refurbished <input type="checkbox"/> If not new, how old? (yrs) _____
<input type="checkbox"/> MRI	Tesla: _____ Magnet: <input type="checkbox"/> Breast <input type="checkbox"/> Extremity _____ <input type="checkbox"/> Open <input type="checkbox"/> Short Bore <input type="checkbox"/> Other _____ <input type="checkbox"/> By Purchase Total Cost*: _____ <input type="checkbox"/> By Lease Expected Useful Life (yrs) ____ <input type="checkbox"/> New <input type="checkbox"/> Refurbished <input type="checkbox"/> If not new, how old? (yrs) _____
<input type="checkbox"/> PET	<input type="checkbox"/> PET only <input type="checkbox"/> PET/CT <input type="checkbox"/> PET/MRI <input type="checkbox"/> By Purchase Total Cost*: _____ <input type="checkbox"/> By Lease Expected Useful Life (yrs) ____ <input type="checkbox"/> New <input type="checkbox"/> Refurbished <input type="checkbox"/> If not new, how old? (yrs) _____

* As defined by Agency Rule 0720-9-.01(4)(b)

- B. In the case of equipment purchase, include a quote and/or proposal from an equipment vendor. In the case of equipment lease, provide a draft lease or contract that at least includes the term of the lease and the anticipated lease payments along with the fair market value of the equipment.

- C. Compare lease cost of the equipment to its fair market value. Note: Per Agency Rule, the higher cost must be identified in the project cost chart.

D. Schedule of Operations:

Location	Days of Operation <i>(Sunday through Saturday)</i>	Hours of Operation <i>(example: 8 am – 3 pm)</i>
Fixed Site <i>(Applicant)</i>	_____	_____
Mobile Locations <i>(Applicant)</i>		
<i>(Name of Other Location)</i>	_____	_____
<i>(Name of Other Location)</i>	_____	_____

- E. Identify the clinical applications to be provided that apply to the project.
- F. If the equipment has been approved by the FDA within the last five years provide documentation of the same.

SECTION B: GENERAL CRITERIA FOR CERTIFICATE OF NEED

In accordance with T.C.A. § 68-11-1609(b), "no Certificate of Need shall be granted unless the action proposed in the application for such Certificate is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, will provide health care that meets appropriate quality standards, and will contribute to the orderly development of health care." In making determinations, the Agency uses as guidelines the goals, objectives, criteria, and standards provided in the State Health Plan.

Additional criteria for review are prescribed in Chapter 11 of the Agency's Rules, Tennessee Rules and Regulations 01730-11.

The following questions are listed according to the four criteria: (1) Need, (2) Economic Feasibility, (3) Quality Standards, and (4) Contribution to the Orderly Development of Health Care. Please respond to each question and provide underlying assumptions, data sources, and methodologies when appropriate.

QUESTIONS

**N
E
E
D**

The responses to this section of the application will help determine whether the project will provide needed health care facilities or services in the area to be served.

- 1. Provide a response to the applicable criteria and standards for the type of institution or service requested. <https://www.tn.gov/hsda/hsda-criteria-and-standards.html>

RESPONSES SHOWN BELOW INSERT FROM THIS URL:



STATE OF TENNESSEE

STATE HEALTH PLAN

CERTIFICATE OF NEED STANDARDS AND CRITERIA

FOR

15

AMBULATORY SURGICAL TREATMENT CENTERS

The Health Services and Development Agency (HSDA) may consider the following standards and criteria for applications seeking to establish or expand Ambulatory Surgical Treatment Centers (ASTCs). Existing ASTCs are not affected by these standards and criteria unless they take an action that requires a new certificate of need (CON) for the establishment or expansion of an ASTC.

These standards and criteria are effective immediately as of May 23, 2013, the date of approval and adoption by the Governor of the State Health Plan changes for 2013. Applications to establish or expand an ASTC that were deemed complete by the HSDA prior to this date shall be considered under the Guidelines for Growth, 2000 Edition.

Definitions

1. "Ambulatory Surgical Treatment Center" (ASTC) shall have the meaning set forth in the Rules of the Tennessee Department of Health, Board for Licensing Health Care Facilities, Chapter 1200-08-12, or its successor.
2. "Full Capacity" shall mean:
 For a dedicated outpatient Operating Room: 1,263 Cases per year¹
 For a dedicated outpatient Procedure Room: 2,667 Cases per year
3. "Operating Room" shall mean a room at an ASTC where general and/or Monitored Anesthesia Care (MAC) (the ability to administer general anesthesia) is employed. Any

¹ From information provided at the Public Meeting, the Division of Health Planning believes the previous 1,333 number is high and is lowering this calculation by increasing the estimated average time per Case in an Operating room from 60 to 65 minutes, resulting in a "Full Capacity" number of 1,266 Cases for an Operating Room.

level of sedation or anesthesia can be utilized in Operating Rooms as the anesthesia equipment is present in the room. **RESPONSE: WE ARE IN AGREEMENT ON THIS INTENDED USE.**

4. "Procedure Room" shall mean a room at an ASTC where local and/or intravenous sedation is employed. **RESPONSE; THERE WILL BE NO PROCEDURE ROOMS IN OUR ASTC.**
 1. If an applicant intends to utilize an Operating Room or Procedure Room for types of sedation other than are set forth in the above definitions or for no type of sedation, it must provide information in its application setting forth the reasons for employing such different sedation type(s) (or lack thereof) and identify the types of Cases so impacted..
5. "Optimum Utilization" shall mean:
 2. For a dedicated outpatient Operating Room, 70% of Full Capacity

3. For a dedicated outpatient Procedure Room: 70% of Full Capacity

- “Service Area” shall mean the county or counties represented by the applicant as the reasonable area to which the facility intends to provide services and/or in which the majority of its service recipients reside. **RESPONSE**; SO NOTED ON OUR COUNTY MAP.
- “Specialty ASTC” shall mean an ASTC that limits its Surgical Cases to specific types. **RESPONSE**: WE ARE REQUESTING A MULTI-SPECIALTY CON. WE WILL OPEN WITH THREE SPECIALTIES:
 1. Gynecological Surgery/Gynecological oncology
 2. Radiologic intervention vascular access
 3. Oral maxillofacial surgery
- “Case” shall mean one visit to an Operating Room or to a Procedure Room by one patient, regardless of the number of surgeries or procedures performed during that visit.

Assumptions in Determination of Need

The need for an ambulatory surgical treatment center shall be based upon the following assumptions:

1. Operating Rooms
 - a. An operating room is available 250 days per year, 8 hours per day.
 - b. The estimated average time per Case in an Operating Room is 65 minutes.
 - c. The average time for clean-up and preparation between Operating Room Cases is 30 minutes.
 - d. The optimum utilization of a dedicated, outpatient, general-purpose Operating Room is 70% of full capacity. $70\% \times 250 \text{ days/year} \times 8 \text{ hours/day} \div 95 \text{ minutes} = 884 \text{ Cases per year}$. **RESPONSE**: We are in agreement.
2. Procedure Rooms – **NOT APPLICABLE**
 - a. A procedure room is available 250 days per year, 8 hours per day.
 - b. The estimated average time per outpatient Case in a procedure room is 30 minutes.
 - c. The average time for clean-up and preparation between Procedure Room Cases is 15 minutes.
 - d. The optimum utilization of a dedicated, outpatient, general-purpose outpatient Procedure Room is 70% of full capacity. $70\% \times 250 \text{ days/year} \times 8 \text{ hours/day} \div 45 \text{ minutes} = 1867 \text{ Cases per year}$.

Determination of Need

1. Need. The minimum numbers of 884 Cases per Operating Room and 1867 Cases per Procedure Room are to be considered as baseline numbers for purposes of determining Need.² An applicant should demonstrate the ability to perform a minimum of 884 Cases per Operating Room and/or 1867 Cases per Procedure Room per year, except that an applicant may provide information on its projected case types and its assumptions of estimated average time and clean up and preparation time per Case if this information differs significantly from the above-stated assumptions. It is recognized that an ASTC may provide a variety of services/Cases and that as a result the estimated average time and clean up and preparation time for such services/Cases may not meet the minimum numbers set forth herein. It is also recognized that an

applicant applying for an ASTC Operating Room(s) may apply for a Procedure Room, although the anticipated utilization of that Procedure Room may not meet the base guidelines contained here. Specific reasoning and explanation for the inclusion in a CON application of such a Procedure Room must be provided. An applicant that desires to limit its Cases to a specific type or types should apply for a Specialty ASTC.

RESPONSE:

- a. Operating Rooms in the ASTC will be available 250 days per year, 8 hours per day.
- b. The estimated average time per Case in an Operating Room is 40 - 65 minutes for gynecological cases and 30 minutes for vascular access cases.
- c. The average time for clean-up and preparation between Operating Room Cases is 30 minutes or less due to staff only committed to this surgeon, or to the respective OR, as well as an abundance of instruments and higher efficiency than normally seen in hospitals.
- d. The ASTC is projected to see 2937 cases per year which will exceed the optimum utilization of a dedicated, outpatient, general-purpose Operating Room at 70% of full capacity or 884 Cases per year requested by the State of Tennessee. Our projected case load is as follows:

Kumar / Gynecologic procedures = 1321/ year

Salazar & Joshi / Interventional Rad/Vascular Access procedures = 1616 / year

3 x 884 = 2652 optimal capacity per TN guidelines

ASTC = 2937 total cases

Utilization vs. Optimal capacity = 111%

- 2. Need and Economic Efficiencies. An applicant must estimate the projected surgical hours to be utilized per year for two years based on the types of surgeries to be performed, including the preparation time between surgeries. Detailed support for estimates must be provided.

RESPONSE:

Utilization vs. Optimal capacity = 111%

3 Operating Rooms	# Cases	Mins / Case	Total Mins Used	Turnaround Time	Turnaround Used	Available Minutes	% of Time Used
DOC #1	1321	65	85,865	30	39,630	120,000	104.5%
DOC #2	808	65	52,520	30	24,240	120,000	64%
DOC #3	808	65	52,500	30	24,240	120,000	64%
Total Surg Cases	2937	65	190,905	30	88,110	360,000	77.5%

Year one 2022 case projections

- 3. Need; Economic Efficiencies; Access. To determine current utilization and need, an applicant should take into account both the availability and utilization of either: a) all existing outpatient Operating Rooms and Procedure Rooms in a Service Area, including physician office-based surgery rooms (when those data are officially reported and available³) OR b) all existing comparable outpatient Operating Rooms and Procedure Rooms based on the type of Cases to be performed. Additionally, applications should provide similar information on the availability of

that data are available, and provide the source of that data. Unstaffed dedicated outpatient Operating Rooms and unstaffed dedicated outpatient Procedure Rooms are considered available for ambulatory surgery and are to be included in the inventory and in the measure of capacity.

RESPONSE:

the only three ASTCs that provide gynecology procedures are:

1. East Memphis Surgery Center (Shelby) 803 gyn cases in 2019
2. Memphis Surgery Center (Shelby) 27 gyn cases in 2019
3. Methodist Surgery Center – Germantown (Shelby) 245 gyn cases in 2019

The remaining ASTCs are either multi-specialty without these procedures or they are single specialty that do not provide these similar procedures to Poplar Ridge Surgery Center. Dr. Kumar is not on staff at these ASTCs therefore will not be redirecting patients from these facilities but taking care of patients from his existing Poplar Avenue practice. Dr. Kumar is on staff at Baptist Memorial Hospital and Methodist Germantown and would potentially be reducing the number of gyn cases that would not require 24 hours overnight stay. Dr. Kumar feels that his case log would be less than 1% at these hospital's gyn cases. The freed-up slots in the hospitals will be utilized by other surgeons for other specialties that are more dominant in the respective hospitals.

Regarding interventional radiologic vascular access surgical procedures, there appear to be no licensed ASTCs providing this service since *Vascular Access Centers* went out of business in 2020. Our ASTC will absorb those patients from Vascular Access Centers (prior employer of Drs. Joshi and Salazar) and expand the marketplace for this specific need. Drs Joshi and Salazar are not on staff or have privileges at any of the other competitive area ASTCs or hospitals and thus will not be diverting patients away.

4. Need and Economic Efficiencies. An applicant must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON application to establish an ASTC or to expand existing services of an ASTC should not be approved unless the existing ambulatory surgical services that

² The Division recognizes that estimated or average cleanup/preparation times and Case times may vary significantly by specialty and type of Case.

³ The Department of Health is currently in the rule-making process necessary to implement the statute requiring the collection of office-based surgery data (Public Chapter 373, 2007). The Division recognizes that the Department of Health does not have sufficient data available on hospital ambulatory/outpatient surgery rooms at this time to include them in the determination of need; however, the Division plans to work with stakeholders towards this goal.

provide comparable services regarding the types of Cases performed, if those services are known and relevant, within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above.

RESPONSE: Approving our ASTC will not adversely affect provider referral patterns. The ASTC patients are already a part of the Dr. Kumar's *Poplar Avenue Women's Clinic* as well as Drs. Joshi and Salazar's "901 Vascular" practice on the fourth floor of the same medical office building. This ASTC is planned to primarily take care of the needs of the three physician partners.

5. Need and Economic Efficiencies. An application for a Specialty ASTC should present its projections for the total number of cases based on its own calculations for the projected length of time per type of case, and shall provide any local, regional, or national data in support of its methodology. An applicant for a Specialty ASTC should provide its own definitions of the surgeries and/or procedures that will be performed and whether the Surgical Cases will be performed in an Operating Room or a Procedure Room. An applicant for a Specialty ASTC must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON proposal to establish a Specialty ASTC or to expand existing services of a Specialty ASTC shall not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above. An applicant that is granted a CON for a Specialty ASTC shall have the specialty or limitation placed on the CON. **RESPONSE:** NOT APPLICABLE WE APPLYING AS MULTI-SPECIALTY

Other Standards and Criteria

6. Access to ASTCs. The majority of the population in a Service Area should reside within 60 minutes average driving time to the facility. **RESPONSE:** YES AS INDICATED ON OUR COUNTY MAP.

Access to ASTCs. An applicant should provide information regarding the relationship of an existing or proposed ASTC site to public transportation routes if that information is available.

RESPONSE: The ASTC sits directly on Poplar Avenue with no cross streets. 1.9 miles east of Interstate 240 with bus line stops up and down Poplar Avenue and main streets intersecting Poplar Avenue. Our address is 6584 Poplar Avenue, Suite 120 and the ASTC is located on the first floor directly inside the front door with covered canopy. See Map of A-6B-1.

7. Access to ASTCs. An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project the origin of potential patients by percentage and county of residence **SEE COUNTIES IN TOP ROW CHART BELOW** and, if such data are readily available, by zip code, and must note where they are currently being served. Demographics of the Service Area should be included, including the anticipated provision of services to out-of-state patients, as well as the identity of other service providers both in and out of state and the source of out-of-state data. **SEE LEFT COLUMN IN CHART BELOW** Applicants shall document all other provider alternatives available in the Service Area. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

RESPONSE: I have enclosed a chart showing patients from Shelby County and the 5 neighboring counties that patients came to other Shelby County ASTCs for care as well as Arkansas and Mississippi patients. We are proposing that our patient population would be similar to these figures with or without specific promotion or targeted advertising to those counties.

ASTC Name	Total 2019	Shelby	Fayette	Hardemann	Haywood	Lauderdale	Tipton	Arkansas	Mississippi	Alabama
Baptist Germantown	4312	3626	60	11	8	0	82	110	413	2
		84.09%	1.39%	0.26%	0.19%	0.00%	1.90%	2.55%	9.58%	0.05%

Campbell Clinic Surgery Center	3407	1487	21	2	3	6	24	248	1614	2
Midtown		43.65%	0.62%	0.06%	0.09%	0.18%	0.70%	7.28%	47.37%	0.06%

Campbell Clinic Surgery Center	6133	4165	303	73	49	59	361	90	1020	13
		67.91%	4.94%	1.19%	0.80%	0.96%	5.89%	1.47%	16.63%	0.21%

East Memphis Surgery Center	4052	2340	141	20	7	23	501	47	962	11
		57.75%	3.48%	0.49%	0.17%	0.57%	12.36%	1.16%	23.74%	0.27%

Germantown Amb Surg Center	137	88	4	1	0	1	2	5	35	1
		64.23%	2.92%	0.73%	0.00%	0.73%	1.46%	3.65%	25.55%	0.73%

Memphis Surgery Center	3138	2226	222	20	4	16	122	87	438	3
		70.94%	7.07%	0.64%	0.13%	0.51%	3.89%	2.77%	13.96%	0.10%

Methodist Surgery Center	4203	2973	162	19	16	20	200	123	687	3
Germantown		70.74%	3.85%	0.45%	0.38%	0.48%	4.76%	2.93%	16.35%	0.07%

North Surgery Center	913	675	24	4	1	9	129	19	52	0
		73.93%	2.63%	0.44%	0.11%	0.99%	14.13%	2.08%	5.70%	0.00%

Ridge Lake Amb Surg Center	4840	3636	146	27	13	17	202	210	586	3
		75.12%	3.02%	0.56%	0.27%	0.35%	4.17%	4.34%	12.11%	0.06%

Semmes Murphy Clinic	5048	2398	172	38	19	55	215	485	1658	8
		47.50%	3.41%	0.75%	0.38%	1.09%	4.26%	9.61%	32.84%	0.16%

Surgery Center at St. Francis	4299	2990	163	28	11	15	193	104	790	5
-------------------------------------	------	------	-----	----	----	----	-----	-----	-----	---

		69.55%	3.79%	0.65%	0.26%	0.35%	4.49%	2.42%	18.38%	0.12%
--	--	--------	-------	-------	-------	-------	-------	-------	--------	-------

Urocenter	3252	1709	384	12	4	14	152	157	817	3
		52.55%	11.81%	0.37%	0.12%	0.43%	4.67%	4.83%	25.12%	0.09%

Wolf River Surgery Center	4183	2826	140	32	11	26	265	188	693	2
		67.56%	3.35%	0.77%	0.26%	0.62%	6.34%	4.49%	16.57%	0.05%

ASTC Sample Total	47917	31139	1942	287	146	261	2448	1873	9765	56
		64.99%	4.05%	0.60%	0.30%	0.54%	5.11%	3.91%	20.38%	0.12%

Hospital Name	Total 2019	Shelby	Fayette	Hardemann	Haywood	Lauderdale	Tipton	Arkansas	Mississippi	Alabama
Baptist Hospital for Women	12490	10819	182	31	22	35	345	289	767	0
		86.62%	1.46%	0.25%	0.18%	0.28%	2.76%	2.31%	6.14%	0.00%

Baptist Memorial Hospital	26404	16924	858	184	116	385	1512	2109	4279	37
		64.10%	3.25%	0.70%	0.44%	1.46%	5.73%	7.99%	16.21%	0.14%

Methodist Hospital Germantown	15325	11730	591	146	41	73	376	368	1992	8
		76.54%	3.86%	0.95%	0.27%	0.48%	2.45%	2.40%	13.00%	0.05%

Methodist Memphis	18898	13366	154	71	47	79	288	2490	2385	18
		70.73%	0.81%	0.38%	0.25%	0.42%	1.52%	13.18%	12.62%	0.10%

Methodist North Hospital	9037	7303	93	17	15	80	1281	138	100	10
		80.81%	1.03%	0.19%	0.17%	0.89%	14.18%	1.53%	1.11%	0.11%

Methodist South Hospital	4842	4493	9	2	0	1	7	87	241	2
		92.79%	0.19%	0.04%	0.00%	0.02%	0.14%	1.80%	4.98%	0.04%

St. Francis Hospital	15697	12445	249	50	20	69	331	1142	1382	9
		79.28%	1.59%	0.32%	0.13%	0.44%	2.11%	7.28%	8.80%	0.06%

Regional One Health	10638	7596	99	51	37	84	216	1234	1294	27
		71.40%	0.93%	0.48%	0.35%	0.79%	2.03%	11.60%	12.16%	0.25%

St. Francis Bartlett	7970	6079	797	80	43	31	606	142	182	10
		76.27%	10.00%	1.00%	0.54%	0.39%	7.60%	1.78%	2.28%	0.13%

Hospital Sample Total	121301	90755	3032	632	341	837	4962	7999	12622	121
		74.82%	2.50%	0.52%	0.28%	0.69%	4.09%	6.59%	10.41%	0.10%

	Total	Shelby	Fayette	Hardemann	Haywood	Lauderdale	Tipton	AR	MS	AL
ASTC & Hospital Sample total	169218	121894	4974	919	487	1098	7410	9872	22387	177
		72.03%	2.94%	0.54%	0.29%	0.65%	4.38%	5.83%	13.23%	0.10%

So, in conclusion studying the sample of ASTCs and hospitals in Shelby County, it appears that 72% of patients reside in Shelby County and the next largest influx of patients into Shelby County come from Northern Mississippi at 13.23%.

8. Access and Economic Efficiencies. An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

RESPONSE:

Service Area Counties	Projected Utilization-County Residents- Year 1 (YEAR = 2022)	Projected Utilization-County Residents- Year 2 (YEAR = 2023)	% of Total by County
Shelby	2056	2220	70%
Fayette	117	127	4%
Hardemann	30	32	1%
Tipton	147	159	5%
Haywood	15	16	.5%
Lauderdale	15	16	.5%
E Arkansas	117	127	4%
N Mississippi	440	475	15%
Total	2937	3127	100%

Regarding our methodology...we took current practice volumes as the basis for assuming that ASTC would be very similar. We also took the 2 vascular access surgeons (Joshi & Salazar) historical 2019 cases from Vascular Access Centers. Then we compared our numbers to those in the chart on pages 19-20 and it surprisingly is very similar to those ASTCs that are located closest to us geographically. So, our assumption is the above chart would be accurate regarding percentage of patients seen from those counties.

- Patient Safety and Quality of Care; Health Care Workforce.

- a. An applicant should be or agree to become accredited by any accrediting organization approved by the Centers for Medicare and Medicaid Services, such as the Joint Commission, the Accreditation Association of Ambulatory Health Care, the American Association for Accreditation of Ambulatory Surgical Facilities, or other nationally recognized accrediting organization.⁴

RESPONSE: The ASTC applicant agrees to both Medicare certification and accreditation through A.A.A.H.C.

- b. An applicant should estimate the number of physicians by specialty that are expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel. An applicant should provide documentation on the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.

RESPONSE: Initially the ASTC will be owned and operated by three physician partners.

- Sanjeev Kumar, MD
- Salil Joshi, MD
- Jorge Salazar, MD

It is anticipated that future partners will want to come to the ASTC. The opening specialties will be:

- Gynecological surgery/Gynecological oncology
- Interventional Radiologic vascular access
- Oral maxillofacial surgery

11. Access to ASTCs. In light of Rule 0720-11.01, which lists the factors concerning need on which an application may be evaluated, and Principle No. 2 in the State Health Plan, "Every citizen should have reasonable access to health care," the HSDA may decide to give special consideration to an applicant:

- a. Who is offering the service in a medically underserved area as designated by the United States Health Resources and Services Administration;

RESPONSE: Poplar Ridge Surgery Center is committed to enrolling and accepting patients from Medicaid and TennCare. Our practice is already enrolled in these programs and as we have already established in this CON application, we are seeing larger amounts of economically challenged, obese patients with many comorbidities.

- b. Who is a "safety net hospital" or a "children's hospital" as defined by the Bureau of TennCare Essential Access Hospital payment program; **RESPONSE:** NA

- c. Who provides a written commitment of intention to contract with at least one TennCare MCO and, if providing adult services, to participate in the Medicare program; or **RESPONSE:** yes we have already established this fact.

- d. Who is proposing to use the ASTC for patients that typically require longer preparation and scanning times. The applicant shall provide in its application information supporting the additional time required per Case and the impact on the need standard.

RESPONSE: Poplar Ridge Surgery Center will not discriminate patients on the basis of how long a procedure will take. Most if not all procedures performed in gynecology and interventional radiologic vascular access will not take longer than 65 minutes. It is our feeling that we can do these procedures more efficiently than a hospital without sacrificing high quality patient care.

END - CERTIFICATE OF NEED STANDARDS AND CRITERIA QUESTIONS

NEED SECTION continued

2. Describe how this project relates to existing facilities or services operated by the applicant including previously approved Certificate of Need projects and future long-range development plans.

RESPONSE: Applicant does not currently have any existing facilities or pending CON projects.

3. Identify the proposed service area and provide justification for its reasonableness. Submit a county level map for the Tennessee portion of the service area using the map on the following page, clearly marked and shaded to reflect the service area as it relates to meeting the requirements for CON criteria and standards that may apply to the project. **DONE SEE BELOW** Please include a discussion of the inclusion of counties in the border states, if applicable.

Attachment Section B

RESPONSE: See Attachment Section B – Arkansas & Mississippi

- Need-3.

RESPONSE:

This ASTC will see 70% of patients from Shelby County but will also have patients from the neighboring 5 counties shown on our county map. Patients can be expected to come from Northern Mississippi and eastern Arkansas from the Marion, Arkansas area just across the state line.

Complete the following utilization tables for each county in the service area, if applicable: **NO HISTORY, NOT APPLICABLE**

Service Area Counties	Historical Utilization-County Residents – Most Recent Year (YEAR = _____)	% of total <input type="checkbox"/> procedures <input type="checkbox"/> cases <input type="checkbox"/> patients <input type="checkbox"/> Other .
County #1		
County #2		
County #3		
County #4		
Etc.		
Total		100%
Service Area Counties	Projected Utilization-County Residents- Year 1 (YEAR = <u>2022</u> _____)	% of total <input type="checkbox"/> procedures X-cases <input type="checkbox"/> patients <input type="checkbox"/> Other .
Shelby	2056	70%
Fayette	117	4%
Hardemann	30	1%
Tipton	147	5%
Haywood	15	.5%
Lauderdale	15	.5%
E Arkansas (Crittenden & Mississippi Counties)	117	4%
N Mississippi (Tunica & Desoto)	440	15%
Total	2937	100%

County Level Map



4. A. 1) Describe the demographics of the population to be served by the proposal.

RESPONSE: Regarding gynecological services, the patient population will range from teenage females to middle-aged females of all economic walks of life. According to a report by the CDC in 2016, Tennessee had 6,600,299 residents and of that population, 35.9% of adults were overweight and 31.2% were considered obese. <https://www.cdc.gov/nccdphp/dnpao/state-local-programs/profiles/pdfs/tennessee-state-profile.pdf>

Females make up 52% of the Shelby county residents and the obesity population in Shelby County is at 33.4% obesity rate compared to 31.1% for Tennessee as a whole and 27.6% nationally. Obesity in women poses particular risks because of the comorbidity issues (15.3% morbidity) and the need for efficient, cost effective and easily accessed services such as will be provided a Poplar Ridge Surgery Center.

Our interventional radiologists who provide vascular access services will see a higher level of obese patients (male and female teenager and adults) with a predominance of diabetes and kidney disease. One in three adults in Shelby County has diabetes. 60,000 new cases have been reported over the past 10 years according to BetterTennessee (BlueCrossBlueShield of Tennessee). The mortality rate for obese patients with diabetes in the western TN and Shelby County is about 44% in blacks and 16% in whites. Our ASTC through Drs. Joshi and Salazar will be providing valuable vascular access services to these patient populations.

2) Provide the following data for each county in the service area using current and projected population data from the Department of Health

(<https://www.tn.gov/content/tn/health/health-program-areas/statistics/health-data/con.html>

), the most recent enrollee data from the Division of TennCare

(<https://www.tn.gov/tenncare/information-statistics/enrollment-data.html>), and US

Census Bureau demographic information (:

<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>),.

TennCare Enrollment Data: <https://www.tn.gov/tenncare/information-statistics/enrollment-data.html>

Census Bureau Fact Finder: <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

Demographic Variable/Geographic Area	Department of Health/Health Statistics							Census Bureau			TennCare	
	Total Population- Current Year 2020	Total Population- Projected Year 2023	Total Population-% Change	*Target Population- Current Year 2020	Target Population- Project Year 2023	Target Population-% Change	Target Population Projected Year as % of Total	Median Age	Median Household Income	Person Below Poverty Level as % of Total	TennCare Enrollees Target Age2020	TennCare Enrollees as % of Total
Shelby County	942,127	945,840	+4.4%	709,328	712,799	+5.5%	75.4%	35.9	51657	19.3%	113,574	16%
Fayette County	42,074	43,042	+2%	34,314	35,131	+2.3%	82%	39.0	60711	13.1%	3362	10%
Hardeman County	25,048	24,910	-1%	20,326	20,298	0%	82%	40.3	40304	23.5%	3594	17.7%
Tipton County	62,606	63,215	+1%	47,765	48,411	+1.4%	77%	37.5	61291	12.0%	6222	13%
Haywood County	17,003	16,791	-1%	13,352	13,230	0%	79%	42.0	37905	20.5%	2705	20.2%
Lauderdale County	25,823	25,800	0%	20,208	20,258	+1%	79%	38.3	39896	24.9%	3840	19%
Service Area Total	1,114,681	1,119,598	+4.4%	845,293	850,127	+1%	76%	38.8	48627		113,297	13.4%
State of TN Total	6,942,653	7,050,887	+1.6%	5,409,241	5,500,697	+1.7%	78%	39	56071	15.3%	689,488	12.7%

* *Target Population is population that project will primarily serve. For example, nursing home, home health agency, hospice agency projects typically primarily serve the Age 65+ population; projects for child and adolescent psychiatric services will serve the Population Ages 0-17. Projected Year is defined in select service-specific criteria and standards. If Projected Year is not defined, default should be four years from current year, e.g., if Current Year is 2019, then default Projected Year is 2023.*

Be sure to identify the target population, e.g., Age 65+, the current year and projected year being used.

- B. Describe the special needs of the service area population, including health disparities, the accessibility to consumers, particularly the elderly, women, racial and ethnic minorities, TennCare or Medicaid recipients, and low-income groups. Document how the business plans of the facility will take into consideration the special needs of the service area population.

RESPONSE: The age categories primarily served will be 18+ years and older. The ASTC will serve a high amount of obese lower income female patients since this group appears not to be served well by other practices or facilities in the 6-County TN, NE Arkansas and Northern Mississippi area. Dr. Kumar, gynecological surgeon feels that this has become one of his recognized demographics that he is known for serving. Dr. Kumar will also be providing gynecologic oncology services to this demographic. Gyn oncology is very limited in this region. Dr. Kumar also wishes to address the growing need for bladder control in female patients and intends to provide the Medtronic neuromodulation InterStim procedure in the ASTC.

Our vascular access surgeons will see a high amount of diabetic obese patients who also have renal failure. Many of these patients may come from the group with disabilities that make up at least 12.5% to as high as 21.6% in those counties that the ASTC will service. The ASTC will be equipped to manage both obese patients as well as those with walking disabilities by providing the proper bariatric equipment as well as special handling by our healthcare service team.

Drs. Joshi and Salazar find that these patients come to them complaining that they have up to 6 month waiting periods for care at other facilities (hospitals) and thus our ASTC will reduce that wait time down to 15 days or less. Our ASTC will be located on a main thoroughfare that is easily accessed from all major highways and main streets in the area including bus line running the length of Poplar Avenue. The ASTC will be located on the first floor of the multi-story medical office building and positioned immediately inside the front door entry way with a long-covered canopy as protection from the weather and handicapped accessible. Our ASTC will be accepting Medicare, managed Medicare plans, Medicaid, managed Medicaid and TennCare plans and will not discriminate due to payor source and will set aside a small percentage of cases toward indigent care since all counties served have at least 7.1% of population without health insurance. This chart represents are patient demographic by County:

County Name	18+ years old	65+ years old	Race	Without Health Ins.	With Disabilities
Shelby County	74.9%	13.1%	White =39.1% Black= 53.7% Other = 7.2%	11.5%	12.5%
Fayette County	80.4%	20.7%	White = 69.5% Black = 27.4% Other = 4%	7.1%	16.3%
Hardeman County	81.0%	17.9%	White = 55.1% Black = 41.9% Other = 3%	10%	20.6%
Tipton County	75.4%	14.1%	White = 77.7% Black = 18.4%	9.1%	16.4%

			Other = 3.9%		
Haywood County	77.3%	17.9%	White = 46.8% Black = 50.8% Other = 2.4%	11.0%	20.7%
Lauderdale County	77.0%	15.3%	White = 62.9% Black = 33.7% Other = 3.4%	9.8%	21.6%

Data source: U.S. Census Bureau

5. Describe the existing and approved but unimplemented services of similar healthcare providers in the service area. Include utilization and/or occupancy trends for each of the most recent three years of data available for this type of project. List each provider and its utilization and/or occupancy individually. Inpatient bed projects must include the following data: Admissions or discharges, patient days, average length of stay, and occupancy. Other projects should use the most appropriate measures, e.g., cases, procedures, visits, admissions, etc. This doesn't apply to projects that are solely relocating a service.

RESPONSE: the only four ASTCs that provide gynecology procedures are:

1. East Memphis Surgery Center (Shelby) **803 gyn cases** in 2019
2. Memphis Surgery Center (Shelby) **27 gyn cases** in 2019
3. Methodist Surgery Center – Germantown (Shelby) **245 gyn cases** in 2019
4. North Surgery Center (Shelby) **9 gyn cases** in 2019

The remaining area ASTCs are multi-specialty not offering these gynecologic and vascular access procedures. The others are single specialty that do not provide these same procedures. See the table below for comprehensive list of multi-specialty ASTCs with operating rooms. This list excludes single specialty GI or ophthalmology centers or facilities that do not have operating rooms.

Interventional Radiology/Vascular Access

Regarding interventional radiologic vascular access surgical procedures, there appear to be no licensed ASTCs providing this service since *Vascular Access Centers* went out of business in 2020. Our ASTC will absorb those patients from Vascular Access Centers (prior employer of Drs. Joshi and Salazar) and expand the marketplace for this specific need.

The following charts shows all competitive area facilities with Operating Rooms, their last three-year patient census vs. OR optimal capacity and whether they perform gyn or vascular access cases:

Source: Current 2019 JARs

ASTC (Shelby)	TYPE	#ORs	2017	2018	2019	% Change/Pr Yr
Baptist Germantown Surgery Center	Multi-Specialty No Gyn No V.A.	6	2981 @ 47.21% capacity	3477 @ 55.06% capacity	2822 @ 37.24% capacity 0 0	-19%
Campbell Clinic Surgery Center - Midtown	Ortho / Pain No Gyn No V.A.	4	2999 @ 59.36% capacity	3084 @ 61.05% capacity	3509 @ 69.46% capacity 0 0	+13.8%
Campbell Clinic Surgery Center Shelby	Ortho / Pain No Gyn No V.A.	4	3558 @ 70.43% capacity	3377 @ 66.84% capacity	3330 @ 65.91% capacity 0 0	-1%
East Memphis Surgery Center	Multi-Specialty Yes – Gyn No V.A.	6	4033 @ 53.22% capacity	3191 @ 42.11% capacity	3611 @ 47.65% capacity 803 Gyn cases (22% of total)	+13.2%
Germantown Amb Surgery Center	Cosmetic only No Gyn No V.A.	1	128 @ 10.13% capacity	131 @ 10.37% capacity	154 @ 12.19% capacity 0 0	+17.6%
Eye Care Surgery Center of Memphis	Ophthalmology only No Gyn No V.A.	2	1459 @ 57.76% capacity	108 @ 4.28% capacity	106 @ 4.51% capacity	-1.8%

Hamilton Eye Institute	Ophthalmology only	3	3324 @ 87.73% capacity	3195 @ 84.32% capacity	2447 @ 86.3% capacity	-33.4%
Le Bonheur East Surgery Center	Multi-Specialty No Gyn No V.A. No Davinci Robot	4	2641 @ 52.28% capacity	2907 @ 57.54% capacity	3455 @ 68.39% capacity	+18.9%
Mays and Schnapp Pain Clinic & Rehab Center	Pain only No Gyn No V.A.	2	8265 @ 327.20% capacity	4478 @ 177.28% capacity	2027 @ 197.19% capacity	-55%
Memphis Surgery Center	Multi-Specialty Yes – Gyn No – V.A.	4	2976 @ 58.91% capacity	3352 @ 66.35% capacity	3791 @ 75.04% capacity 27 gyn cases (.7% of total)	+13.1%
Methodist Surg Ctr – Germantown	Multi-Specialty Yes – Gyn No – V.A.	4	3912 @ 77.43% capacity	4019 @ 79.55% capacity	4275 @ 84.62% capacity 245 gyn cases (5% of total)	+6.4%
North Surgery Center	Multi-Specialty Yes – Gyn No – V.A.	4	2334 @ 46.20% capacity	2133 @ 42.22% capacity	959 @ 18.98% capacity 9 gyn cases (.1% of total)	-65%
Ridge Lake Amb Surgery Center	Ophthalmology only No Gyn No V.A.	4	5659 @ 112.02% capacity	8261 @ 163.52% capacity	6092 @ 120.59% capacity	-26%
Semmes Murphy Clinic	Pain management No Gyn No V.A.	3	1480 @ 39.06% capacity	1366 @ 36.05% capacity	1486 @ 39.22% capacity	+8.8%
Shea Clinic ASC	Otolaryngology only No Gyn No V.A.	2	2372 @ 93.90% capacity	2101 @ 83.17% capacity	2513 @ 99.49% capacity	+19.6%
Surgery Center at St. Francis	Multi-Specialty No Gyn No V.A.	4	3184 @ 63.02% capacity	3159 @ 62.53% capacity	2498 @ 49.45% capacity	-21%
Urocenter	Urology only No Gyn No V.A.	3	4119 @ 108.71% capacity	3956 @ 104.41% capacity	3827 @ 101% capacity	-3.3%
Wolf River Surgery Center	Urology only No Gyn No V.A.	4	3170 @ 62.75% capacity	3236 @ 64.05% capacity	3417 @ 67.64% capacity	+5.6%
HOSPITALS (SHELBY)						% Change 2019/2018
Baptist Hospital for Women	Yes-Gyn No – V.A.	5	637 in-pt / 1328 out-pt 0 – V.A.	789 in-pt / 1474 out-pt 0 – V.A.	850 in-pt / 1530 out-pt 0 – V.A.	+5.3% gyn
Baptist Memorial Hospital	Yes-Gyn Yes- V.A.	26 to 36	313 in-pt / 202 out-pt 2978 in-pt / 397 out-pt	306 in-pt / 291 out-pt 333 in-pt / 69 out-pt	366 in-pt / 212 out-pt 523 in-pt / 97 out-pt	-3.2% Gyn +54.2% V.A.
Baptist Memorial Hospital – Collierville	No – Gyn Yes- V.A.	6	0 Gyn 24 in-pt / 612 out-pt	0 Gyn 21 in-pt / 575 out-pt	0 Gyn 11 in-pt / 390 out-pt	NA -32.8% V.A.
Methodist Germantown Hospital	Yes – Gyn Yes – V.A.	17	967 in-pt / 1992 out-pt 174 in-pt / 92 out-pt	964 in-pt / 1953 out-pt 135 in-pt / 97 out-pt	870 in-pt / 1890 out-pt 119 in-pt / 45 out-pt	-5.4% Gyn -29.4% V.A.
Methodist Healthcare - Memphis	Yes – Gyn No – V.A.	21	188 in-pt / 445 out-pt 356 in-pt / 61 out-pt	114 in-pt / 360 out-pt 1052 in-pt / 331 out-pt	100 in-pt / 242 out-pt 1098 in-pt / 275 out-pt	-28% Gyn -8% V.A.
Methodist North Hospital	Yes – Gyn Yes – V.A.	10 to 9	2 in-pt / 0 out-pt 356 in-pt / 61 out-pt	1 in-pt / 0 out-pt 297 in-pt / 41 out-pt	0 in / 0 out 165 in-pt / 45 out-pt	NA -38%
Methodist South Hospital	Yes – Gyn Yes – V.A.	7	119 in-pt / 175 out-pt 88 in-pt / 129 out-pt	97 in-pt / 263 out-pt 65 in-pt / 82 out-pt	100 in-pt / 284 out-pt 11 in-pt / 0 – out-pt	+6% -92%
St. Francis Hospital	Yes – Gyn Yes – V.A.	23 to 22	72 in-pt / 362 out-pt 0 in-pt / 22 out-pt	104 in-pt / 374 out-pt 0 in-pt / 5 out-pt	159 in-pt / 565 out-pt 27 in-pt / 57 out-pt	+51.5% +168%
St. Francis Hospital- Bartlett	Yes – Gyn Yes – V.A.	7	45 in-pt / 291 out-pt 3 in-pt / 1 out-pt	34 in-pt / 291 out-pt 137 in-pt / 84 out-pt	9 in-pt / 255 out-pt 119 in-pt / 132 out-pt	-19% +13.6%
West TN Healthcare Bolivar	No – Gyn No – V.A.	1	0 0	0 0	0 0	NA NA
Lauderdale Community Hospital	No – Gyn No – V.A.	2	0 0	0 0	0 0	NA NA
Baptist Memorial Tipton	Yes – Gyn No – V.A.	4	36 in-pt / 197 out-pt 0 cases	27 in-pt / 145 out-pt 0 cases	0 in-pt / 0 out-pt 0 in-pt / 0 out-pt	-100%

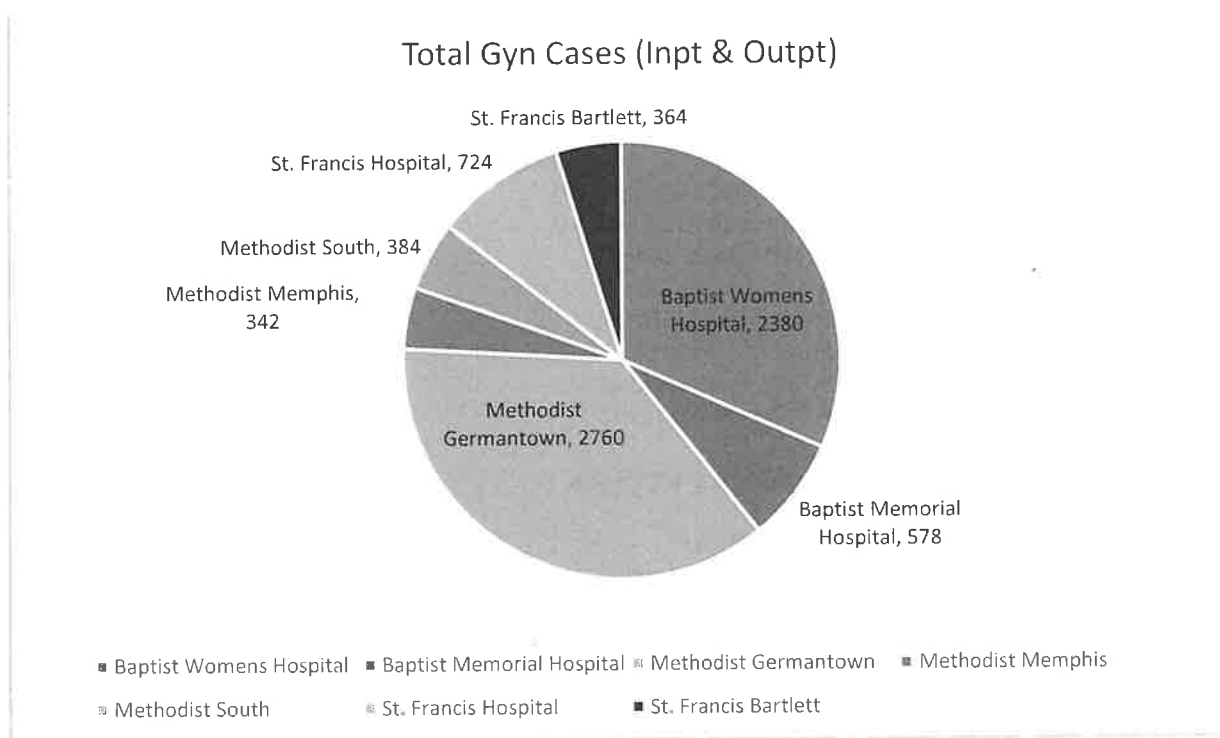
Gyn surgical cases offered in the ASTC setting for Shelby County area is minimal with only 4 ASTCs reporting Gyn cases and all but one (1) is below 5% of total cases and the exception is 22% of total at East Memphis Surgery Center.

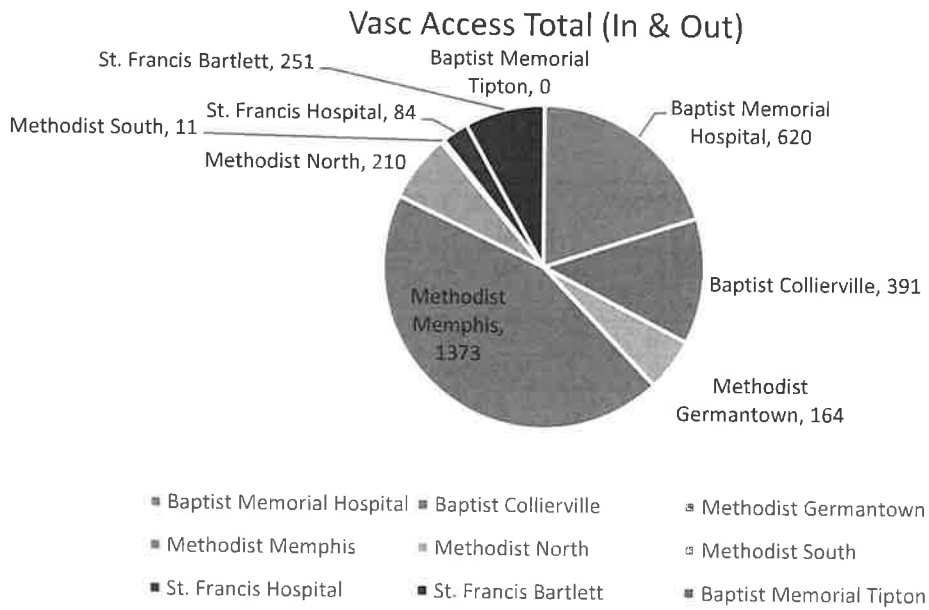
Main area TN hospitals offering Gyn surgical services are:

Gyn Surgical Cases Done in Shelby County Hospitals

Hospital	Gyn Surgical Cases	Total Surgical Cases	Gyn as % of Total	Kumar On Staff
Baptist Hospital for Women	2380	5041	47.2%	Yes
Baptist Memorial	578	12,218	4.7%	Yes
Methodist Germantown	2760	11,584	23.8%	Yes
Methodist Memphis	342	14,558	2.3%	Yes
Methodist South	384	1698	16.7%	No
St. Francis Hospital	724	10,207	7.1%	Yes

There are very little to no gyn surgical services offered in the other five counties that our ASTC will serve.





Neuromodulation (InterStim)

It is estimated through the assistance of the manufacturer representative of the neuromodulation device for overactive bladder, the InterStim, that the following new cases have been done this past year:

Baptist Hospital Memphis- 10
 Baptist Hospital DeSoto- 10
 Baptist Collierville- 5
 St. Francis Hospital Memphis- 40
 St. Francis Hospital Bartlett- 8
 Methodist University- 5
 Methodist Germantown-2
 VA Medical Center-3

Total Hospitals: 83 cases

ASCs:

East Memphis Urocenter- 40
 Wolf River Surgery Center- 55
 Surgery Center at St. Francis- 20
 Surgery Center at Regional One- 1
 Germantown Surgery Center- 5

Total ASTC: 121 cases



Total Market Cases 2020: 204

Source: Medtronic InterStim System

Poplar Ridge Surgery Center will be providing the InterStim for our current female patient practice database and should have no effect on these other providers as this procedure is new and the marketplace is expanding for this kind of procedure. We can see by the above graph that ASTCs are already providing 40% of the total InterStims in the Memphis area at this point and this trend will most likely continue to even the percentage out with the hospitals.

- Provide applicable utilization and/or occupancy statistics for your institution services for each of the ~~past three years~~ and the projected annual utilization for each of the two years following completion of the project. Additionally, provide the details regarding the methodology used to project utilization. The methodology must include detailed calculations or documentation from referral sources, and identification of all assumptions.

RESPONSE: Since this is a new ASTC, there is no direct historical data to draw from other than the practices of each of these physicians. The projection of cases was taken from analyzing procedures that were done by Dr. Kumar in his practice as well as some surgical cases done at 3 hospitals. Drs. Joshi and Salazar projections are based upon prior year case logs from their previous employer who filed Chapter 7. These are our best estimates.

Physicians	Year One: 2022	Year Two: 2023
Sanjeev Kumar, MD - gyn	1321	1427
Salil Joshi, MD – vascular access	808	872
Jorge Salazar, MD – vascular access	808	872

PROCEDURE UTILIZATION TOP 20

Source Kumar/Joshi/Salazar 2020 Practice Numbers

Gyn Procedures

		<u>2020 Qty</u>	<u>2020 MC Allowable</u>
58571	PR LAPAROSCOPY W TOT HYSTERECTUTERUS <=250 GRAM W TUBE/OVARY [58571]	262	\$1,093,394.12
58662	PR LAP,FULGURATE/EXCISE LESIONS [58662]	211	\$571,822.66
58100	PR BIOPSY OF UTERUS LINING [58100]	147	\$15,974.49
57425	PR LAPAROSCOPY, SURG, COLPOPEXY [57425]	138	\$130,415.52
58661	PR LAP,RMV ADNEXAL STRUCTURE [58661]	76	\$201,554.28
58573	PR LAPAROSCOPY TOT HYSTERECTOMY UTERUS >250 GRAM W TUBE/OVARY [58573]	73	\$326,793.99

57452	PR COLPOSCOPY,CERVIX W/ADJ VAGINA [57452]	48	\$6,941.76
49561	PR REPAIR INCISIONAL HERNIA,STRANG [49561]	28	\$60,307.80
49653	PR LAP, VENTRAL HERNIA REPAIR,INCARCERATED [49653]	26	\$61,421.10
57500	PR BIOPSY CERVIX, 1 OR MORE, OR EXCISION OF LESION [57500]	23	\$3,740.26
58301	PR REMOVE INTRAUTERINE DEVICE [58301]	21	\$2,382.87
58545	PR LAP,MYOMECTOMY 1-4,TOT WT 250 GMS [58545]	20	\$57,827.40
57454	PR COLPOSC,CERVIX W/ADJ VAG,W/BX & CURRETAG [57454]	15	\$2,945.10
56605	PR BIOPSY VULVA/PERINEUM,ONE LESN [56605]	13	\$1,328.21
57455	PR COLPOSCOPY,CERVIX W/ADJ VAGINA,W/BX [57455]	10	\$1,775.80
52332	PR CYSTOSCOPY,INSERT URETERAL STENT [52332]	9	\$12,787.56
36590	PR RMVL TUN CTR VAD W/SUBQ PORT/PMP CTR/PRPH INSJ [36590]	8	\$3,810.24
56620	PR PART SIMPLE REMV VULVA [56620]	8	\$13,332.80
56740	PR EXCIS BARTHOLIN GLAND/CYST [56740]	8	\$11,484.80
57420	PR COLPOSCOPY,ENTIRE VAGINA [57420]	8	\$1,163.12
	total for Gyn/Onc TOP 20	1152	\$2,581,203.88
	Total Gyn All procedures	1321	\$2,858,630.59

Vascular
Access
Procedures

36902	Intro cath dialysis circuit	139	\$307,152.47
36581	Replace tunneled cv cath	78	\$110,416.80
36589	Removal tunneled cv cath	73	\$31,131.58
36903	Intro cath dialysis circuit	61	\$374,443.62
36906	Thrmc/nfs dialysis circuit	56	\$554,103.20
36901	Intro cath dialysis circuit	47	\$32,594.03
36905	Thrmc/nfs dialysis circuit	38	\$163,160.22
37248	Trlum balo angiop 1st vein	38	\$86,130.42
37228	Tib/per revasc w/tla	35	\$201,278.00
36558	Insert tunneled cv cath	33	\$49,188.15
37221	Iliac revasc w/stent	24	\$148,185.12
37224	Fem/popl revas w/tla	18	\$59,473.98
36561	Insert tunneled cv cath	5	\$7,806.45
36573	Insj picc rs&i 5 yr+	5	\$3,090.10
75822	Vein x-ray arms/legs	4	\$748.20
37230	Tib/per revasc w/stent	3	\$29,962.95
36590	Removal tunneled cv cath	2	\$952.56
37246	Trlum balo angiop 1st art	2	\$4,627.20
36002	Pseudoaneurysm injection trt	1	\$367.47
36556	Insert non-tunnel cv cath	1	\$618.11
	Total Vascular Access TOP 20	663	2,165,431
	Total Vascular Access All Procedures	1,616	2,336,488

Total Both Specialties Top 40 1,815 \$4,746,634.51

Total Both Specialties All Procedures

2,937 \$5,195,118.18

\$1,768.85 /
procedure
average**ECONOMIC FEASIBILITY**

The responses to this section of the application will help determine whether the project can be economically accomplished and maintained.

1. Project Cost Chart Instructions

- A.** All projects should have a project cost of at least \$15,000 (the minimum CON Filing Fee) (See Application Instructions for Filing Fee)
- B.** The cost of any lease (building, land, and/or equipment) should be based on fair market value or the total amount of the lease payments over the initial term of the lease, whichever is greater. Note: This applies to all equipment leases including by procedure or "per click" arrangements. The methodology used to determine the total lease cost for a "per click" arrangement must include, at a minimum, the projected procedures, the "per click" rate and the term of the lease.
- C.** The cost for fixed and moveable equipment includes, but is not necessarily limited to, maintenance agreements covering the expected useful life of the equipment; federal, state, and local taxes and other government assessments; and installation charges, excluding capital expenditures for physical plant renovation or in-wall shielding, which should be included under construction costs or incorporated in a facility lease.
- D.** The Total Construction Cost reported on line 5 should equal the Total Cost reported on the Square Footage Chart.
- E.** **For projects that include new construction, modification, and/or renovation—documentation must be provided from a licensed architect or construction professional that support the estimated construction costs. Provide a letter that includes the following:**
 - 1) A general description of the project;
 - 2) An estimate of the cost to construct the project;
 - 3) A description of the status of the site's suitability for the proposed project; and
 - 4) Attesting the physical environment will conform to applicable federal standards, manufacturer's specifications and licensing agencies' requirements including the AIA Guidelines for Design and Construction of Hospital and Health Care Facilities or comparable document in current use by the licensing authority.

RESPONSE: SEE ATTACHMENTS - B-Economic Feasibility -1E

PROJECT COST CHART

A. Construction and equipment acquired by purchase:		
1.	Architectural and Engineering Fees	<u>25,000</u>
2.	Legal, Administrative (Excluding CON Filing Fee), Consultant Fees	<u>38,000</u>
3.	Acquisition of Site	<u> </u>
4.	Preparation of Site	<u> </u>
5.	Total Construction Costs	<u>950,000</u>
6.	Contingency Fund	<u>50,000</u>
7.	Fixed Equipment (Not included in Construction Contract)	<u>80,000</u>
8.	Moveable Equipment (List all equipment over \$50,000 as separate attachments)	<u>270,000</u>
9.	Other (Specify) _____	<u> </u>
B. Acquisition by gift, donation, or lease:		
1.	Facility (inclusive of building and land)	<u> </u>
2.	Building only	<u>516,000</u>
3.	Land only	<u> </u>
4.	Equipment (Specify) _____	<u> </u>
5.	Other (Specify) _____	<u> </u>
C. Financing Costs and Fees:		
1.	Interim Financing	<u>18,000</u>
2.	Underwriting Costs	<u> </u>
3.	Reserve for One Year's Debt Service	<u>50,000</u>
4.	Other (Specify) _____	<u> </u>
D.	Estimated Project Cost (A+B+C)	<u>\$1,997,000</u>
E.	CON Filing Fee	<u>\$15,000</u>
F.	Total Estimated Project Cost (D+E)	<u>\$2,012,000.00</u>
	TOTAL	<u>\$2,012,000.00</u>

2. Identify the funding source(s) for this project.

Check the applicable item(s) below and briefly summarize how the project will be financed. **(Documentation for the type of funding MUST be inserted at the end of the application, in the correct alpha/numeric order and identified as Attachment Section B-Economic Feasibility-2.)**

- A. Commercial loan – Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
- B. Tax-exempt bonds – Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
- C. General obligation bonds – Copy of resolution from issuing authority or minutes from the appropriate meeting;
- D. Grants – Notification of intent form for grant application or notice of grant award;
- E. Cash Reserves – Appropriate documentation from Chief Financial Officer of the organization providing the funding for the project and audited financial statements of the organization; and/or
- F. Other – Identify and document funding from all other sources.

3. Complete Historical Data Charts on the following two pages—**Do not modify the Charts provided or submit Chart substitutions!**

Historical Data Chart(s) provide revenue and expense information for the last *three (3)* years for which complete data is available. The “Project Only Chart” provides information for the services being presented in the proposed project while the “Total Facility Chart” provides information for the entire facility. Complete both, if applicable.

Note that “Management Fees to Affiliates” should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. “Management Fees to Non-Affiliates” should include any management fees paid by agreement to third party entities not having common ownership with the applicant.

**NEW PROJECT WITH NO
HISTORY
HISTORICAL DATA CHART**

- Project Only
- Total Facility

Give information for the last *three (3)* years for which complete data are available for the facility or agency. The fiscal year begins in _____(Month).

	Year _____	Year _____	Year _____
A. Utilization Data			
Specify Unit of Measure _____	_____	_____	_____
B. Revenue from Services to Patients			
1. Inpatient Services	\$ _____	\$ _____	\$ _____
2. Outpatient Services	_____	_____	_____
3. Emergency Services	_____	_____	_____
4. Other Operating Revenue (Specify) _____	_____	_____	_____
Gross Operating Revenue	\$ _____	\$ _____	\$ _____
C. Deductions from Gross Operating Revenue			
1. Contractual Adjustments	\$ _____	\$ _____	\$ _____
2. Provision for Charity Care	_____	_____	_____
3. Provisions for Bad Debt	_____	_____	_____
Total Deductions	\$ _____	\$ _____	\$ _____
NET OPERATING REVENUE	\$ _____	\$ _____	\$ _____
D. Operating Expenses			
1. Salaries and Wages			
a. Direct Patient Care	_____	_____	_____
b. Non-Patient Care	_____	_____	_____
2. Physician's Salaries and Wages	_____	_____	_____
3. Supplies	_____	_____	_____
4. Rent	_____	_____	_____
a. Paid to Affiliates	_____	_____	_____
b. Paid to Non-Affiliates	_____	_____	_____
5. Management Fees:			
a. Paid to Affiliates	_____	_____	_____
b. Paid to Non-Affiliates	_____	_____	_____
6. Other Operating Expenses (D6)	_____	_____	_____
Total Operating Expenses	\$ _____	\$ _____	\$ _____
E. Earnings Before Interest, Taxes and Depreciation	\$ _____	\$ _____	\$ _____
F. Non-Operating Expenses			
1. Taxes	\$ _____	\$ _____	\$ _____
2. Depreciation	_____	_____	_____
3. Interest	_____	_____	_____
4. Other Non-Operating Expenses	_____	_____	_____
Total Non-Operating Expenses	\$ _____	\$ _____	\$ _____
NET INCOME (LOSS)	\$ _____	\$ _____	\$ _____

Chart Continues Onto Next Page

NET INCOME (LOSS)	\$ _____	\$ _____	\$ _____
G. Other Deductions			
1. Annual Principal Debt Repayment	\$ _____	\$ _____	\$ _____
2. Annual Capital Expenditure	_____	_____	_____
Total Other Deductions	\$ _____	\$ _____	\$ _____
NET BALANCE	\$ _____	\$ _____	\$ _____
DEPRECIATION	\$ _____	\$ _____	\$ _____
FREE CASH FLOW (Net Balance + Depreciation)	\$ _____	\$ _____	\$ _____

- Project Facility
- Total Only

NEW PROJECT WITH NO HISTORY
HISTORICAL DATA CHART-OTHER EXPENSES

<u>OTHER OPERATING EXPENSES CATEGORIES</u> (D6)	Year _____	Year _____	Year _____
1. <u>Professional Services Contract</u>	\$ _____	\$ _____	\$ _____
2. <u>Contract Labor</u>	_____	_____	_____
3. <u>Imaging Interpretation Fees</u>	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
*Total Other Expenses	\$ _____	\$ _____	\$ _____

**Total other expenses should equal Line D.6. In the Historical Data Chart*

4. Complete Projected Data Charts on the following two pages – **Do not modify the Charts provided or submit Chart substitutions!**

Projected Data Chart(s) provide information for the two years following the completion of the project. The “Project Only Chart” should reflect revenue and expense projections for the project (*i.e.*, if the application is for additional beds, include anticipated revenue from the proposed beds only, not from all beds in the facility). The “Total Facility Chart” should reflect information for the total facility. Complete both, if applicable.

Note that “Management Fees to Affiliates” should include management fees paid by agreement to the parent company, another subsidiary of the parent company, or a third party with common ownership as the applicant entity. “Management Fees to Non-Affiliates” should include any management fees paid by agreement to third party entities not having common ownership with the applicant.

PROJECTED DATA CHART

 Project Only
 Total Facility

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in January (Month).

	<u>Year 2022</u>	<u>Year 2023</u>
A. Utilization Data		
Specify Unit of Measure <u>Procedures</u>	<u>2937</u>	<u>3172</u>
B. Revenue from Services to Patients		
1. Inpatient Services	<u>\$ 0</u>	<u>\$ 0</u>
2. Outpatient Services	<u>\$10,390,236</u>	<u>\$11,221,454</u>
3. Emergency Services	<u>0</u>	<u>0</u>
4. Other Operating Revenue (Specify) _____	<u>0</u>	<u>0</u>
Gross Operating Revenue	<u>\$10,390,236</u>	<u>\$11,221,454</u>
C. Deductions from Gross Operating Revenue		
1. Contractual Adjustments	<u>\$5,195,118</u>	<u>\$5,610,727</u>
2. Provision for Charity Care	<u>\$51,952</u>	<u>\$56,111</u>
3. Provisions for Bad Debt	<u>\$103,903.76</u>	<u>\$112,215</u>
Total Deductions	<u>\$ 155,856</u>	<u>\$ 168,326</u>
NET OPERATING REVENUE	<u>\$ 5,039,262</u>	<u>\$ 5,443,401</u>
D. Operating Expenses		
1. Salaries and Wages		
a. Direct Patient Care (fully loaded)	<u>907,080</u>	<u>934,292</u>
b. Non-Patient Care (fully loaded)	<u>352,753</u>	<u>363,336</u>
2. Physician's Salaries and Wages		
3. Supplies	<u>1,511,800</u>	<u>1,632,744</u>
4. Rent		
a. Paid to Affiliates	<u>120,000</u>	<u>120,000</u>
b. Paid to Non-Affiliates		
5. Management Fees:		
a. Paid to Affiliates	<u>0</u>	
b. Paid to Non-Affiliates	<u>0</u>	
6. Other Operating Expenses (D6)	<u>\$1,259,883</u>	<u>\$1,335,476</u>
Total Operating Expenses	<u>\$ 3,779,499</u>	<u>\$ 4,386,208</u>
E. Earnings Before Interest, Taxes and Depreciation	<u>\$ 1,259,833</u>	<u>\$ 1,057,193</u>
F. Non-Operating Expenses		
1. Taxes	<u>\$25,197</u>	<u>\$21,144</u>
2. Depreciation	<u>78,571</u>	<u>78,571</u>
3. Interest	<u>67,005</u>	<u>65,893</u>
4. Other Non-Operating Expenses		
Total Non-Operating Expenses	<u>\$ 170,773</u>	<u>\$165,608</u>
NET INCOME (LOSS)	<u>\$1,089,060</u>	<u>\$891,585</u>

Chart Continues Onto Next Page

NET INCOME (LOSS)	<u>\$1,089,060</u>	<u>\$891,585</u>
G. Other Deductions		
1. Estimated Annual Principal Debt Repayment	<u>\$</u>	<u>\$</u>
2. Annual Capital Expenditure	<u>0</u>	<u>0</u>
Total Other Deductions	<u>\$ 0</u>	<u>\$ 0</u>
NET BALANCE	<u>\$1,089,060</u>	<u>\$891,585</u>
DEPRECIATION	<u>78,571</u>	<u>78,571</u>
FREE CASH FLOW (Net Balance + Depreciation)	<u>\$ 1,167,631</u>	<u>\$970,156</u>

Project Facility

Total Only

PROJECTED DATA CHART-OTHER EXPENSES

<u>OTHER OPERATING EXPENSES CATEGORIES</u>	<u>Year 2022</u>	<u>Year 2023</u>
(D6)		
1. <u>Professional Services Contract</u>	<u>\$ 25,000</u>	<u>\$ 27,500</u>
2. <u>Maintenance Agreements (Equipment)</u>	<u>\$150,000</u>	<u>\$165,000</u>
3. <u>Imaging Interpretation Fees</u>	<u></u>	<u></u>
4. <u>Building Maintenance & Services</u>	<u>\$120,000</u>	<u>\$132,000</u>
5. <u>Utilities</u>	<u>\$60,000</u>	<u>\$70,000</u>
6. <u>Due, License, Subscriptions</u>	<u>\$8,000</u>	<u>\$8,000</u>
7. <u>General & Administrative</u>	<u>\$896,883</u>	<u>\$932,976</u>
8.		
*Total Other Expenses	<u>\$1,259,883</u>	<u>\$1,335,476</u>

**Total other expenses should equal Line D.6. In the Projected Data Chart*

5. A. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge using information from the Projected Data Charts for Year 1 and Year 2 of the proposed project. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

	Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Year One Year 2022	Year Two Year 2023	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)	NA	NA	\$5,306.55	\$5,306.55	0%
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)	NA	NA	\$3,537.70	\$3,537.70	0%
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)	NA	NA	\$1,768.85	\$1,768.85	0%

Total Facility Chart NA

	Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Year One Year _____	Year Two Year _____	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)					
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)					
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)					

- B. Provide the proposed charges for the project and discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the project and the impact on existing patient charges. **RESPONSE;**

CPT	total for Gyn/Onco TOP 20	2020 Medicare Allowable FF+PF	1st Year Gross Charge	2nd Year Gross Charge -NC
58571	PR LAPAROSCOPY W TOT HYSTERECTUTERUS <=250 GRAM W TUBE/OVARY [58571]	4173.26	8346.52	8346.52
58662	PR LAP,FULGURATE/EXCISE LESIONS [58662]	2710.06	5420.12	5420.12
58100	PR BIOPSY OF UTERUS LINING [58100]	108.67	217.34	217.34
57425	PR LAPAROSCOPY, SURG, COLPOPEXY [57425]	945.04	1890.08	1890.08
58661	PR LAP,RMV ADNEXAL STRUCTURE [58661]	2652.03	5304.06	5304.06
58573	PR LAPAROSCOPY TOT HYSTERECTOMY UTERUS >250 GRAM W TUBE/OVARY [58573]	4476.63	8953.26	8953.26
57452	PR COLPOSCOPY,CERVIX W/ADJ VAGINA [57452]	144.62	289.24	289.24
49561	PR REPAIR INCISIONAL HERNIA,STRANG [49561]	2153.85	4307.70	4307.70
49653	PR LAP, VENTRAL HERNIA REPAIR,INCARCERATED [49653]	2362.35	4724.70	4724.70
57500	PR BIOPSY CERVIX, 1 OR MORE, OR EXCISION OF LESION [57500]	162.62	325.24	325.24

58301	PR REMOVE INTRAUTERINE DEVICE [58301]	113.47	226.94	226.94
58545	PR LAP,MYOMECTOMY 1-4,TOT WT 250 GMS [58545]	2891.37	5782.74	5782.74
57454	PR COLPOSC,CERVIX W/ADJ VAG,W/BX & CURRETAG [57454]	196.34	392.68	392.68
56605	PR BIOPSY VULVA/PERINEUM,ONE LESN [56605]	102.17	204.34	204.34
57455	PR COLPOSCOPY,CERVIX W/ADJ VAGINA,W/BX [57455]	177.58	355.16	355.16
52332	PR CYSTOSCOPY,INSERT URETERAL STENT [52332]	1420.84	2841.68	2841.68
36590	PR RMVL TUN CTR VAD W/SUBQ PORT/PMP CTR/PRPH INSJ [36590]	476.28	952.56	952.56
56620	PR PART SIMPLE REMV VULVA [56620]	1666.6	3333.20	3333.20
56740	PR EXCIS BARTHOLIN GLAND/CYST [56740]	1435.6	2871.20	2871.20
57420	PR COLPOSCOPY,ENTIRE VAGINA [57420]	145.39	290.78	290.78

Total Vascular Access TOP 20

36902	Intro cath dialysis circuit	2209.73	4419.46	4419.46
36581	Replace tunneled cv cath	1415.6	2831.20	2831.20
36589	Removal tunneled cv cath	426.46	852.92	852.92
36903	Intro cath dialysis circuit	6138.42	12276.84	12276.84
36906	Thrmcb/nfs dialysis circuit	9894.7	19789.40	19789.40
36901	Intro cath dialysis circuit	693.49	1386.98	1386.98
36905	Thrmcb/nfs dialysis circuit	4293.69	8587.38	8587.38
37248	Trluml balo angiop 1st vein	2266.59	4533.18	4333.18
37228	Tib/per revasc w/tla	5750.8	11501.60	11501.60
36558	Insert tunneled cv cath	1490.55	2981.10	2981.10
37221	Iliac revasc w/stent	6174.38	12348.76	12348.76
37224	Fem/popl revas w/tla	3304.11	6608.22	6608.22
36561	Insert tunneled cv cath	1561.29	3122.58	3122.58
36573	Insj picc rs&i 5 yr+	618.02	1236.04	1236.04
75822	Vein x-ray arms/legs	187.05	374.10	374.10
37230	Tib/per revasc w/stent	9987.65	19975.30	19975.30
36590	Removal tunneled cv cath	476.28	952.56	952.56
37246	Trluml balo angiop 1st art	2313.6	4627.20	4627.20
36002	Pseudoaneurysm injection trt	367.47	734.94	734.94
36556	Insert non-tunnel cv cath	618.11	1236.22	1236.22

- D. Compare the proposed charges to those of similar facilities/services in the service area/adjoining service areas, or to proposed charges of recently approved Certificates of Need. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).

RESPONSE: Our charges are based upon standard Medicare Allowable for 2020 (shown above in chart) ambulatory surgery centers which is the same format that many other ASTCs should follow. We have listed above the 2020 Medicare allowable in the 3rd column from the right. That number includes both the allowed Facility Fee and the Professional Fee for the ASTC. Our Master Fee Schedule is noted in the columns to the right. Our Charge Master for year 1 and year 2 will not change.

6. A. Discuss how projected utilization rates will be sufficient to support financial performance.

- 1) Noting when the project’s financial breakeven is expected, and

RESPONSE: The ASTC will make a profit by the end of the 1st year as noted in the 1st year financial Statement.

- 2) Demonstrating the availability of sufficient cash flow until financial viability is achieved.

Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For all projects, provide financial information for the corporation, partnership, or principal parties that will be a source of funding for the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as **Attachment Section B-Economic Feasibility-6A**

RESPONSE: Our ASTC Poplar Ridge Surgery Center is new and there are no historical financials for this facility at this time. Our bank funding letter is attached in Attachments B-Economic Feasibility – 1E that assures completion of project with cash reserves for operations in the first year. If there is a need for cash infusion into the ASTC, there will be a cash call from the three owners per Operating Agreement. There are also plans for future syndication of shares to new physicians.

B. Net Operating Margin Ratio: The Net Operating Margin Ratio demonstrates how much revenue is left over after all the variable or operating costs have been paid. The formula for this ratio is: (Earnings before interest, Taxes, and Depreciation/Net Operating Revenue).

Utilizing information from the Historical and Projected Data Charts please report the net operating margin ratio trends in the following tables. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

Year	2nd Previous Year to Most Recent Year Year <u>NA</u>	1st Previous Year to Most Recent Year Year <u>NA</u>	Most Recent Year Year <u>NA</u>	Projected Year 1 Year <u>2022</u>	Projected Year 2 Year <u>2023</u>
Net Operating Margin Ratio				25%	19.4%

Total Facility Chart NOT APPLICABLE

Year	2nd Previous Year to Most Recent Year Year _____	1st Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Projected Year 1 Year _____	Projected Year 2 Year _____
Net Operating Margin Ratio					

C. Capitalization Ratio: The Long-term debt to capitalization ratio measures the proportion of debt

financing in a business's permanent (long-term) financing mix. This ratio best measures a business's true capital structure because it is not affected by short-term financing decisions. The formula for this ratio is: $\frac{\text{Long-Term Debt}}{\text{Long-Term Debt} + \text{Total Equity}} \times 100$.

For self or parent company funded projects, provide the capitalization ratio using the most recent year available from the funding entity's audited balance sheet, if applicable. Capitalization Ratios are not expected from outside the company lenders that provide funding.

This question is applicable to all applications regardless of whether or not the project is being partially or totally funded by debt financing.

RESPONSE: This facility does not currently have a capitalization ratio to report due to being newly formed company and no history of financial information.

- Discuss the project's participation in state and federal revenue programs, including a description of the extent to which Medicare, TennCare/Medicaid and medically indigent patients will be served by the project. Report the estimated gross operating revenue dollar amount and percentage of projected gross operating revenue anticipated by payor classification for the first year of the project by completing the table below. Complete Project Only Chart and Total Facility Chart, if applicable.

Applicant's Projected Payor Mix, Year 1
Project Only Chart

Payor Source	Projected Gross Operating Revenue	As a % of total
Medicare/Medicare Managed Care	3,527,483	70
TennCare/Medicaid	503,926	10
Commercial/Other Managed Care	907,067	18
Self-Pay	100,785	2
Other (Specify) _____		0
Total*	\$ 5,039,262	100%
Charity Care	50,393	1

**Needs to match Gross Operating Revenue Year One on Projected Data Chart*

Applicant's Projected Payor Mix, Year 1
Total Facility Chart – NOT
APPLICABLE

Payor Source	Projected Gross Operating Revenue	As a % of total
Medicare/Medicare Managed Care		
TennCare/Medicaid		
Commercial/Other Managed Care		
Self-Pay		
Other (Specify) _____		
Total*		
Charity Care		

**Needs to match Gross Operating Revenue Year One on Projected Data Chart*

8. Provide the projected staffing for the project in Year 1 and compare to the current staffing for the most recent 12-month period, as appropriate. This can be reported using full-time equivalent (FTEs) positions for these positions. Identify projected salary amounts by position classifications and compare the clinical staff salaries to prevailing wage patterns in the proposed service area as published by the Department of Labor & Workforce Development and/or other documented sources, such as the US Department of Labor. Wage data pertaining to healthcare professions can be found at the following link:

https://www.bls.gov/oes/current/oes_tn.htm.

Position Classification	Existing FTEs (enter year)	Projected FTEs Year 1	Average Wage (Contractual Rate)	Area Wide/Statewide Average Wage
A. Direct Patient Care Positions				
<i>Nursing Director</i>	NA	1.0	\$86,000 (\$41.35/hr)	\$84,720 (\$40.73/hr)
<i>PreOp/PAC U RN</i>	NA	2.0	\$81,683 (\$39.27/hour)	\$77,460 (\$37.24/hr)
<i>Surg Tech / Mat Mgr / Instrument Tech</i>	NA	3.0	\$53,360 (\$25.65/hr)	\$53,360 (\$25.65/hr)
<i>Medical Assistant</i>	NA	2.0	\$31,200 (\$15.00/hr)	\$27,250 (\$12.78/hr)
<i>C-Arm Tech</i>	NA	3.0	\$61,801 (\$29.71/hr)	\$69,140 (\$33.24/hr)
Total Direct Patient Care Positions	NA	11.0	\$657,249	

Source: Indeed.com salary survey for consideration of proposed contracted rates.

Bls.gov rates used for Area Wide Average Wages.

B. Non-Patient Care Positions				
<i>Receptionist</i>	NA	2.0	\$31,200 (\$15.00/hr)	\$30,056 (\$14.45/hr)
<i>Billers/Collections/PreAuth</i>	NA	3.0	\$31,200 (\$15.00/hr)	\$38,740 (\$18.63/hr)
<i>Business Operations Specialist</i>	NA	1.0	\$55,000 (\$26.44/hr)	\$63,180 (\$30.38/hr)
<i>Other Clerical/M.A.</i>	NA	1.0	\$31,200 (\$15.00/hr)	\$30,056 (\$14.45/hr)
Total Non-Patient Care Positions	NA	5.0	\$242,200	
Total Employees (A+B)	NA	16.0	\$899,449	
C. Contractual Staff	NA			
Total Staff (A+B+C)	NA	16.0	\$899,449 (not fully loaded)	

9. What alternatives to this project were considered? Discuss the advantages and disadvantages of each, including but not limited to:
- A. The availability of less costly, more effective and/or more efficient methods of providing the benefits intended by the project. If development of such alternatives is not practicable, justify why not, including reasons as to why they were rejected.

- B. Document that consideration has been given to alternatives to new construction, e.g., modernization or sharing arrangements.

QUALITY STANDARDS

1. Per PC 1043, Acts of 2016, any receiving a CON after July 1, 2016 must report annually using forms prescribed by the Agency concerning continued need and appropriate quality measures Please verify that annual reporting will occur. **RESPONSE:** ASTC will comply with this quality standard request by performing annual reporting as described.
2. Quality-The proposal shall provide health care that meets appropriate quality standards. Please address each of the following questions:

A. Does the applicant commit to the following?

1) Maintaining the staffing comparable to the staffing chart presented in its CON application;
RESPONSE: We have inserted our Staffing Requirements policy under the Attachments Section B Quality 2.

2) Obtaining and maintaining all applicable state licenses in good standing;
RESPONSE: Absolutely intend to follow all State and Federal regulations as well as guidelines provided through AAAHC accreditation as well as the nationally recognized organization for which our Policies and Procedures will be adhering to such as: AORN, APIC, CDC, and AST.

1) Obtain and maintaining TennCare and Medicare certification(s), if participation in such programs was indicated in the application;
RESPONSE: It is our intention to apply for, obtain and maintain TennCare and Medicare certification. Also see Attachments Section B Quality-2A for our Charity Discount Policy.

2) For an existing healthcare institution applying for a CON - Has it maintained substantial compliance with applicable federal and state regulation for the three years prior to the CON application. In the event of non-compliance, the nature of non-compliance and corrective action should be discussed to include any of the following: suspension of admissions, civil monetary penalties, notice of 23-day or 90-day termination proceedings from Medicare/Medicaid/TennCare, revocation/denial of accreditation, or other similar actions and what measures the applicant has or will put into place to avoid similar findings in the future

RESPONSE: Not applicable. Our ASTC will be a new ASTC with no history.

3) For an existing healthcare institution applying for a CON - Has the entity been decertified within the prior three years? If yes, please explain in detail. (This provision shall not apply if a new, unrelated owner applies for a CON related to a previously decertified facility)

RESPONSE: NA

B. Respond to all of the following and for such occurrences, identify, explain and provide documentation:

1) Has any of the following:

a. Any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant);

RESPONSE: YES three physician owners of each 33.33% ownership.

- C. Any entity in which any person(s) or entity with more than 5% ownership (direct or indirect) in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%; and/or

RESPONSE: NO

- a. Any physician or other provider of health care, or administrator employed by any entity in which any person(s) or entity with more than 5% ownership in the applicant (to include any entity in the chain of ownership for applicant) has an ownership interest of more than 5%.
RESPONSE: YES

2) Been subjected to any of the following:

- a. Final Order or Judgment in a state licensure action; **RESPONSE: NO**
- b. Criminal fines in cases involving a Federal or State health care offense; **RESPONSE: NO**
- c. Civil monetary penalties in cases involving a Federal or State health care offense; **RESPONSE: NO**
- d. Administrative monetary penalties in cases involving a Federal or State health care offense; **RESPONSE: NO**
- e. Agreement to pay civil or administrative monetary penalties to the federal government or any state in cases involving claims related to the provision of health care items and services; and/or **RESPONSE: NO**
- f. Suspension or termination of participation in Medicare or Medicaid/TennCare programs. **RESPONSE: NO**
- g. Is presently subject of/to an investigation, regulatory action, or party in any civil or criminal action of which you are aware. **RESPONSE: NO**
- h. Is presently subject to a corporate integrity agreement. **RESPONSE: NO**

- D. Does the applicant plan, within 2 years of implementation of the project, to participate in self-assessment and external assessment against nationally available benchmark data to accurately assess its level of performance in relation to established standards and to implement ways to continuously improve?

Note: Existing licensed, accredited and/or certified providers are encouraged to describe their process for same. **RESPONSE: YES**, they will follow the recommendation of the A.A.A.H.C. accreditation organization.

Please complete the chart below on accreditation, certification, and licensure plans.

- 1) If the applicant does not plan to participate in these type of assessments, explain why

since quality healthcare must be demonstrated.

Credential	Agency	Status (Active or Will Apply)
Licensure	<input checked="" type="checkbox"/> Health <input type="checkbox"/> Intellectual and Developmental Disabilities <input type="checkbox"/> Mental Health and Substance Abuse Services	WILL APPLY
Certification	<input checked="" type="checkbox"/> Medicare <input checked="" type="checkbox"/> Medicaid/TennCare <input type="checkbox"/> Other_	WILL APPLY WILL APPLY
Accreditation	<input checked="" type="checkbox"/> A.A.A.H.C. Accreditation	WILL APPLY

2) Based upon what was checked/completed in above table, will the applicant accept a condition placed on the certificate of need relating to obtaining/maintaining license, certification, and/or accreditation? RESPONSE: YES

E. The following list of quality measures are service specific. Please indicate which standards you will be addressing in the annual Continuing Need and Quality Measure report if the project is approved.

<input checked="" type="checkbox"/>	<p>For Ambulatory Surgical Treatment Center projects: Estimating the number of physicians by specialty expected to utilize the facility, developing criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel, and documenting the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site? RESPONSE: SEE ATTACHMENT – CREDENTIALING POLICY Section B – NEED 10b-2</p>
-------------------------------------	---

<input type="checkbox"/>	<p>For Cardiac Catheterization projects:</p> <ol style="list-style-type: none"> a. Documenting a plan to monitor the quality of its cardiac catheterization program, including but not limited to, program outcomes and efficiencies; and b. Describing how the applicant will agree to cooperate with quality enhancement efforts sponsored or endorsed by the State of Tennessee; and c. Describing how cardiology staff will be maintaining: d. Adult Program: 75 cases annually averaged over the previous 5 years; e. Pediatric Program: 50 cases annually averaged over the previous 5 years.
<input type="checkbox"/>	<p>For Open Heart projects:</p> <ol style="list-style-type: none"> f. Describing how the applicant will staff and maintain the number of who will perform the volume of cases consistent with the State Health Plan (annual average of the previous 2 years), and maintain this volume in the future; g. Describing how at least a surgeon will be recruited and retained (at least one shall have 5 years experience); h. Describing how the applicant will participate in a data reporting, quality improvement, outcome monitoring, and external assessment system that benchmarks outcomes based on national norms (demonstrated active participation in the STS National Database is expected and shall be considered evidence of meeting this standard).
<input type="checkbox"/>	<p>For Comprehensive Inpatient Rehabilitation Services projects: Retaining or recruiting a physiatrist?</p>
<input type="checkbox"/>	<p>For Home Health projects: Documenting the existing or proposed plan for quality data reporting, quality improvement, and an outcome and process monitoring system.</p>
<input type="checkbox"/>	<p>For Hospice projects: Documenting the existing or proposed plan for quality data reporting, quality improvement, and an outcome and process monitoring system.</p>
<input type="checkbox"/>	<p>For Megavoltage Radiation Therapy projects: Describing or demonstrating how the staffing and quality assurance requirements will be met of the American Society of Therapeutic Radiation and Oncology (ASTRO), the American College of Radiology (ACR), the American College of Radiation Oncology (ACRO), National Cancer Institute (NCI), or a similar accrediting authority.</p>
<input type="checkbox"/>	<p>For Neonatal Intensive Care Unit projects: Documenting the existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring systems; document the intention and ability to comply with the staffing guidelines and qualifications set forth by the Tennessee Perinatal Care System Guidelines for Regionalization, Hospital Care Levels, Staffing and Facilities; and participating in the Tennessee Initiative for Perinatal Quality Care (TIPQC).</p>
<input type="checkbox"/>	<p>For Nursing Home projects: Documenting the existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring systems, including in particular details on its Quality Assurance and Performance Improvement program.</p>
<input type="checkbox"/>	<p>For Inpatient Psychiatric projects:</p> <ul style="list-style-type: none"> • Describing or demonstrating appropriate accommodations for: • Seclusion/restraint of patients who present management problems and children who need quiet space, proper sleeping and bathing arrangements for all patients);

	<ul style="list-style-type: none"> • Proper sleeping and bathing arrangements; • Adequate staffing (i.e. that each unit will be staffed with at least two direct patient care staff, one of which shall be a nurse, at all times); • A staffing plan that will lead to quality care of the patient population served by the project. • An existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring systems; and • If other psychiatric facilities are owned or administered, providing information on satisfactory surveys and quality improvement programs at those facilities. <p>Involuntary admissions if identified in CON criteria and standard review</p>
<input type="checkbox"/>	For Freestanding Emergency Department projects: Demonstrating that it will be accredited with the Joint Commission or other applicable accrediting agency, subject to the same accrediting standards as the licensed hospital with which it is associated.
<input type="checkbox"/>	For Organ Transplant projects: Describing how the applicant will achieve and maintain institutional membership in the national Organ Procurement and Transportation Network (OPTN), currently operating as the United Network for Organ Sharing (UNOS), within one year of program initiation. Describing how the applicant shall comply with CMS regulations set forth by 42 CFR Parts 405, 482, and 498, Medicare Program; Hospital Conditions of Participation: Requirements for Approval and Re-Approval of Transplant Centers To Perform Organ Transplants.
<input type="checkbox"/>	For Relocation and/or Replacement of Health Care Institution projects: Describing how facility and/or services specific measures will be met.

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

The responses to this section of the application helps determine whether the project will contribute to the orderly development of healthcare within the service area.

1. List all existing health care providers (i.e., hospitals, nursing homes, home care organizations, etc.), managed care organizations, alliances, and/or networks with which the applicant currently has or plans to have contractual and/or working relationships, that may directly or indirectly apply to the project, such as, transfer agreements, contractual agreements for health services.

RESPONSE:

Hospitals: none other than transfer to Baptist, Methodist or St. Francis Hospital(s).

Managed Care Organizations:

- BlueCross BlueShield of Tennessee, All Networks
- Anthem/ AmeriGroup
- Aetna HMO, PPO, POS
- Aetna Medicare Advantage
- Aetna Select
- Ambetter of Tennessee
- AmeriGroup TennCare

- Amerivantage Medicare Advantage
- Bright Health Managed Medicare
- Cigna Healthcare of Tennessee; All Networks
- Coventry
- UnitedHealthcare /MidSouth Division
- Tennessee UnitedHealthcare Community Plan
- Cigna – HealthSpring
- TennCare
- Beacon Health Options/ Value Options
- Farm Bureau
- HealthOne Alliance
- Health Spring Managed Medicare
- Health Partner
- Humana Caritan Medicare Advantage, HMO, PPO, POS
- ISHN CrestPoint
- MultiPlan
- Prime Health PPO
- Tricare
- Wellpoint Managed Medicare

Other: Our ASTC will not have contracts necessarily with home health, physical therapy/rehab, dietician or other services but will strive to develop referral relationships soon after gaining State licensure.

Describe the effects of competition and/or duplication of the proposal on the health care system, including the impact to consumers and existing providers in the service area. Discuss any instances of competition and/or duplication arising from your proposal including a description of the effect the proposal will have on the utilization rates of existing providers in the service area of the project.

A. Positive Effects

RESPONSE: The new ASTC will reduce patient wait times from 6 months to approximately 15 days for diabetic renal failure patients compared to other area facilities that offer this service. (renal fistula patients) This will free up those respective hospitals to schedule those remaining patients sooner and thus create greater patient satisfaction with those facilities that they wish to continue to visit.

There is only one (1) other renal care company in Shelby County that is not an ASTC. There is no opportunity to surgically create arteriovenous grafts or fistulas at that facility. There are no other ASTCs that offer this service in the other five surrounding counties that our ATSC will serve.

Female patients requiring gynecological surgical procedures or oncolytic therapies now have an alternative to going into the hospital. The ASTC will offer advanced treatment modalities usually only offered in a hospital but now available in this ASTC.

Third Party payors are driving more and more patient to the ASTC setting due to more economical patient care, lower patient deductibles, as well as receiving outstanding patient outcomes and lower risk of gaining infections. During covid 2020, more and more patients have become exposed to ASTCs and have become really comfortable as well as confident with this surgical setting and many now prefer it over the in-hospital setting. Reasons given by patients are convenience, high customer service skills, quick in and out turn times, cleanliness and confidence that it is a safe place to have their surgery.

B. Negative Effects

RESPONSE: Really there is no negative effects upon granting this CON. Any patients that may come from the three major health systems will be minimal and will free up those hospitals to concentrate on

other surgical specialties of higher acuity or complexity and will get patients in quicker when considering vascular access cases. By not granting this CON, the negative effect would be on those renal and diabetic patients that have to wait long periods of time to get their appointments as previously mentioned. From the clinical experience of our two Vascular Access physicians that the wait time is up to six (6) months. Patients also do not have easy access to any other ASTC in the six-county area for these kinds of services so they would have no choice but to go into the hospital. The other negative effect on the whole healthcare system as a whole would be to keep healthcare costs higher without more competition in the outpatient setting.

A. Discuss the availability of and accessibility to human resources required by the proposal, including clinical leadership and adequate professional staff, as per the State of Tennessee licensing requirements, CMS, and/or accrediting agencies requirements, such as the Joint Commission and Commission on Accreditation of Rehabilitation Facilities.

RESPONSE:

The ASTC will be staffed at the minimum according to AORN and State of TN guidelines and then above that to enhance operational flow and efficiency. Clinical staff will be managed by a new Director of Nursing that has perioperative nursing experience as well as experience managing a surgical team within an ASTC setting. Some supportive staff such as non-clinical staff may come from and be shared by the current practice. Some ASTC clinical staff will have to be hired fresh. Poplar Ridge Surgery Center management and Excellentia Advisory Group consultants feel confident that we have the resources and means to recruit top caliber employees for this new ASTC project.

C. Document the category of license/certification that is applicable to the project and why. These include, without limitation, regulations concerning clinical leadership, physician supervision, quality assurance policies and programs, utilization review policies and programs, record keeping, clinical staffing requirements, and staff education.

RESPONSE: The ASTC will gain a license to operate as an ambulatory surgical treatment center under the guidelines and regulations of CMS obtaining a deemed-status Medicare certification. We will be licensed to accept Medicaid patients and apply for all managed Medicare and Medicaid programs. The ASTC will follow nursing guidelines as published by the A.O.R.N. We will follow the Quality Assurance Performance Improvement guidelines published by American Accreditation of Ambulatory Healthcare Centers (AAAHC) accreditation organization. Physicians will be credentialed according to our Credentialing Policy (See Attachments_B-Need-10b-2.

D. Discuss the applicant’s participation in the training of students in the areas of medicine, nursing, social work, etc. (e.g., internships, residencies, etc.).

RESPONSE: 901 Vascular and the Poplar Avenue Clinic/Women’s Health – Neither of these organization have any affiliation with teaching institutions and do not offer any internships or residency programs. The proposed ASTC will not as well.

2. Outstanding Projects: RESPONSE: NA

A. Complete the following chart by entering information for each applicable outstanding CON by applicant or share common ownership; and

<u>Outstanding Projects</u>					
<u>CON Number</u>	<u>Project Name</u>	<u>Date Approved</u>	<u>*Annual Progress Report(s)</u>		<u>Expiration Date</u>
			<u>Due Date</u>	<u>Date Filed</u>	

* Annual Progress Reports – HSDA Rules require that an Annual Progress Report (APR) be submitted each year. The APR is due annually until the Final Project Report (FPR) is submitted (FPR is due within 90 ninety days of the completion and/or implementation of the project). Brief progress status updates are requested as needed. The project remains outstanding until the FPR is received.

B. Describe the current progress, and status of each applicable outstanding CON.

RESPONSE: NA

Equipment Registry – For the applicant and all entities in common ownership with the applicant.

C. Do you own, lease, operate, and/or contract with a mobile vendor for a Computed Tomography scanner (CT), Linear Accelerator, Magnetic Resonance Imaging (MRI), and/or Positron Emission Tomographer (PET)? NO

D. If yes, have you submitted their registration to HSDA? If you have, what was the date of submission? NA

E. If yes, have you submitted your utilization to Health Services and Development Agency? If you have, what was the date of submission? NA

SECTION C: STATE HEALTH PLAN QUESTIONS

T.C.A. §68-11-1625 requires the Tennessee Department of Health's Division of Health Planning to develop and annually update the State Health Plan (found at <https://www.tn.gov/health/health-program-areas/health-planning/state-health-plan.html>) The State Health Plan guides the State in the development of health care programs and policies and in the allocation of health care resources in the State, including the Certificate of Need program. The 5 Principles for Achieving Better Health are from the State Health Plan's framework and inform the Certificate of Need program and its standards and criteria.

Discuss how the proposed project will relate to the 5 Principles for Achieving Better Health found in the State Health Plan.

1. The purpose of the State Health Plan is to improve the health of Tennesseans.

RESPONSE: As mentioned more than once in our application, our proposed ASTC project provides physician specialties that address some of the very conditions caused by some of the TN Health Plan concerns such as all youth obesity, women and young girl obesity, teen births and gynecological issues, diabetes, kidney and vascular access issue. Our common goals with Tennessee are to improve the access to these services and this can be done by offering a convenient easily accessible location in the outpatient setting.

2. Every citizen should have reasonable access to health care.

RESPONSE: Most patients would agree that they would like to have a location that is easily accessible, with less wait time, quicker in and out of facility at a competitive price. Approving our project CON affords this to happen for patients meeting our specific demographic in the six (6) county area already defined within the CON application.

3. The state's health care resources should be developed to address the needs of Tennesseans while encouraging competitive markets, economic efficiencies and the continued development of the state's health care system.

RESPONSE: It is our hope that the State of TN would embrace physician entrepreneurs that will invest into the Western Tennessee healthcare industry and Shelby County economy by building a healthcare facility to enhance healthcare services for area patients. Physicians at Poplar Ridge Surgery Center are willing and able to put finances together to invest in the kind of state-of-the-art medical equipment into the outpatient setting that will enhance the precision of surgery and produce even greater patient outcomes and satisfaction. These types of advanced technologies were once only provided in large hospitals but now W. Tennesseans can have a choice with a more economical outpatient reimbursement compared to hospital reimbursement rates generally 25% (HOPD) to 50% higher (inpatient).

4. Every citizen should have confidence that the quality of health care is continually monitored and standards are adhered to by health care providers.

RESPONSE: All decisions regarding management direction, changes in Policies & Procedures, additions/deletions of Members, Managers, new Providers and decisions affecting the financial well-being of the ASTC will be at the approval of the Governing Body as outlined in our Operating Agreement. Several committees will be reporting directly to the Governing Body. Committee meetings will be conducted quarterly with meeting minutes reflecting decisions and approvals of the Governing Body. Committees will consist of Quality Assurance, Risk Management, Emergency Operations, Pharmacy Management, Safety and Infection Prevention. Even during the current times of covid, each patient will have the confidence that our ASTC will follow the guidelines and direction of the CDC, WHO and the Tennessee Department of Health in regards to infection prevention precautions. Our Patient's Rights and Responsibilities will be posted prominently in the lobby/waiting area and offered in each patient admission packet. Patient will be informed of grievance policy and how to contact the Department of Health. Poplar Ridge Surgery Center management will keep patient outcome data and make attempts to become part of external benchmarking once we are licensed and operating.

- 5. The state should support the development, recruitment, and retention of a sufficient and quality health care workforce.

RESPONSE: By approving the Poplar Ridge Surgery Center CON application, the State of Tennessee is allowing for another exciting state-of-the-art facility to become a reality for TN healthcare workers to find employment. Although our facility will be small in comparison to a major hospital employer, nonetheless, our ASTC will be an appealing site for many healthcare workers that want to have flexible work schedules, Monday through Friday workdays, off each major holiday, and perhaps no On-Call duties for most. The Members of our ASTC and Excellentia Advisory Group are prepared and able to recruit qualified staff and to offer the necessary specific training to make the ASTC a safe and high-quality healthcare provider of outpatient surgical services.

PROOF OF PUBLICATION

Attach the full page of the newspaper in which the notice of intent appeared with the mast and dateline intact or submit a publication affidavit from the newspaper that includes a copy of the publication as proof of the publication of the letter of intent.

Date LOI was Submitted:	March 3, 2021
Date LOI was Published:	March, 9 2021

NOTIFICATION REQUIREMENTS

1. T.C.A. §68-11-1607(c)(9)(A) states that "... Within ten (10) days of the filing of an application for a nonresidential substitution-based treatment center for opiate addiction with the agency, the applicant shall send a notice to the county mayor of the county in which the facility is proposed to be located, the state representative and senator representing the house district and senate district in which the facility is proposed to be located, and to the mayor of the municipality, if the facility is proposed to be located within the corporate boundaries of a municipality, by certified mail, return receipt requested, informing such officials that an application for a nonresidential substitution-based treatment center for opiate addiction has been filed with the agency by the applicant."
2. T.C.A §68-11-1607(c)(9)(B) states that "... If an application involves a healthcare facility in which a county or municipality is the lessor of the facility or real property on which it sits, then within ten (10) days of filing the application, the applicant shall notify the chief executive officer of the county or municipality of the filing, by certified mail, return receipt requested."

Failure to provide the notifications described above within the required statutory timeframe will result in the voiding of the CON application.

Please provide documentation of these notifications.

DEVELOPMENT SCHEDULE

T.C.A. §68-11-1609(c) provides that a Certificate of Need is valid for a period not to exceed three (3) years (for hospital projects) or two (2) years (for all other projects) from the date of its issuance and after such time shall expire; provided, that the Agency may, in granting the Certificate of Need, allow longer periods of validity for Certificates of Need for good cause shown. Subsequent to granting the Certificate of Need, the Agency may extend a Certificate of Need for a period upon application and good cause shown, accompanied by a non-refundable reasonable filing fee, as prescribed by rule. A Certificate of Need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the Agency, and is not subject to review, reconsideration, or appeal.

1. **Complete the Project Completion Forecast Chart on the next page. If the project will be completed in multiple phases, please identify the anticipated completion date for each phase.**
2. **If the CON is granted and the project cannot be completed within the standard completion time period (3 years for hospital projects and 2 years for all others), please document why an extended period should be approved and document the "good cause" for such an extension.**

PROJECT COMPLETION FORECAST CHART

Assuming the Certificate of Need (CON) approval becomes the final HSDA action on the date listed in Item 1. below, indicate the number of days from the HSDA decision date to each phase of the completion forecast.

<u>Phase</u>	<u>Days Required</u>	<u>Anticipated Date [Month/Year]</u>
1. Initial HSDA decision date		June 2021
2. Architectural and engineering contract signed	Done	March 2020
3. Construction documents approved by the Tennessee Department of Health	60	August 2021
4. Construction contract signed	60	August 2021
5. Building permit secured	60	August 2021
6. Site preparation completed	90	August 2021
7. Building construction commenced	120	September 2021
8. Construction 40% complete	180	November 2021
9. Construction 80% complete	210	December 2021
10. Construction 100% complete (approved for occupancy)	240	January 2022
11. *Issuance of License	300	February 2022
12. *Issuance of Service	300	February 2022
13. Final Architectural Certification of Payment	240	February 2022
14. Final Project Report Form submitted (Form HR0055)	270	March 2022

*For projects that **DO NOT** involve construction or renovation, complete Items 11 & 12 only.

NOTE: If litigation occurs, the completion forecast will be adjusted at the time of the final determination to reflect the actual issue date

ATTACHMENTS TABLE OF CONTENTS

4A, 4AB	Certificate of Corporate Existence in Tennessee
	Tennessee Acknowledgement of LLC filing
	Ownership
	Medical Director CV
	Organizational Chart
	Operating Agreement
5A	Business Associate Agreement- Excellentia Advisory Group (consultants)
6A	Lease Agreement
A-6B-1	Plat Plan
A-6B-2	Floor Plan
A-6B-3	Public Transportation Route
B-Need-10a	Credentialing Criteria/Staffing Requirements / Approved Procedures
B-Economic Feasibility -1E	Architect Attestation Letter
B-Economic Feasibility -2A	Funding Letter
B-Economic Feasibility	Capital Equipment Itemized List \geq \$50,000 each
B-Quality -2	Staffing Requirements
	Quality Improvement Program
	Risk Management Plan
	Quality Improvement Form
B-Quality -2A	Charity Discount Policy
	Patient's Rights and Responsibilities
B- Orderly Development -1	Transfer Agreement- will obtain once licensed
OTHER	Letter of Intent
	Public Notice / Publication copy
	The Commercial Appeal Affidavit
	Application Fee/Copy of Check
	AFFIDAVIT / Notary

ATTACHMENTS

**Section A-4AB Articles of Organization & Corporate
Existence in Tennessee
Following 3 pages**



Secretary of State

Tre Hargett

**Division of Business Services Department of
State**

State of Tennessee

312 Rosa L. Parks AVE, 6th FL Nashville, TN 37243-1102

Filing Information

Name: **Poplar**

Ridge Surgery

Center, LLC

General Information

SOS Control #

Filing Type:

001147728

Limited Liability Company - Domestic 12/01/2020 7:46 AM

Formation Locale: Date Formed: Fiscal Year Close

TENNESSEE 12/01/2020

12

Status: Active

Member Count: 3

Duration Term: Managed By:

Perpetual Member Managed

Registered Agent Address SANJEEV KUMAR SANJEEV KUMAR, M.D. STE 102
6584 POPLAR AVE
MEMPHIS, TN 38138-0620

Principal Address SANJEEV KUMAR, M.D. STE 102
6584 POPLAR AVE
MEMPHIS, TN 38138-0620

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed Filing Description

Image #

12/01/2020

Initial Filing

B0954-0812

**Active Assumed Names (if any)
Expires**

Date

2/20/2021 1:10:07 PM
Page 1 of 1



001147728

ARTICLES OF ORGANIZATION LIMITED LIABILITY COMPANY

SS-4270



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$50.00 per member
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only
-FILED-
Control # 001147728

The Articles of Organization presented herein are adopted in accordance with the provisions of the Tennessee Revised Limited Liability Company Act.

1. The name of the Limited Liability Company is: Poplar Ridge Surgery Center, LLC

(Note: Pursuant to the provisions of T.C.A. §48-249-106, each Limited Liability Company name must contain the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")

2. Name Consent: (Written Consent for Use of Indistinguishable Name)
 This entity name already exists in Tennessee and has received name consent from the existing entity.

3. This company has the additional designation of: None

4. The name and complete address of the Limited Liability Company's initial registered agent and office located in the state of Tennessee is:

SANJEEV KUMAR
SANJEEV KUMAR, M.D.
STE 102
6584 POPLAR AVE
MEMPHIS, TN 38138-0620
SHELBY COUNTY

5. Fiscal Year Close Month: December

6. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date and time is:
(none) (Not to exceed 90 days)

7. The Limited Liability Company will be:
 Member Managed Manager Managed Director Managed

8. Number of Members at the date of filing: 3

9. Period of Duration: Perpetual

10. The complete address of the Limited Liability Company's principal executive office is:

SANJEEV KUMAR, M.D.
STE 102
6584 POPLAR AVE
MEMPHIS, TN 38138-0620
SHELBY COUNTY

B0954-0812 12/01/2020 7:46 AM Received by Tennessee Secretary of State Tre Hargett



B0954-0813 12/01/2020 7:46 AM Received by Tennessee Secretary of State Tre Hargett

ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY

SS-4270



Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102
(615) 741-2286

Filing Fee: \$50.00 per member
(minimum fee = \$300.00, maximum fee = \$3,000.00)

For Office Use Only

-FILED-

Control # 001147728

The name of the Limited Liability Company is: Poplar Ridge Surgery Center, LLC

11. The complete mailing address of the entity (if different from the principal office) is:

SANJEEV KUMAR, M.D.
STE 102
6584 POPLAR AVE
MEMPHIS, TN 38138-0620

12. Non-Profit LLC (required only if the Additional Designation of "Non-Profit LLC" is entered in section 3.)

I certify that this entity is a Non-Profit LLC whose sole member is a nonprofit corporation, foreign or domestic, incorporated under or subject to the provisions of the Tennessee Nonprofit Corporation Act and who is exempt from franchise and excise tax as not-for-profit as defined in T.C.A. §67-4-2004. The business is disregarded as an entity for federal income tax purposes.

13. Professional LLC (required only if the Additional Designation of "Professional LLC" is entered in section 3.)

I certify that this PLLC has one or more qualified persons as members and no disqualified persons as members or holders.

Licensed Profession:

14. Series LLC (optional)

I certify that this entity meets the requirements of T.C.A. §48-249-309(a) & (b)

15. Obligated Member Entity (list of obligated members and signatures must be attached)

This entity will be registered as an Obligated Member Entity (OME) Effective Date: (none)

I understand that by statute: THE EXECUTION AND FILING OF THIS DOCUMENT WILL CAUSE THE MEMBER(S) TO BE PERSONALLY LIABLE FOR THE DEBTS, OBLIGATIONS AND LIABILITIES OF THE LIMITED LIABILITY COMPANY TO THE SAME EXTENT AS A GENERAL PARTNER OF A GENERAL PARTNERSHIP. CONSULT YOUR ATTORNEY.

16. This entity is prohibited from doing business in Tennessee:

This entity, while being formed under Tennessee law, is prohibited from engaging in business in Tennessee.

17. Other Provisions:

Electronic

Signature

Consultant

Title/Signer's Capacity

Roger D Manning as authorized representative for Sanjeev Kumar

Printed Name

Dec 1, 2020 7:46AM

Date

Section A-4 **Project Details****Ownership:**

Sanjeev Kumar, M.D. **33.33%**

Salil Joshi, M.D. **33.33%**

Jorge Salazar, M.D. **33.33%**

ATTACHMENTS

Section A – Medical Director CV

(following 7 pages)

Sanjeev Kumar, MD

NAME Sanjeev Kumar	March 2019-current Gynecologic Oncologist Poplar Avenue Clinic PLLC 6584 Poplar Avenue, Suite 400; Memphis TN, 38138 Phone-901-300-6713; Fax-901-881-0337
Contact details- Cell phone-248-924-1791 email-sanje45@gmail.com	

Past education training and employments			
INSTITUTION & LOCATION	DEGREE	YEAR	FIELD OF STUDY
Government Medical College and hospital, Sector 32, Chandigarh, India	MBBS	July 1997-January 2003	Medicine
Royal College of Surgeons of England, London	MRCS (2)	August 2003-June 2005	Surgery
Mayo Clinic, Rochester, MN, USA	Preliminary year-Residency	June 2005-June 2006	Surgery
Wayne State University, Detroit, MI, USA	Residency	July 2006-July 2010	Obstetrics & Gynecology
Mayo Clinic Rochester, MN, USA	Fellowship with MS	July 2010-July 2013	Gynecologic Oncology & Biomedical Sciences
Baptist Cancer Center Director, Division of gynecologic oncology Baptist cancer center 80 Humphrey's center, Memphis, TN	Employment	August 2013-March 2018	Gynecologic Oncology

A. Positions and Honors

July 2015-present-Assistant professor, Gynecologic oncology, University of Tennessee; Memphis TN
 July 2015-December 2017-Member, Board of directors, The Baptist Medical Group
 August 2013-March 2019- Director, division of gynecologic oncology, Baptist Cancer Center, Memphis, TN
 July 2015-March 2019-Director, journal club oncology program, Baptist Cancer Center, Memphis, TN

Professional Memberships & Board Certifications

2010-present-Member, Society of Gynecologic Oncologists (SGO)
 2015-Board certification –Obstetrics and Gynecology (ABOG)
 2016-Board certification-Gynecologic Oncology (ABOG)

Awards

2008	DMC Guild research award, Wayne State University/Detroit Medical Center, Detroit, MI
2009	J. G. Moore research award, combined meeting of the Western Association of Gynecologic Oncologists (WAGO) and Gynecologic Oncologists of Canada (GOC)
2010	DMC Guild research award, Wayne State University/Detroit Medical Center, Detroit, MI
2011	Leo Lagasse award, Western Association of Gynecologic Oncologists (WAGO)
2011	Research Grant, Minnesota Ovarian Cancer Alliance (MOCA) 2011

B. Selected peer-reviewed publications-chronological order.

1. Imudia AN, Kumar S, Saed GM, Diamond MP. Pathogenesis of Intra-abdominal and pelvic adhesion development. *Semin Reprod Med.* 2008 Jul;26(4):289-97. PMID: 18756406
2. Kumar S, Shah JP, Bryant CS, Imudia AN, Cote ML, Ali-Fehmi R, Malone JM Jr, Morris RT. The prevalence and prognostic impact of lymph node metastasis in malignant germ cell tumors of the ovary. *Gynecol Oncol.* 2008 Aug;110(2):125-32. PMID: 18571705 (Lead article, Gynecol Oncol. August 2008).
3. Shah JP, Kumar S, Bryant CS, Ali-Fehmi R, Malone JM Jr, Deppe G, Morris RT. A population-based analysis of 788 cases of yolk sac tumors: A comparison of males and females. *Int J Cancer.* 2008 Sep 2; 123(11):2671-2675. PMID: 18767035
4. Shah JP, Bryant CS, Kumar S, Ali-Fehmi R, Malone JM Jr, Morris RT. Lymphadenectomy and ovarian preservation in low-grade endometrial stromal sarcoma. *Obstet Gynecol.* 2008 Nov;112(5):1102-8. PMID: 18978112.
5. Kumar S, Shah JP, Bryant CS, Imudia AN, Ali-Fehmi R, Malone JM Jr, Morris RT. Prognostic significance of keratinization in squamous cell cancer of uterine cervix: a population based study. *Arch Gynecol Obstet.* 2008 Nov 29. PMID: 19043726.
6. Kumar S, Shah JP, Bryant CS, Seward S, Ali-Fehmi R, Morris RT, Malone JM Jr. Radiation-Associated endometrial cancer. *Obstet Gynecol.* 2009 Feb;113(2, Part 1):319-325. PMID: 19155901
7. Kumar S, Bryant CS, Chamala S, Qazi A, Steffes CP, Weaver DW, Morris R, Malone JM, Shamma MA, Seward S, Pal J, Prasad M, Batchu RB. Ritonavir blocks AKT signaling, activates apoptosis and inhibits migration and invasion in ovarian cancer cells. *Mol Cancer.* 2009 Apr 22;8(1):26. PMID: 19386116
8. Kumar S, Jay P Shah, Christopher S Bryant, Awoniyi O Awonuga, Anthony N Imudia, Julie J Ruterbusch, Michele L Cote, Rouba Ali-Fehmi, Robert T Morris, John M Malone Jr. Second Neoplasms in survivors of endometrial cancer: Impact of radiation therapy. *Gynecologic Oncology, Volume 113, Issue 2, May 2009, Pages 233- 239, PMID:19249081*
9. Kumar S, Shah JP, Bryant CS, Imudia AN, Morris RT, Malone JM Jr. A comparison of younger versus older women with vulvar cancer in the United States. *Am J Obstet Gynecol.* 2009 May;200(5):e52-5. PMID: 19110228
10. Haitham Arabi, Hui Guan, Kumar S, Michele Cote, Sudeshna Bandyopadhyay, Christopher Bryant, Jay Shah, Fadi W. Abdul-Karim, Adnan R. Munkarah, Rouba Ali-Fehmi. Impact of microsatellite instability (MSI) on survival in high grade endometrial carcinoma. *Gynecologic Oncology, Volume 113, Issue 2, May 2009, Pages 153-158, PMID: 19275958.*

11. **Kumar S, Shah JP, Malone JM Jr.** Vulvar cancer in women less than fifty in United States, 1980-2005. *Gynecol Oncol.* 2009 Jan;112(1):283-4; PMID: 18692883
12. **Kumar S, Morris RT, Malone JM Jr.** Relative mortality in the women over 60 years of age with cervical cancer. *Gynecol Oncol.* 2009 Feb;112(2):437 PMID: 18544458
13. Bryant CS, **Kumar S**, Chamala S, Shah J, Pal J, Haider M, Seward S, Qazi AM, Morris R, Semaan A, Shamma MA, Steffes C, Potti RB, Prasad M, Weaver DW, Batchu RB. Sulforaphane induces cell cycle arrest by protecting RB-E2F-1 complex in epithelial ovarian cancer cells. *Mol Cancer.* 2010 Mar 2;9(1):47.
14. **Kumar S**, Munkarah A, Arabi H, Bandyopadhyay S, Semaan A, Hayek K, Garg G, Morris R, Ali-Fehmi R. Prognostic analysis of ovarian cancer associated with endometriosis. *Am J Obstet Gynecol.* 2010 Nov 10. PMID: 21074136
15. **Kumar S**, Mahdi H, Bryant C, Shah JP, Garg G, Munkarah A. Clinical trials and progress with paclitaxel in ovarian cancer. *Int J Womens Health.* 2010 Nov 19;2:411-27. PMID: 21270965
16. Garg G, Shah JP, Liu JR, Bryant CS, **Kumar S**, Munkarah A, Morris RT. Validation of tumor size as staging variable in the revised international Federation of gynecology and obstetrics stage I leiomyosarcoma: a population-based study. *Int J Gynecol Cancer.* 2010 Oct;20(7):1201-6. PMID: 20940535
17. Garg G, Shah JP, **Kumar S**, Bryant CS, Munkarah A, Morris RT. Ovarian and uterine carcinosarcomas: a comparative analysis of prognostic variables and survival outcomes. *Int J Gynecol Cancer.* 2010 Jul;20(5):888-94. PMID: 20606539
18. Semaan A, Qazi AM, Seward S, Chamala S, Bryant CS, **Kumar S**, Morris R, Steffes CP, Bouwman DL, Munkarah AR, Weaver DW, Gruber SA, Batchu RB. MicroRNA-101 Inhibits Growth of Epithelial Ovarian Cancer by Relieving Chromatin-Mediated Transcriptional Repression of p21(waf1/cip1). *Pharm Res.* 2011 Aug 5. PMID: 21818714
19. **Sanjeev Kumar**, Sudeshna Bandyopadhyay; Assaad Semaan; Jay P Shah; Haider Mahdi; Robert T Morris; Adnan Munkarah; Rouba Ali-fehmi. The Role of Frozen Section in Surgical Staging of low risk Endometrial Cancer. *PLoS One.* 2011;6(9):e21912. PMID: 21912633
20. Semaan A, Munkarah AR, Arabi H, Bandyopadhyay S, Seward S, **Kumar S**, Qazi A, Hussein Y, Morris RT, Ali-Fehmi R. Expression of GLUT-1 in epithelial ovarian carcinoma: correlation with tumor cell proliferation, angiogenesis, survival and ability to predict optimal cytoreduction. *Gynecol Oncol.* 2011 Apr;121(1):181-6. PMID: 21167567
21. Mahdi H, Thrall M, **Kumar S**, Hanna R, Seward S, Lockhart D, Morris RT, Swensen R, Munkarah AR. The prognostic impact of the ratio of positive lymph nodes on survival of epithelial ovarian cancer patients. *J Surg Oncol.* 2011 Jun 1;103(7):724-9. PMID: 21241015
22. Mahdi H, **Kumar S**, Hanna RK, Munkarah AR, Lockhart D, Morris RT, Tamimi H, Swensen RE, Doherty M. Disparities in treatment and survival between African American and White women with vaginal cancer. *Gynecol Oncol.* 2011 Jul;122(1):38-41. PMID: 21497383
23. Mahdi H, Swensen RE, Munkarah AR, Chiang S, Luhrs K, Lockhart D, **Kumar S.** Suicide in women with gynecologic cancer. *Gynecol Oncol.* 2011 Aug;122(2):344-9. PMID: 21561646
24. Mahdi H, Swensen RE, Hanna R, **Kumar S**, Ali-Fehmi R, Semaan A, Tamimi H, Morris RT, Munkarah AR. Prognostic impact of lymphadenectomy in clinically early stage malignant germ cell tumour of the ovary. *Br J Cancer.* 2011 Aug 9;105(4):493-7. PMID: 21772335
25. Vay A, **Kumar S**, Seward S, Semaan A, Schiffer CA, Munkarah AR, Morris RT. Therapy-related myeloid leukemia after treatment for epithelial ovarian carcinoma: An epidemiological analysis. *Gynecol Oncol.* 2011 Aug 18. PMID: 21855120
26. **Sanjeev Kumar**, Alexandra Meuter, Prabin Thapa, Carrie Langstraat, Shailendra Giri, Jeremy Chien, Ramandeep Rattan, William Cliby, Viji Shridhar. Metformin intake associates with better survival in ovarian cancer: A case control study. *Cancer.* 2013 Feb 1;119(3):555-62. PMID: 23208739

27. Mahdi H, **Kumar S**, Munkarah AR, Abdalamin M, Doherty M, Swensen R. Prognostic impact of marital status on survival of women with epithelial ovarian cancer. *Psychooncology*. 2011 Sep 15. PMID: 21919121
28. Mahdi H, **Kumar S**, Al-Wahab Z, Ali-Fehmi R, Munkarah A. Prognostic impact of lymphadenectomy in uterine serous cancer. *BJOG*. 2012 Jul 25. PMID: 22827595
29. **Kumar S**, Medeiros F, Dowdy SC, Keeney GL, Bakkum-Gamez JN, Podratz KC, Cliby WA, Mariani A. A prospective assessment of the reliability of frozen section to direct intraoperative decision making in endometrial cancer. *Gynecol Oncol*. 2012 Aug 29. PMID: 22940491
30. Torres ML, Weaver AL, **Kumar S**, Uccella S, Famuyide AO, Cliby WA, Dowdy SC, Gostout BS, Mariani A. Risk factors for developing endometrial cancer after benign endometrial sampling. *Obstet Gynecol*. 2012 Nov;120(5):998-1004. PMID: 23090515 (Lead article)
31. Alhilli MM, Podratz KC, Dowdy SC, Bakkum-Gamez JN, Weaver AL, McGree ME, **Kumar S**, Keeney GL, Cliby WA, Mariani A. Preoperative Biopsy and Intraoperative Tumor Diameter Predict Lymph Node Dissemination in Endometrial Cancer. *Gynecol Oncol*. 2012 Oct 17. PMID: 23085458
32. Fotopoulou C, Zang R, Gultekin M, Cibula D, Ayhan A, Liu D, Richter R, Braicu I, Mahner S, Harter P, Trillsch F, **Kumar S**, Peiretti M, Dowdy SC, Maggioni A, Trope C, Sehouli J. Value of Tertiary Cytoreductive Surgery in Epithelial Ovarian Cancer: An International Multicenter Evaluation. *Ann Surg Oncol*. 2012 Oct 2. PMID: 23054114
33. Dowdy SC, Borah BJ, Mariani A, Bakkum-Gamez JN, **Kumar S**, Weaver AL, Mc Gree ME, Haas, LR, Cliby WA, Podratz KC. Prospective assessment of factors predictive of post-operative morbidity and cost in patients with endometrial cancer. *Obstet Gynecol*. 2012 Dec;120(6):1419-27. PMID: 23168769
34. Torres ML, Hartmann LC, Cliby WA, Kalli KR, Young PM, Weaver AL, Langstraat CL, Jatoi A, **Kumar S**, Mariani A. Nutritional status, CT body composition measures and survival in ovarian cancer. *Gynecol Oncol*. 2013 Jun;129(3):548-53. PMID: 23523419
35. **Kumar S**, Al-Wahab Z, Sarangi S, Woelk J, Morris R, Munkarah A, Dowdy SC, Mariani A, Cliby W. Risk of postoperative venous thromboembolism after minimally invasive surgery for endometrial and cervical cancer is low: a multi-institutional study. *Gynecol Oncol*. 2013 Jul;130(1):207-12. PMID: 23612315
36. **Kumar S**, Mariani A, Bakkum-Gamez JN, Weaver AL, McGree ME, Keeney GL, Cliby WA, Podratz KC, Dowdy SC. Risk factors that mitigate the role of paraaortic lymphadenectomy in uterine endometrioid cancer. *Gynecol Oncol*. 2013 Sep;130(3):441-5. PMID: 23747331
37. Seward S, Semaan A, Qazi AM, Gruzdyn OV, Chamala S, Bryant CC, **Kumar S**, Cameron D, Sethi S, Ali-Fehmi R, Morris R, Bouwman DL, Munkarah AR, Weaver DW, Gruber SA, Batchu RB. EZH2 blockade by RNA interference inhibits growth of ovarian cancer by facilitating re-expression of p21(waf1/cip1) and by inhibiting mutant p53. *Cancer Lett*. 2013 Aug 9;336(1):53-60. doi: 10.1016/j.canlet.2013.04.012. Epub 2013 Apr 18. PMID: 23603558
38. Batchu RB, Gruzdyn OV, Bryant CS, Qazi AM, **Kumar S**, Chamala S, Kung ST, Sanka RS, Puttagunta US, Weaver DW, Gruber SA. Ritonavir-Mediated Induction of Apoptosis in Pancreatic Cancer Occurs via the RB/E2F-1 and AKT Pathways. *Pharmaceuticals (Basel)*. 2014 Jan 9;7(1):46-57. doi: 10.3390/ph7010046. PMID: 24451403
39. Al-Wahab ZR, **Kumar S**, Mutch DG, Dowdy SC, Hensley SA, Wang Y, Mahdi H, Ali-Fehmi R, Morris RT, Elshaikh M, Munkarah AR. Racial disparities in uterine clear cell carcinoma: a multi-institution study. *Int J Gynecol Cancer*. 2014 Mar;24(3):541-8. doi: 10.1097/IGC.000000000000068.
40. Watkins S; Thaker P; Alpa N; **Kumar S**; Matsuo K; Lutgendorf S; Ramirez P; Sood A; Coleman R. Clinical Impact of Selective and Non-selective Beta Blockers on Survival in Ovarian Cancer Patients". *Cancer*. 2015 Oct 1;121(19):3444-51. doi: 10.1002/cncr.29392. Epub 2015 Aug 24.
41. Bogani G, Dowdy SC, Cliby WA, Gostout BS, **Kumar S**, Ghezzi F, Multinu F, Mariani A. Incisional Recurrences After

Endometrial Cancer Surgery. *Anticancer Res.* 2015 Nov;35(11):6097-104.

42. G. Garg, K. Schwartz, **S. Kumar**, R. T. Morris, R. Ali-Fehmi. Trends in the utilization of adjuvant chemotherapy in early stage endometrial cancer: a SEER-Medicare study. *European Journal of Gynecologic Oncology*, October 3, 2016

C. Presentations-

1. **KUMAR S**, CS Bryant, JP Shah, JJ Ruterbusch, ML Cote, A Vay, LA Solomon, R Ali-Fehmi, RT Morris, JM Malone Jr. (2008, June). *Second Neoplasms in survivors of endometrial cancer: Impact of radiation therapy..* Poster presented at: 44th American Society of Clinical Oncology (ASCO) Annual Meeting; Chicago, IL.

2. **KUMAR S**, J. Pal, C. S. Bryant, S. Chamala, A. Qazi, C. P. Steffes, M. Shammas, D. W. Weaver, J. M. Malone, R. T. Morris, M. Prasad, R. B. Batchu. (2009, February). *Ritonavir potentiates the antiproliferative effect of paclitaxel and inhibits cell invasion and migration in ovarian cancer.* Poster presented at: SGO 2009, 40TH Annual Meeting; Abstract number 295; San Antonio, TX.

3. **KUMAR S**, MD, Christopher S Bryant, MD, Aamer Qazi, PhD, Robert T Morris, MD, Chris Steffes, MD, Madhu Prasad, MD, Donald Weaver, MD, Masood A Shammas, PhD and Ramesh B Batchu, PhD. (2008, March). *Ritonavir Inhibits Polycomb Group Protein -EZH2 Mediated Suppression of DNA Repair In Ovarian Cancer Cell Lines.* Poster presented at: SGI 55th Annual Scientific Meeting 2008; San Diego, CA.

4. **KUMAR S**, MD, Christopher S. Bryant, M.D., Aamer Qazi, Ph.D., Robert T. Morris, M.D., Chris Steffes, M.D., Madhu Prasad, M.D., Donald Weaver, M.D., Masood Shammas, Ph.D., Ramesh B. Batchu, Ph.D. (2008, April). *Ritonavir blocks Akt signaling and exhibits antineoplastic activity in ovarian cancer cell lines..* Poster presented at: AACR (American Association of Cancer Research); Annual Meeting 2008; San Diego, CA.

5. **KUMAR S**, MD, Jay P. Shah, MD, Christopher S. Bryant, MD, Stacey N. Akers, MD, Agnieszka Vay, MD, Rouba Ali-Fehmi, MD, John M. Malone, MD, Robert T. Morris, MD, Veronica L. Schimp, DO.. (2008, March). *The Prevalence and Prognostic Impact of Lymph Node Metastasis in Malignant Germ Cell Tumors of the Ovary.* Poster presented at: (SGO) 2008 Annual Meeting (The 39TH Annual Meeting on Women's Cancer™); Tampa, FL.

6. **KUMAR S**, Mahdi H, Imudia A, Shah JP, Bryant CS, Malone JM. (2009, May). *Asynchronous contralateral ovarian torsion: A single center experience..* Poster presented at: 57th Annual Clinical Meeting of ACOG; Chicago, IL.

7. **KUMAR S**, Shah JP, Bryant CS, Vay A, Seward S, Mahdi H, Ali-Fehmi R, Morris RT and Malone JM. (2009, February). *Radiation-Associated Endometrial Cancer: A Population-Based Case-Control Study..* Poster presented at: SGO 2009, 40TH Annual Meeting; Abstract number 171; San Antonio, TX.

8. **SANJEEV KUMAR**, MD, Christopher S. Bryant, MD, Aamer Qazi, PhD, Robert T. Morris, MD, Chris Steffes, MD, Madhu Prasad, MD, Donald Weaver, MD, Masood A. Shammas, PhD, Ramesh B. Batchu, PhD,. (2008, March). *Ritonavir Exhibits Antineoplastic Activity In Ovarian Cancer Cell Lines By Cell Cycle Arrest And Induction Of Apoptosis.* Poster presented at: (SGO) 2008 Annual Meeting (The 39TH Annual Meeting on Women's Cancer™); Tampa, FL.

9. Aamer Qazi, Christopher S Bryant, **SANJEEV KUMAR**, Madhu Prasad, Christopher P Steffes, David G. Beer, Raj K Goyal, Donald W Weaver, &. Ramesh B Batchu, Masood A Shammas.. (2008, May). *Sulforaphane, an antioxidant derived from Broccoli, induces apoptotic cell death in Barrett's esophageal adenocarcinoma cells.* Poster presented at: Digestive Disease Week (DDW); San Diego, CA.

10. Aamer Qazi, Ph.D., Christopher S. Bryant, M.D., **SANJEEV KUMAR, MD**, Basil F. El-Rayes, M.D., Chris Steffes, M.D., Madhu Prasad, M.D., Donald Weaver, M.D., Masood Shammas, Ph.D., Ramesh B. Batchu, Ph.D. (2008, May). *Lentiviral shRNA mediated down modulation of E2F-1 augments ritonavir induced apoptosis in pancreatic adeno-carcinoma.* Poster presented at: 11th Annual Meeting of the American Society of Gene Therapy; Boston, MA.

11. Agnieszka Vay, MD, **SANJEEV KUMAR, MD**, Stacey Akers, MD, Veroinca L. Schimp, DO, Robert T. Morris, MD, Rouba Ali-Fehmi, MD. (2008, March). *Comparative Study of Maspin Expression in Type I and Type II Endometrial Carcinoma.* Poster presented at: Society of Gynecologic Oncologists (SGO) 2008 Annual Meeting (The 39TH Annual Meeting on Women's Cancer™); Tampa, FL.

12. C. S. Bryant, **S. KUMAR**, J. P. Shah, A. Vay, S. Seward, R. Ali-Fehmi, G. Deppe, J. M. Malone, R. T. Morris. (2009, February). *Comparison of survival disparity between Whites and African-Americans with malignant germ cell tumors of the ovary..* Poster presented at: SGO 2009, 40TH Annual Meeting; Abstract number 238; San Antonio, TX.
13. Christopher S. Bryant, M.D., **SANJEEV KUMAR, MD**, Basil F. El-Rays, M.D., Aamer Qazi, Ph.D., Chris Steffes, M.D., Madhu Prasad, M.D., Donald Weaver, M.D., Masood Shammam, Ph.D., Ramesh B. Batchu, Ph.D.. (2008, May). *Ritonavir, a protease inhibitor, induces apoptosis in pancreatic cancer cells by inhibiting the Akt signaling pathway.* Poster presented at: Digestive Disease Week (DDW); San Diego, CA.
14. Christopher S. Bryant, MD, **SANJEEV KUMAR, MD**, Aamer Qazi, PhD, Rouba Ali-Fehmi, MD, Robert T. Morris, MD, Christopher Steffes, MD, Madhu Prasad, MD, Donald Weaver, MD, Masood Shammam, PhD, Ramesh B. Batchu, PhD. (2008, March). *Sulforaphane, An Anti-Oxidant Derived From Broccoli, Induces Cell Cycle Arrest And Apoptosis In Epithelial Ovarian Cancer Cells.* Poster presented at: Society of Gynecologic Oncologists (SGO) 2008 Annual Meeting (The 39TH Annual Meeting on Women's Cancer™); Tampa, FL.
15. D Shi, D Thirabanjasak, S Bandyopadhyay, **SANJEEV KUMAR**, H Arabi, V Schimp, R Morris, A Munkarah, R Ali-Fehmi. (2008, March). *Comparative Study of Maspin Expression in Type I and Type II Endometrial Carcinoma.* Poster presented at: United States and Canadian Academy of Pathology (USCAP), Annual meeting; Denver, CO.
16. Imudia AN, Chaiworapongsa T, Cordoba M, Dbouk T, **SANJEEV KUMAR**, Yettaw H, and Mittal P.. (2008, April). *Preterm uterine rupture of an unscarred uterus with bilateral fetal ovarian cysts..* Poster presented at: A poster presentation at the Sinai Grace Hospital Research Day, Wayne State University; Detroit, MI.
17. Imudia AN, Cordoba M, Dbouk T, **SANJEEV KUMAR**, Abdallah ME and Awonuga AO.. (2009, May). *Cesarean hysterectomy: does supracervical hysterectomy confer any advantage over total abdominal hysterectomy?.* Poster presented at: 57th Annual Clinical Meeting of ACOG. Chicago; Chicago, MI.
18. Jay P. Shah, MD, **SANJEEV KUMAR, MD**, Christopher S. Bryant, MD, Agnieszka Vay, MD, Leigh A. Solomon, MD, John M. Malone, MD, Rouba Ali-Fehmi, MD, Veronica L. Schimp, MD, Robert T. Morris, MD. (2008, March). *An Analysis Of 788 Cases Of Yolk Sac Tumors In Males And Females: A Population Based Study.* Poster presented at: Society of Gynecologic Oncologists (SGO) 2008 Annual Meeting (The 39TH Annual Meeting on Women's Cancer™); Tampa, FL.
19. Masood A Shammam, Aamer Qazi, Ramesh B Batchu, Jason YY Wong, Manjula Y Rao, Christopher S Bryant, **SANJEEV KUMAR**, Madhu Prasad, Christopher P Steffes, Immaculata De Vivo, David G. Beer, Donald W Weaver, & Raj K Goyal.. (2008, May). *Telomerase Activity And Telomere Length In LCM Purified Barretts Esophageal Adenocarcinoma Cells.* Poster presented at: Digestive Disease Week (DDW); San Diego, CA.
20. Masood A Shammam, Aamer Qazi, Ramesh B Batchu, Robert C Bertheau, Jason YY Wong, Manjula Y Rao, Christopher S Bryant, **SANJEEV KUMAR**, Madhu Prasad, Selvarangan Ponnazhagan, Diptiman Chanda, Christopher P Steffes, Nikhil C Munshi, Immaculata De Vivo,.. (2008, May). *Effect of a novel telomerase inhibitor, GRN163L, on growth of Barretts esophageal adenocarcinoma cells in vitro and in vivo.* Poster presented at: Digestive Disease Week (DDW); San Diego, CA.
21. R. Ali-Fehmi, A. Munkarah, C. S. Bryant, J. P. Shah, **S. KUMAR**, J. M. Malone, R. T. Morris, A. K. Sood.. (2009, February). *Role of EZH2 in ovarian carcinogenesis.* Poster presented at: SGO 2009, 40TH Annual Meeting, Abstract number 296; San Antonio, TX.
22. Christopher S. Bryant, Madhu Prasad, **Sanjeev Kumar**, Aamer Qazi, Sreedhar Chamala, Jagannath Pal, Jay Shah, Shelly Seward, Masood A. Shammam, Ramesh B. Batchu. *Ritonavir Mediated Induction of Apoptosis in Pancreatic Cancer: Involvement of RB/E2F-1 and AKT Pathways.* 40th Anniversary meeting of the American Pancreatic Association and Japanese Pancreas Society, Honolulu, Hawaii, Nov 4-7, 2009.
23. R. B. Batchu, A. Semaan, S. M. Seward, A. Qazi, S. Chamala, C. S. Bryant, C. Steffes, **S. Kumar**, M. A. Shammam, D. W. Weaver. *Lentiviral delivery of EzH2 shRNA inhibits tumor growth of epithelial ovarian cancer.* American Society of Gene & Cell Therapy (ASGCT) 13th Annual Meeting. Washington DC. May 17-22, 2010.
24. R. B. Batchu, A. Semaan, S. M. Seward, A. Qazi, S. Chamala, C. S. Bryant, C. Steffes, **S. Kumar**, M. A. Shammam, D. W. Weaver. *MIR-101 inhibits cell growth and impedes invasiveness in ovarian cancer cells by targeted epigenetic silencing of*

EZH2. ASCO Abstract #40308. ASCO Annual Meeting, Chicago, June 4-8, 2010.

25. S. Kumar, K. Podratz, SC. Dowdy, W. Cliby, A. Mariani. Outcomes Assessment Following Treatment of Isolated Lymphatic Recurrences in Endometrial Cancer Patients. SGO 42nd Annual Meeting on Women's Cancer™; March 6-9, 2011 Orlando, Florida

26. S. Kumar, K. Podratz, SC. Dowdy, J. Bakkum-Gamez, A. Weaver, M. Mc Gree, J. Martin, W. Cliby, A. Mariani. Risk Factors of Thromboembolism Within First 30 Days of Endometrial Cancer Surgery. SGO 42nd Annual Meeting on Women's Cancer™; March 6-9, 2011 Orlando, Florida

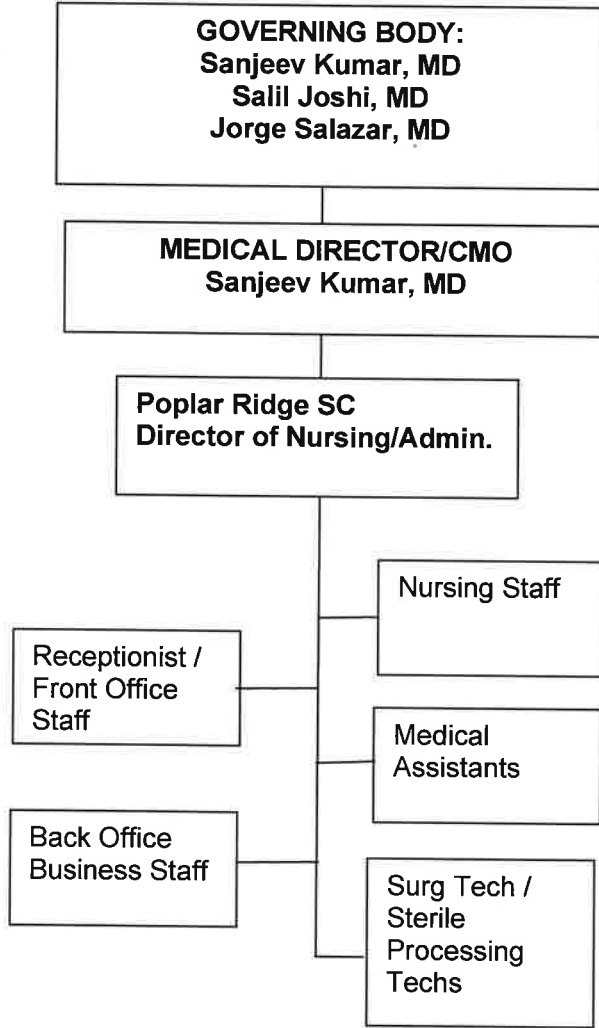
27. H Mahdi, S Kumar, A Munkarah, R Hanna, D Lockhart, H Tamimi, R Swensen, M Doherty. Disparities in treatment and survival between African American and White women with vaginal cancer. SGO 42nd Annual Meeting on Women's Cancer™; March 6-9, 2011 Orlando, Florida

28. R. B. Batchu, A. M. Qazi, A. Y. Semaan, S. M. Seward, S. Chamala, V. B. Dhulipala, C. David, C. S. Bryant, S. Kumar, C. Steffes, P. Philip, D. Bouwman, D. W. Weaver. Epigenetic Silencing Of EZH2 By RNA Interference As A Potential Therapy For Pancreatic Adenocarcinoma. 6th Annual Academic Surgical Congress. February 1-3, 2011 in Huntington Beach, CA.

ATTACHMENTS

Section A – 4AB

Poplar Ridge Surgery Center, LLC Governance Organizational Chart



ATTACHMENTS

SECTION A-5

OPERATING AGREEMENT
See following 35 pages

OPERATING AGREEMENT

For

Poplar Ridge Surgery Center, LLC

December 20, 2020

TABLE OF CONTENTS

OPERATING AGREEMENT	3
ARTICLE I: TERMS & CONDITIONS	3
ARTICLE II: AGREEMENT	8
ARTICLE III: BUSINESS OF THE COMPANY	8
ARTICLE IV: MEMBERS	9
ARTICLE V: MEMBER RIGHTS & DUTIES	10
ARTICLE VI: MANAGER RIGHTS & DUTIES	13
ARTICLE VII: MEETINGS OF MEMBERS	16
ARTICLE VIII: CONTRIBUTIONS	19
ARTICLE IX: ALLOCATIONS & DISTRIBUTIONS	21
ARTICLE X: TAXES	24
ARTICLE XI: DISPOSITION OF INTERESTS	25
ARTICLE XII: ADMITTING ADDITIONAL MEMBERS	29
ARTICLE XIII: DISSOCIATION OF MEMBERS	29
ARTICLE XIV: DISSOLUTION AND WINDING UP	31
ARTICLE XV: GENERAL PROVISIONS	34
EXHIBIT A: MEMBERS	38
EXHIBIT B: MANAGERS	39

DISCLAIMER/ Read and Delete: This Agreement is not a substitute for professional legal and accounting advice tailored to your individual business situation. It certainly is not intended to replace the services of an attorney or accountant although this document was created by one of attorneys. Used as a starting point, your attorney can modify this agreement for your needs if you prefer or perhaps even suggest a different Agreement entirely, perhaps due to some unique detail in your situation.

OPERATING AGREEMENT

This Operating Agreement of Poplar Ridge Surgery Center, LLC, a limited liability company organized pursuant to the laws of the State of Tennessee, is entered into and shall be dated and effective as of the Effective Date, December 20, 2020 by and among the Company and the persons executing this Agreement as Members.

ARTICLE I

TERMS & CONDITIONS

- a. The terms and conditions used in this Agreement shall have the meanings set forth in the codified laws of the state of Tennessee, or as set forth below (unless otherwise expressly provided herein.)
1. “Act” shall mean the set of laws expressly enacted to deal with limited liability companies in Tennessee (known as Title 48, Chapter 249 Tennessee Revised Limited Liability Company Act) and all amendments thereto.
 2. “Additional Member” shall mean a member other than an initial member or a substitute member who has acquired a membership interest in the Company.
 3. “Agreement” shall mean this Operating Agreement, as originally executed and as it may be amended from time to time.
 4. “Articles of Organization” shall mean the Articles of Organization of the Company filed or to be filed with the Tennessee Secretary of State for the purpose of forming the Company and as they may from time to time be amended.
 5. “Assignee” shall mean the transferee of a Membership Interest who has not been admitted as a substituted member.

6. “Bankrupt Member” shall mean a Member who (a) has become the subject for an order for relief under the United States Bankruptcy Code, (b) has initiated, either in an original proceeding or by way of answer in any state, insolvency receivership proceeding, an action for liquidation arrangements, composition, readjustment, dissolution or similar relief.
7. “Capital Account” as of any date shall mean the Capital Contribution to the Company by a Member, adjusted as of such date pursuant to this Agreement.
8. “Capital Contribution” shall mean any contribution by a Member to the capital of the Company in cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to render services. “Initial Capital Contribution” shall mean the initial contribution to the capital of the Company.
9. “Code” shall mean the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provisions of any superseding federal revenue statute.
10. “Company” shall refer to Poplar Ridge Surgery Center, LLC.
11. “Company Property” shall mean any Property owned by the Company.
12. “Default Interest Rate” shall mean the higher of the legal rate or the then prime rate quoted in The Wall Street Journal plus two points.
13. “Disposition” (Dispose) shall mean any sale, assignment, exchange, mortgage, pledge, grant hypothecation, or other transfer, absolute or as security or encumbrance (including dispositions by operation of law).

14. “Disassociation” shall mean any action which causes a person to cease to be a Member as described in Article XIII hereof.
15. “Dissolution Event” shall mean an event, the occurrence of which will result in the dissolution of the Company under Article XIV unless the Members agree to the contrary.
16. “Distribution” means any cash and other property paid by the Company to a Member of the Company in his or her capacity as a Member.
17. “Effective Date” shall mean: December 20, 2020.
18. “Entity” shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association, or any foreign trust or foreign business organization.
19. “Fiscal Year” shall mean the fiscal year of the Company, which shall be the year beginning on January 1st and ending December 31st.
20. “Gifting Member” shall mean any Member or Economic Interest Owner who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest or Economic Interest.
21. “Manager” shall mean one or more managers. Specifically, “Manager” shall mean those names listed on Exhibit B, or any person that succeed him in that capacity.
22. “Member” shall mean each of the parties who executes a counterpart of this Operating Agreement as a Member, and each of the parties who may hereafter become Members in accordance Article XII.

23. “Membership Interest” shall mean a Member’s entire interest in the Company, including the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Operating Agreement and the Act.
24. “Net Losses” shall mean the losses and deductions of the Company, determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.
25. “Net Profits” shall mean the income and gains of the Company, determined in accordance with accounting principals consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.
26. “Person” shall mean any association, corporation, stock company, estate, general partnership (including any Registered Limited Liability Partnership), limited association, limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, real estate investment trust, business trust or other trust, or other individual in its own or any representative capacity. In addition, it shall mean the heirs, executors, administrators, legal representatives, successors and assigns of such “Person” where the context so permits.
27. “Proceeding” shall mean any judicial or administrative trial, hearing or other activity, civil, criminal or investigative, the result of which may be that a court,

arbitrator or governmental agency may enter a judgment, order, decree or other determination.

28. "Property" shall mean any Property, real or personal, tangible or intangible, including money and any legal or equitable interest in such Property, but excluding services and promises to perform services in the future.
29. "Reserves" shall mean, with respect to any fiscal period, funds set aside or amounts allocated during such period to Reserves which shall be maintained in an amount deemed sufficient by the Managers to pay taxes, insurance, or other costs or expenses incident to the ownership or operation of the Company's business.
30. "Resignation" shall mean the act by which a Manager ceases to be a Manager.
31. "Selling Member" shall mean any Member who or which desires to or does sell, assign, pledge or otherwise transfers for a consideration all or any portion of the Member's Membership Interest.
32. "Taxable Year" shall mean the taxable year of the Company as determined pursuant to Section 706 of the Code.
33. "Taxing Jurisdiction" shall mean any state, local or foreign government that collects tax, interest or penalties, however designated, and any Member's share of the income or gain attributable to the Company.

ARTICLE II

Agreement

- a. Agreement. For and in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Members executing this Agreement hereby agree to the terms and conditions of the Agreement as it may be from time to time amended according to its terms.

It is the express intention of the Members that the Agreement shall be the sole source of agreement of the parties, and except to the extent a provision of this Agreement expressly incorporates federal income tax rules by reference to the sections of the Code or Regulations, or is expressly prohibited or ineffective under the Act, even when inconsistent with or different from the provisions of the Act or any other law or rule. To the extent any provision of the Agreement is prohibited or ineffective under the Act, the Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act. In the event the Act is subsequently amended or interpreted in such a way to make any provision of the Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

ARTICLE III

Company Business

- a. Nature of Business. The Company is formed for, and the business of the Company shall be to create an ambulatory surgery center for the purpose of providing high quality care to patients needing outpatient surgical procedures specifically in the gynecological surgery, gynecological oncology, interventional radiology / vascular access and other future multi-specialties surgical fields. The Company is created to offer a safer environment, more cost-effective alternative to hospitals and more efficient method of delivering quality patient care.
- b. The Company exists only for the purposes specified in Section A and may not conduct any other business without (a) unanimous consent of the Board, (b) Members General Consensus and (c) the Tennessee Department of Health department of licensure.

ARTICLE IV

Members

- a. Names and Addresses. The names and addresses of the Initial Members are as set forth in Exhibit A to this Agreement.

- b. Additional Members. In the event that a Person is hereafter admitted as an Additional Member, their name, address and Capital Contribution shall be added to Exhibit A.
- c. *Membership Interests in the Company shall be represented by certificates. They shall be numbered and entered in the books of the Company as they are issued. They shall exhibit the holder of the Membership Interest and the numerical percentage or other designation of the Member's Interest and shall be signed by the Members.
- d. The Members may issue a new certificate or certificates in place of any certificate or certificates therefore issued by the Company, alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost or destroyed. When authorizing such issue of a new certificate or certificates, the Members may, in their discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Members may require, and/or give the Company a bond in such sum and with such surety or sureties as it may direct as indemnity against any claim that may be made against the Company with respect to the certificate or certificates alleged to be lost or destroyed.
- e. Transfer of Certificates. Upon proof of compliance with the provisions of Article XI relating to transfer of Membership Interest, duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Company shall issue a new certificate to the Person entitled thereto and cancel the old certificate, a record of every such transfer shall be entered upon the transfer book of the Company, which shall be kept at its principal office. No transfer shall be made within ten (10) days next preceding the annual meeting of Members.
- f. The Company shall be entitled to treat the owner of record of any certificates of Membership Interest as the holder in fact thereof and shall not be bound to recognize any equitable claim on the part of any other Person, whether or not it shall have express or other notice thereof, except as expressly provided by the laws of Tennessee.

ARTICLE V**Member Rights and Duties**

a. **Management Rights.** All Members who have not dissociated shall be entitled to vote on any matter submitted to a vote of the Members. Notwithstanding the foregoing, the following actions require the vote or consent of a majority:

1. any amendment to this Agreement
2. the admission of Assignees as a Member
3. the continuation of the Company after a Dissolution Event

b. **Majority.** Whenever any matter is required or allowed to be approved by a Majority of the Members or a Majority of the Remaining Members under the Act or this Agreement, such matter shall be considered approved or consented to upon the receipt of the affirmative approval or consent, either in writing or at a meeting of the Members, of Members entitled to vote on a particular matter. Disassociating Members shall not be considered Members entitled to vote for the purpose of determining a Majority.

c. **Limitation of Liability of Members.** Members shall not be liable for any debts, obligations or liability of the Company or each other, whether arising in tort, contract or otherwise, solely by reason of being such Member. However, each Member shall remain personally liable for payment of his, her or its Capital Contribution.

d. **Indemnification.** The Company shall indemnify the Members, Managers, and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Manager or agent in connection with the business of the Company.

e. **Books and Records.** The Managers shall maintain and preserve during the term of the Company and for six (6) years thereafter, all accounts, books, minutes of meetings of Members, and all other relevant Company documents. Upon reasonable request, each Member shall have the right, during ordinary business hours and at the principal place of

business of the company, to inspect and copy such documents, at the requesting Member's expense.

f. **Sale of All Assets.** The Members shall have the right, by the vote or written consent of Members holding at least two-thirds of all Capital Interests, to approve the sale, lease, exchange or other disposition of all or substantially all of the assets of the Company which is to occur as part of a single transaction or plan.

g. **Priority and Return of Capital.** Except as may be expressly provided in Articles VIII or IX, no Member shall have priority over any other Member.

h. **Financial Adjustments.** No Members admitted after the date of this Agreement shall be entitled to any retroactive allocations of losses income or expense deductions incurred by the Company.

i. **Representations and Warranties.** Each Member, and in the case of an organization, the person(s) executing the Agreement on behalf of the organization hereby represents and warrants to the Company and each other Member and Manager that:

1. If that Member is an organization, that it is duly organized, validly existing, and in good standing under the law of its state of organization, and that it has full organizational power to execute and agree to the Agreement to perform its obligations hereunder;
2. That the Member is acquiring its interest in the Company for the Member's own account as an investment and without an intent to distribute the interest;
3. The Member acknowledges that the interests have not been registered under the Securities Act of 1933 or any state securities laws and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

j. Conflicts of Interest. A Member shall be entitled to enter into transactions that may be considered competitive with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that some of the Members may enter into transactions that are similar to the transactions into which the Company may enter. Notwithstanding the foregoing, Members shall account to the Company and hold as trustee for it any property, profit or benefit derived by the Member, without the consent of the other members, in the conduct and winding up of the Company business or from a use or appropriation by the Member of Company Property, including information developed exclusively for the Company and opportunities expressly offered to the Company.

ARTICLE VI

Rights and Duties of Managers

- a. Management. The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage and control the business of the Company to the best of their ability. Managers will manage through the direction and approval of the Governing Board and except for situations in which the approval of the Members is expressly required by this Operating Agreement or by non-waivable provisions of applicable law. The Managers shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.
- b. Number, Tenure and Qualifications of Managers. The Company shall initially have one Manager. Each of the individuals listed on Exhibit B to this Agreement shall initially serve as the Managers. The number of Managers of the Company may be amended by the vote or written consent of Members holding at least two-thirds of the Membership Interests. Each Manager shall hold office until the next annual meeting of Members, or until a successor shall have been elected and qualified.
- c. Certain Powers of Managers. Except as set forth in this Agreement, the Managers shall have the power and authority, on behalf of the Company to:
1. Purchase, lease or otherwise acquire from, or sell, lease or otherwise dispose of to any property, to any Person.

2. Open bank accounts and otherwise invest the funds of the Company.
 3. Borrow money for the Company from banks or other lending institutions and on such terms as the Members deem appropriate.
 4. Purchase insurance on the business and assets of the Company.
 5. Commence lawsuits and other proceedings.
 6. Enter into any agreement, instrument or other writing.
 7. Retain accountants, attorneys, or any other professionals or agents.
 8. Take any other lawful action that the Managers consider necessary, convenient, or advisable in connection with any business of the Company.
- d. Binding Authority. Unless authorized to do so by the Manager, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Members to act as an agent of the Company.
- e. Liability for Certain Acts. Each Manager shall perform his duties as Manager in good faith, in a manner he reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.
- f. No Exclusive Duty to Company. The Managers shall be required to manage the Company as their sole and exclusive function and they may not have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company

nor any Member shall have the right pursuant to this Agreement to share or participate in such other business interests, activities or to the income or proceeds derived therefrom.

g. Indemnification. The Company shall indemnify and hold harmless the Managers from and against all claims and demands to the maximum extent permitted under applicable laws.

h. Resignation. Any Manager may resign at any time by giving written notice to the Company, with a copy to each Member. The resignation of any Manager shall take effect upon receipt of such notice by the Company or at any later time specified in such notice. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of the Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

i. Removal. Any manager may be removed or replaced with or without cause by the vote or written consent of Members who hold at least a two-thirds majority.

ii. Membership Interests. The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

k. Vacancies. Any vacancy occurring for any reason in the number of Managers may be filled by the vote or written consent of at least a Majority two-thirds of the Membership interests. A Manager elected to fill a vacancy shall be elected for the unexpired term of the Manager's predecessor and shall hold office until the expiration of such term and until the Manager's successor has been elected and qualified.

k. Salaries. Each Manager shall be reimbursed for all reasonable expenses incurred in managing the Company. The salaries and other compensation of the Managers shall be fixed from time to time by the vote or written consent of at least a majority of the Membership Interests.

j. Officers. All Officers shall be hired with the approval of the Governing Board to the Company.

ARTICLE VII

Meetings of Members

- a. Annual Meeting. The annual meeting of the Members shall be held during the month of December, or at such other time as shall be determined by the Managers.
- b. Special Meetings. Special meetings of the Members, for any purpose or purposes, may be called by any Manager or any Member or group of Members holding collectively not less than two-thirds of the Membership Interests.
- c. Place of Meetings. Meetings of the Members may be held at any place, within or outside of the State of Tennessee, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of the meeting shall be the chief executive office of the company.
- d. Notice of Meetings. Except as per written notice stating the place, day and hour of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called, shall be delivered no fewer than ten (10) nor more than thirty (30) days before the date of the meeting.
- e. Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which the notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be not more than sixty (60) nor less than ten (10) days.

f. Quorum. Members holding a Majority of all Membership interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a Majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice.

g. Manner of Acting. If a quorum is present at any meeting, the vote or written consent of Members holding not less than a Majority of Membership Interests shall be the act of the Members.

At all meetings of Members, a Member may vote in person or by proxy. The proxy shall be executed in writing by the Member granting the proxy or by a duly authorized attorney-in-fact of the Member. Such proxy shall be filed with the Managers of the Company before or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided for in the proxy.

i. Actions by Members Without a Meeting. Whenever the Members of the Company are required or permitted to take any action by vote or consent, such action may be taken without a meeting, without prior notice, and without a vote.

1. The action so taken shall be signed by the Members who hold the Membership Interests, having not less than the minimum number of votes that would be necessary to authorize such actions.

2. Every written consent shall bear the date of signature of each Member who signs the consent, and no written consent shall be effective to take the action referred to therein unless written consents signed by a sufficient number of Members are delivered within sixty (60) days to the office of the Company, its principal place of business, or to a Manager, employee, or agent of the Company having custody of the records of the Company.

3. Delivery of consents to such office or principal place of business of Manager, employee, or agent shall be by hand, including messenger or other courier, or by certified or registered mail, return receipt requested.
 4. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Member who has not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.
- j. Waiver of Notice of Meeting. Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting about the lack of notice of such meeting shall constitute a waiver of notice by him or her.

ARTICLE VIII

Contributions

- a. Capital Contributions. Each member shall contribute such amount as is set forth in Exhibit A hereto as its share of the Initial Capital Contribution.
- b. Additional Contributions. Each Member shall be required to make such additional Capital Contributions as shall be determined by the Managers from time to time to be reasonably necessary to meet the expenses of the Company. Upon the making of any such determination, the Manager shall give written notice to each Member of the amount of required additional contribution, and each Member shall deliver to the Company its pro rata share thereof (in proportion to the respective Capital Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is received by the Member.

- c. **Capital Accounts.** A Capital Account shall be established and maintained for each Member and each Assignee. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses, and other allocations to such Members pursuant to the Code.
- d. **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his/her/its Membership Interests shall become the Capital Account of the Person to which or whom such Membership Interest is sold or transferred in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.
- e. **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirement of Section 704(b) of the Code. If, in the opinion of the Managers, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code, then the Managers shall so modify its practices, provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.
- f. **Deficit Capital Account.** Except as otherwise required in the Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.
- g. **Withdrawal or Reduction of Capital Contributions.** A Member shall not receive from the Company any portion of his Capital Contribution until all indebtedness and liabilities of the Company have been paid. No distributions shall be made from the Capital Contributions of a Member without the consent of Members owning a majority of Membership Interests in the

Company. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX

Allocations and Distributions

- a. Allocations of Profits and Losses. The Net Profits and the Net Losses of the Company for each Fiscal Year shall be allocated as follows:
 1. to each Member in accordance with the ratio of the value of the Member's Capital Account in proportion to the value of all Capital Accounts in the aggregate.
- b. Distributions. The Manager must, not less than quarterly, make Distributions of the Net Cash Flow of the Company, less any Reserves.
- c. Offset. The Company may offset all amounts owing to the Company by a member against any Distribution to be made to such Member.
- d. Limitation Upon Distributions. No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.
- e. Interest on and Return of Capital Contributions. No Member shall be entitled to interest on his Capital Contribution, or to a return of his Capital Contribution.
- f. Accounting Principles. The profits and losses of the Company shall be determined in accordance with accounting principles applied on a consistent basis using the accrual method of accounting. It is intended that the Company will elect those accounting methods which provide the greatest tax benefits.

- g. Accounting Period. The Account Period of the Company shall be the calendar year ending on December 31st.
- h. Loans to Company. Nothing in this Operating Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company.
- i. Records, Audits and Reports. At the expense of the Company, the Manager shall maintain records and accounts of all operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:

1. A current list of the full name and last known business, residence, or mailing address of each Member, Economic Interest Owner and Manager, both past and present.
2. A copy of the Articles of Organization of the Company and all amendments, together with executed copies of any powers of attorney pursuant to which any amendment has been executed.
3. Copies of the Company's federal, state, and local income tax returns and reports, if any, for the four (4) most recent years.
4. Copies of the Company's currently effective written Operating Agreement, copies of any writings permitted or required with respect to a Member's obligation to contribute cash, property or services, and copies of any financial statements of the Company for the three (3) most recent years.
5. Minutes of every annual, special, and court-ordered meeting. Any written consents obtaining from Members for actions taken by Members without a meeting.

ARTICLE X

Taxes

- a. Tax Returns. The Managers shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Copies of such returns shall be furnished to the

Members within a reasonable time after the end of the Company's Fiscal Year. Each Member shall furnish to the Managers all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

b. Tax Elections. The Company shall make the following elections on the appropriate tax returns:

1. To adopt the calendar year as the Fiscal Year;
2. To adopt the accrual method of accounting and keep the Company's books and records on the income tax method;
3. If a Distribution as described in section 734 of the Code occurs, or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
4. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 185 of the Code, pro rated over a period of sixty (60) months as permitted by Section 708(b) of the Code;
5. Any other election that the Managers may deem appropriate and in the best interest of the Members Neither the Company nor any Member may make an election for the Company to be excluded from the application of Subchapter K of Chapter 1 of Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

c. Tax Matters Partners. The Managers shall designate one Manager to be the "tax matters partner" of the Company pursuant to Section 6231 (a) (7) of the Code. Any Manager who is

designated as such shall take any action as may be necessary to cause each other Member to become a “notice partner” within the meaning of Section 6223 of the Code.

ARTICLE XI

Disposition of Interests

- a. **General.** Except as otherwise specifically provided herein, a Member shall have the right to: Sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell”), gift, bequeath, or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) all or any part of its Membership Interest or Economic Interest.
- b. **Gift of Membership Interest.** A Transferring Member may gift all or any portion of its Membership Interest, provided that the donee or other successor-in-interest (collectively, “donee”) is either the Gifting Member’s spouse, former spouse, or lineal descendent (including adopted children) and provided that it is done in accordance with this Agreement and all state law requirements are met.
- c. **Sale of Membership Interest.** If a Selling Member desires to sell all or any portion of its Membership Interest or Economic Interest to another person, the Selling Member shall obtain from such purchaser a bona fide written offer to purchase such interest, stating the terms and conditions upon which the purchase is to be made. The Selling Member shall give written Notice to the remaining Members of its intention to so transfer such interest, with a copy of such bona fide written offer to purchase such interest.
- d. **First Refusal.** Each of the remaining Members, on a basis pro rata to their Capital Interests or on a basis pro rata to the Capital Interests of those remaining Members exercising their right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer to purchase by giving Notice to the Selling Member of their intention to do so within 90 days after receiving

written notice from the Selling Member. The failure of the remaining Members to so notify the Selling Member of their desire to exercise this right of first refusal with respect to all of the interest desired to be sold within said period of days shall result in the termination of the right of first refusal, and the Selling Member shall be entitled to consummate the sale of its interest in the Company, or such portion of its interest, if any, with respect to which the right of first refusal has not been exercised, to such third party purchaser.

e. Closing. In the event the remaining Members (or any one or more of the remaining Members) give written notice to the Selling Member of their desire to purchase all of the Selling Member's interest in the Company which the Selling Member desires to sell upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be no later than the date set forth for closing in the bona fide offer or within 90 days after receipt of written notification from the Selling Member of the third party offer to purchase.

f. Conditions of Transfer. In the event of either the purchase of the Selling Member's interest in the Company by a third party purchaser or a gift of an interest in the Company (including an Economic Interest), and as a condition to recognizing one or more of the effectiveness and binding nature of any such sale or gift and (subject to this Operating agreement) substitution of a new Member as against the Company or otherwise, the Managers may require the Selling Member or Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members, such instruments of transfer, assignment and assumption and such other certificates, representations and documents, and to perform all such other acts which the Managers may deem necessary or desirable to:

1. constitute such purchaser, as a Member, donee or successor-in-interest as such;
2. confirm that the person desiring to acquire an interest or interests in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject to and

bound by all of the terms, obligations and conditions of the Operating Agreement, as the same may have been further amended (whether such Person is to be admitted as a new Member or will merely be an Economic Interest Owner);

3. preserve the Company after the completion of such sale, transfer, assignment, or substitution under the laws of each jurisdiction in which the Company is qualified, organized or does business;

4. maintain the status of the Company as a Limited Liability Company for federal tax purposes;

5. assure compliance with any applicable state and federal laws, including securities laws and regulations.

g. **Effective Date.** Any sale or gift of a Membership Interest or Economic Interest or admission of a Member in compliance with this Article XI shall be deemed effective as of the last day of the calendar month in which the remaining Members' consent thereto was given or, if no such consent was required pursuant to Section 11(d.), then on such date that the donee or successor interest complies with the provisions of Section 11(f.). The Selling Member agrees, upon request of the Managers, to execute such certificates or other documents and perform such other acts as may be reasonably requested by; the Managers from time to time in connection with such sale, transfer, assignment or substitution. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this **Article XI**.

h. **Transferee Not Member in Absence of Unanimous Consent.** Notwithstanding anything contained herein to the contrary (including, without limitation, Section 11 (c.) hereof), if all of the remaining Members do not approve by unanimous consent of the proposed sale or gift of the Transferring Member's Membership Interest or Economic Interest to a transferee or

donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely an Economic Interest Owner. No transfer of a Member's interest in the Company shall be effective unless and until written notice has been provided to the Company and the non-transferring Members. Notice shall include the name and address of the proposed transferee or donee and the date of such transfer. This provision shall include any transfer of an Economic Interest or any other transfer which has not been approved by a unanimous written consent of the remaining Members.

i. Remaining Rights. Upon and contemporaneously with any sale or gift of a Transferring Member's Economic Interest in the Company which does not at the same time transfer the balance of the rights associated with the Economic Interest transferred by one Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), the Company shall purchase from the Transferring Member, and the Transferring Member shall sell to the Company, for a purchase price of One Hundred U.S. Dollars (U.S. \$100.00), all remaining rights and interest retained by the Transferring Member which immediately prior to such sale or gift were associated with the transferred Economic Interest.

ARTICLE XII

Admitting Additional Members

a. Admission of New Members or Assignees. From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous Board approval / vote thereof may become a Member in the Company, subject to the terms and conditions of this Operating Agreement, either by the issuance by the Company of

Membership Interests for such consideration as the Members, by their unanimous votes, shall determine, or as an Assignee of a Member's Membership Interest or a portion thereof.

b. No Retroactive Allocations. No new Members shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. At the time a Member is admitted, the Manager or Managers may, at his or their option, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year (admittance year) in accordance with the Provisions of Section 706(d) of the Code and the Treasury Regulations promulgated thereunder.

ARTICLE XIII

Dissociation of Members

a. Dissociation. A Person shall cease to be a Member upon the happening of any of the following events (a "Withdrawal Event").

1. The withdrawal of a Member with the unanimous agreement of the remaining Members;
2. A Member becoming a Bankrupt Member;
3. In the case of a Member who is a natural person, the death of the Member or the entry of an order by a court of competent jurisdiction adjudicating the Member incompetent to manage the Member's personal financial affairs;
4. In the case of a Member who is acting as a Member by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);

5. In the case of a Member which is a separate Organization other than a corporation, the dissolution and commencement of winding up of the separate Organization;
 6. In the case of a Member that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or
 7. In the case of a Member which is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.
- b. If the dissociation causes a dissolution and winding up of the Company under **Article XIV**, the Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member, except that any Distributions to which the member would have been entitled shall be reduced by the damages sustained by the Company as a result of the Dissolution and winding up.
- c. If the dissociation does not cause a dissolution and winding up of the Company under Article XIV, the Member shall be entitled to an amount equal to the value of the Member's Membership Interest in the Company, to be paid within six (6) months of the date of dissociation. Notwithstanding the foregoing, if the dissociation is other than as a result of the death or incompetence of the Member, the Managers may pay the value of the Member's Membership Interest in the Company out over a period not to exceed five (5) years, provided that the dissociating Member shall be entitled to participate as an Assignee in the Company until the value of such interest (plus interest at the Default Interest Rate) is paid in full. The value of the Member's Membership Interest shall include the amount of any Distributions to which the Member is entitled under the Agreement and the fair value of the Member's Membership Interest as of the date of dissociation, based upon the Member's right to share in distributions from the Company, reduced by any damages sustained by the Company as a result of the Member's dissociation.

d. If the dissociation is a consensual withdrawal pursuant to Section 13(a.), then the disposition of the Member's interest shall be provided in the terms of the consent to withdraw.

ARTICLE XIV

Dissolution and Winding Up

a. Dissolution. The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following Dissolution Events:

1. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
2. The vote or written consent of Members who own at least two-thirds of the Membership interest; or

b. Remaining Members' Option to Continue. The dissociation of any Member or any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a Majority Interest of all the remaining Members or at least two (2) remaining Members. Each of the Members hereby agrees that within ninety (90) days after the occurrence of a Withdrawal Event (and provided that there are then at least two (2) remaining Members of the Company), they will promptly consent, in writing, to continue the business of the Company. Such consents shall be mailed or hand delivered to the principal place of business of the Company, or to such other address designated by the Managers, no later than ninety (90) days after each Withdrawal Event or transfer by a Member of its entire Economic Interest or Membership Interest. The sole remedy for breach of a Member's obligation under this Section shall be monetary damages and not specific performance.

c. Winding Up. Upon the dissolution of the Company, the Managers may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal, or

administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities, and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:

1. To creditors, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members;
2. To Members and former Members in satisfaction of liabilities for Distributions; and
3. To Members and owners of Economic Interests, first for the return of their Capital Contributions, to the extent not previously returned, and second, respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.

d. Articles of Dissolution. Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, the Manager shall file articles of dissolution with the appropriate state agency, pursuant to that state's laws.

e. Deficit Capital Account. Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.

f. **Non-Recourse to Other Members.** Except as provided by applicable law or as expressly provided for in this Agreement, upon dissolution, each Member shall receive a return of his, her, or its Capital Contribution solely from the assets of the Company. If the assets of the Company are insufficient to return any Capital Contribution of any Member, such Member shall have no recourse, legal or otherwise, against any other Member.

g. **Termination.** Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XV

General Provisions

a. **Notices.** Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if it is in writing and (a) delivered personally to the party or to an executive officer of the party to whom such notice is directed or (b) sent by messenger, or (c) by overnight courier, or (d) by registered or certified mail, postage prepaid, addressed to the Member, Manager or the Company at his/her/its address as set forth in this Agreement or at the address as the Member manager or Company notices for such deliveries of notices. Except as otherwise provided for in this Agreement, any such notice shall be deemed to be given upon delivery, except if sent by registered or certified mail, then five (5) days after the postmark.

b. **Entire Agreement and Amendments.** This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with respect thereto, whether or not relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any right and remedies of a Member pursuant to this

Agreement. No amendment to this Agreement shall be effective unless made in writing duly executive by two-thirds of all Members.

c. No Partnership Intended for Non-Tax Purposes. The Members have formed the Company under applicable state law, and expressly do not intend hereby to form a partnership under state law. The Members do not intend to be partners, one to another, or partners as to any third party. To the extent any Member, by work or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

d. Creditors and Third Party Rights. The Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assignees. The Agreement is expressly not intended for the benefit of any creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under the Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

e. Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules, or regulations.

f. Telephonic Conferences. The Members and/or Managers may participate in a meeting of Members or a meeting of Managers, as the case may be, by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence of the Person at the meeting.

- g. Construction. Whenever the singular number is used in this Agreement, and when required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.
- h. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.
- i. Waiver. No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.
- j. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law. If for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.
- k. Binding. This Agreement shall be binding upon and insure to the benefit of all Members, and each of the successors and assignees of the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.
- l. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.
- m. Governing Law. Should an internal dispute arise among the Members and/or Manager, an alternative conflict resolution method shall be employed first and foremost prior to formal

litigation. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Tennessee, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the individuals and entities signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

_____ Signature	_____ Date	_____ Printed Name
--------------------	---------------	-----------------------

_____ Signature	_____ Date	_____ Printed Name
--------------------	---------------	-----------------------

_____ Signature	_____ Date	_____ Printed Name
--------------------	---------------	-----------------------

_____ Signature	_____ Date	_____ Printed Name
--------------------	---------------	-----------------------

EXHIBIT A
Initial Members

Name: Sanjeev Kumar, M.D.

Address:

Capital Contribution:

Name: Salil Joshi, M.D.

Address:

Capital Contribution:

Name: Jorge Salazar, M.D.

Address:

Capital Contribution:

Name:

Address:

Capital Contribution:

EXHIBIT B

Managers

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

ATTACHMENTS

SECTION A-5A

BUSINESS ASSOCIATE AGREEMENT

See following 6 pages

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("**Agreement**") is entered into as of October 24, 2020 ("**Effective Date**") by and between 901 Vascular / Poplar Ridge Surgery Center, LLC ("**Covered Entity**") and Excellentia Advisory Group, LLC ("**Business Associate**"). Each of Covered Entity and Business Associate may be referenced in the Agreement as a "**Party**" and collectively as the "**Parties**".

The Parties, intending to be legally bound, hereby agree as follows:

I. Definitions.

- a. Except as otherwise defined in this Agreement, all capitalized terms used in this Agreement shall have the meanings set forth in HIPAA.
- b. "**Breach**" shall mean the acquisition, access, use or disclosure of Protected Health Information in a manner not permitted by the HIPAA Privacy Rule that compromises the security or privacy of the Protected Health Information as defined, and subject to the exceptions set forth, in 45 CFR § 164.402.
- c. "**Electronic Protected Health Information**" shall mean Protected Health Information that is transmitted or maintained in Electronic Media.
- d. "**HIPAA**" shall mean the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended and supplemented by the HITECH Act and its implementing regulations, as each is amended from time to time.
- e. "**HIPAA Breach Notification Rule**" shall mean the federal breach notification regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Part 164 (Subpart D).
- f. "**HIPAA Privacy Rule**" shall mean the federal privacy regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Parts 160 and 164 (Subparts A & E).
- g. "**HIPAA Security Rule**" shall mean the federal security regulations, as amended from time to time, issued under HIPAA and set forth in 45 CFR Parts 160 and 164 (Subparts A & C).
- h. "**HITECH Act**" shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American recovery and Reinvestment Act of 2009, 42 U.S.C. §§ 17921-17954, and all its implementing regulations, when and as each is effective, and compliance is required.
- i. "**Protected Health Information of PHI**" shall mean Protected Health Information, as defined in 45 CFR § 160.103, and is limited to the Protected Health Information received, maintained, created or transmitted on behalf of, Covered Entity by Business Associate in performance of the Underlying Services.
- j. "**Underlying Services**" shall mean, to the extent and only to the extent they involve the creation, maintenance, use, disclosure or transmission of Protected Health Information, the services performed by Business Associate for Covered Entity pursuant to the Underlying Services Agreement.

k. **“Underlying Services Agreement”** shall mean the written agreement(s) (other than this Agreement) by and between the parties as amended as set forth in the attached schedule by and between the Parties pursuant to which Business Associate access to, receives, maintains, creates or transmits PHI for or on behalf of Covered Entity in connection with the provision of the services described in that agreement(s) by Business Associate to Covered Entity or in performance of Business Associate’s obligations under such agreement(s).

II. Permitted and Required Uses and Disclosures of Protected Health Information by Business Associate.

- a. Business Associate may use or disclose Protected Health Information solely (1) as necessary to provide the Underlying Services to Covered Entity and in compliance with each applicable requirement of 45 CFR § 164.504(e), (2) as Required by Law or (3) as expressly otherwise authorized under this Agreement. Business Associate shall not use or disclose Protected Health Information for any other purpose or in any other manner.
- b. Business Associate may, if necessary, use or disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate; provided, that (1) any disclosure is Required by Law or (2) Business Associate obtains reasonable advance written assurances from the person or party to whom the Protected Health Information is disclosed that the Protected Health Information will be held confidentially and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person or party, and the person or party immediately notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

III. Obligations of Business Associate.

- a. Business Associate shall use appropriate safeguards, and, as of September 23, 2013, comply, where applicable, with the HIPAA Security Rule with respect to Electronic Protected Health Information, to prevent use or disclosure of the information other than as provided for by this Agreement.
- b. Business Associate shall mitigate any harmful effect of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- c. Business Associate shall immediately report to Covered Entity: (i) any use or disclosure of Protected Health Information not provided for by this Agreement of which it becomes aware in accordance with 45 CFR § 164.504(e)(2)(ii)(C); and/or (ii) any Security Incident of which Business Associate becomes aware in accordance with 45 CFR § 164.314(a)(2)(i)(C).
- d. Business Associate shall notify the Covered Entity within ten (10) days after Business Associate’s Discovery of any incident that involves an unauthorized acquisition, access, use, or disclosure of Protected Health Information, even if Business Associate believes the incident will not rise to the level of a Breach. Business Associate agrees that such notification will meet the requirements of the HIPAA Breach Notification Rule set forth in 45 CFR § 164.410. Business Associate shall provide to the Covered Entity the names and contact information of all individuals whose Protected Health Information was or is believed to have been involved, all other information reasonably requested by the Covered Entity to enable the Covered Entity to perform and document a risk assessment in accordance with the HIPAA Breach Notification Rule with respect to the incident to determine whether a Breach occurred, and all other information reasonably necessary to provide notice to Individuals, the Department of Health and Human Services and/or the media in accordance with the HIPAA Breach Notification rule. In the event of an incident that is required to be reported under this Section III(d), Covered Entity shall elect

in its sole discretion whether Covered Entity, Business Associate or a third party shall be responsible for conducting an investigation of that incident and providing any required notices as set forth in this Section III(d). In accordance with this election, and notwithstanding anything to the contrary in this Agreement and without limiting in any way any other remedy available to Covered Entity at law, equity or contract, including but not limited to under Section V(a) of this Agreement, Business Associate shall (i) conduct, or pay the costs of conducting, an investigation of any incident required to be reported under this Section III(d), (ii) shall reimburse and pay Covered Entity for all expenses and costs incurred by Covered Entity that arise from an investigation of any incident required to be reported under this Section III(d) and (iii) shall provide, and/or pay the costs of providing, the required notices as set forth in this Section III(d).

- e. In accordance with 45 CFR 164.502(e)(1)(ii) and 45 CFR 164.308(b)(2), Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate, agree to the same restrictions and conditions, in writing, that apply through this Agreement to Business Associate with respect to such Protected Health Information, including by not limited to the extent that subcontractors create, receive, maintain, or transmit Electronic Protected Health Information on behalf of the Business Associate, it shall require the subcontractors to comply with the HIPAA Security Rule.
- f. To the extent Business Associate is to carry out Covered Entity's obligations under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the HIPAA Privacy Rule that apply to Covered Entity in the performance of such obligations.
- g. Business Associate shall provide access to Covered Entity, no later than fifteen (15) days after receipt of a request from Covered Entity, to Protected Health Information in a Designated Record Set, or, if requested by Covered Entity, to an Individual, all in accordance with the requirements under 45 CFR § 164.524, including, as of September 23, 2013, providing or sending a copy to a designated third party and providing or sending a copy in electronic format, to the extent that the Protected Health Information in Business Associate's possession constitutes a Designated Record Set.
- h. Business Associate shall make available and make any amendment(s) to Protected Health Information in a Designated Record Set within fifteen (15) days after receipt of a request from Covered Entity or an Individual, all in accordance with the requirements of 45 CFR § 164.526.
- i. Business Associate shall document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 and, as of the date compliance is required by final regulations, 42 U.S.C. § 17935(c).
- j. Business Associate shall make available to Covered Entity, within fifteen (15) days after receipt of a request, information collected in accordance with Section III(i) of this Agreement to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information, or make that information available directly to an Individual, all in accordance with 45 CFR § 164.528 and, as of the date compliance is required by final regulations, 42 U.S.C. § 17935(c).
- k. Business Associate shall notify Covered Entity in writing within three (3) days after Business Associate's receipt directly from an Individual of any request for access to or amendment of Protected Health Information, or an accounting of disclosures, as contemplated in Sections III(g), III(h), III(i) and III(j) of this Agreement.

- l. Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity or to the Secretary, for purposes of the Secretary determining Covered Entity's compliance with HIPAA.
- m. Business Associate shall request, use and/or disclose only the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure; provided, that, as of September 23, 2013, Business Associate shall comply with 45 CFR §§ 164.502(b) and 164.514(d).
- n. Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information as prohibited by 45 CFR § 164.502(a)(5)(ii), as of September 23, 2013.
- o. Business Associate shall not make or cause to be made any communication about a product or service that is prohibited by 45 CFR §§ 164.501 and 164.508(a)(3), as of September 23, 2013.
- p. Business Associate shall not make or cause to be made any written fundraising communication that is prohibited 45 CFR § 164.514(f), as of September 23, 2013.
- q. Business Associate shall take all necessary steps, at the request of Covered Entity, to comply with requests by Individuals not to send Protected Health Information to a Health Plan in accordance with 45 CFR § 164.522(a), as of September 23, 2013.
- r. Business Associate shall take reasonable steps to ensure that its employees' actions or omissions do not cause Business Associate to breach the terms of this Agreement or violate provisions of HIPAA that apply to Business Associate.

IV. **Term and Termination.**

- a. The term of this Agreement shall commence as of the Effective Date and shall terminate concurrently with the Underlying Services Agreement unless earlier terminated, by mutual written agreement of the Parties, or in accordance with this Section IV.
- b. Notwithstanding anything in this Agreement to the contrary, if Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of this Agreement then Covered Entity shall provide written notice of the breach or violation to Business Associate that specifies the nature of the breach or violation. Business Associate must cure the breach or end the violation on or before thirty (30) days after receipt of the written notice. In the absence of a cure reasonably satisfactory to Covered entity within the specified timeframe, or in the event the breach is reasonably incapable of cure, then Covered Entity may, terminate this Agreement.
- c. Within thirty (30) days after termination or expiration of this Agreement, Business Associate will return or destroy, if feasible, all Protected Health Information received from or created or received by Business Associate, including all Protected Health Information in possession of Business Associate's agents or subcontractors, on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information. To the extent return or destruction of the Protected Health Information is not feasible, Business Associate shall

notify Covered Entity in writing of the reasons return or destruction is not feasible and if Covered Entity agrees, may retain the Protected Health Information subject to this Section. Under any circumstances, Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to Business Associate's use and/or disclosure of any Protected Health Information retained after the expiration or termination of this Agreement and shall limit further uses and disclosures to those purposes that make the return or destruction of the information not feasible.

V. **Miscellaneous.**

- a. Business Associate shall defend, hold harmless and indemnify Covered Entity, its trustees, officers, faculty, employees, students, against all expenses, liabilities, damages, claims, costs, fines, penalties and losses (including attorneys' and consultant fees) (collectively, "Losses") reasonably incurred by Covered Entity in connection with, related to or arising from (i) the negligent or fraudulent act or omission of Business Associate, its agents, delegates, representatives or Subcontractors; (ii) a violation of HIPAA by Business Associate, its agents, delegates, representatives or Subcontractors; and (iii) a breach of this Agreement by Business Associate, its agents, representatives or Subcontractors. Upon demand by Covered Entity, Business Associate shall defend any investigation, claim, litigation or other proceeding brought or threatened against Covered Entity, at Business Associate's expense, by counsel acceptable to Covered Entity. Business Associate shall not enter into any settlement without the written consent of Covered Entity. This Article V(a) shall survive the expiration or termination of this Agreement for any reason.
- b. The Parties to this Agreement do not intend to create any rights in any third parties. The obligations of Business Associate under this Section and Section IV(c) of this Agreement shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement, and/or the business relationship of the Parties, and shall continue to bind Business Associate, its agents, employees, contractors, successors, and assigns as set forth herein.
- c. This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Part. None of the provisions of this Agreement are intended to create, nor will they be deemed to create and relationship between the Parties other than that of independent parties contracting with each other solely for the purposes of effecting the provisions of this Agreement and any other agreements between the Parties evidencing their business relationship. This Agreement shall be governed by the laws of the State of _____. No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion. The Parties agree that, in the event that any documentation of the arrangement pursuant to which Business Associate provides Underlying Services to Covered Entity contains provisions relating to the use or disclosure of Protected Health Information which are more restrictive than the provisions of this Agreement, the provisions of the more restrictive documentation will control. The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of Protected Health Information. This Agreement, together with the Underlying Services Agreement, constitutes the entire agreement of the Parties relating to Business Associate's use or disclosure of Protected Health Information.
- d. The terms of this Agreement to the extent they are unclear, shall be construed to allow for compliance by Covered Entity with HIPAA and the HITECH Act. In the even that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will

remain in full force and effect. In addition, in the even Covered Entity believes in good faith that any provision of this Agreement fails to comply with the then-current requirements of HIPAA, Covered Entity shall notify Business Associate in writing. For a period of up to thirty (30) days, the Parties shall address in good faith such concern and amend the terms of this Agreement, if necessary, to bring it into compliance. If, after such thirty-day period, the Agreement fails to comply with the requirement of HIPAA, then Covered Entity has the right to terminate upon written notice to the Business Associate.

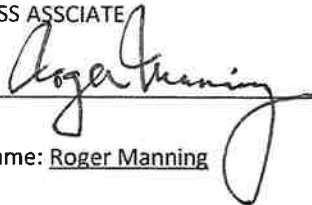
e. Business Associate understands and agrees that it will not assign, delegate, or subcontract any of its rights or obligations under this Agreement to individuals or entities residing outside the United States.

f. This Agreement may be executed in counterparts, each of which will constitute an original and all of which will be one and same document.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BUSINESS ASSOCIATE

COVERED ENTITY

By: 

By: _____

Print Name: Roger Manning

Print Name: Sanjeev Kumar, M.D.

Title: Managing Partner

Title: _____

Date: October 24, 2020

Date: _____

Company Name: Excellentia Advisory Group, LLC

Company Address: 1101 St. Peters Howell Rd.,
St Peters, MO 63376

Telephone #: 636-875-5088

Type of Business: Surgery Center Regulatory Compliance & Development Consultants

ATTACHMENTS

SECTION A-6 LEASE ATTACHMENT

See following 28 pages

901 Vascular is the tenant name currently since this space was a practice that is being converted into an ASTC. Both 901 Vascular and future Poplar Ridge Surgery Center, LLC are owned by the same 3 physician investors who are leasing from Poplar Ventures, LLC which is owned by Dr. Sanjeev Kundi.

LEASE

1. **DEFINITIONS.** Each reference in this lease (this "Lease") to any of the following subjects shall be construed to incorporate the data stated for that subject in this Section 1.

Date of this Lease: 3/4/, 2020

Name of Tenant: 901 Vascular

Notice Address of Tenant: The Premises

Name of Landlord: Poplar Ventures LLC

Notice Address of Landlord: 2880 Lamar Ave
Memphis, TN 38114
Attn: Jay Kumar
901-830-4720
jkumar901@gmail.com

Landlord's Remittance Address: with a copy to:
Sanjeev Kumar MD

(a) Via regular mail: 2880 Lamar Ave
Memphis, TN 38114
Attn: Jay Kumar

or:

(b) Via overnight delivery: 2880 Lamar Ave
Memphis, TN 38114
Attn: Jay Kumar

Building: The building located at 6584 Poplar Ave, Memphis, Tennessee 38138.

Property: The Building and the real property on which the Building is located and any other buildings and improvements located thereon.

Premises: Approximately [5,000] rentable square feet of space on the first floor of the Building, as approximately shown by the floor plan attached hereto as Exhibit A.

Permitted Use: Medical office engaging in general medicine and vascular or wound interventions.

Term: Eighty-Four (84) months, beginning on the Rent Commencement Date, plus any days necessary to have the Term expire at 11:59 P.M. on the Expiration Date.

Possession Date: At Substantial Completion of Landlord's Work (as said terms are defined in the Work Letter). Tenant shall confirm the Possession Date pursuant to Section 36.

Rent Commencement Date: The Possession Date.

Expiration Date: That certain date which is the last day of the eighty-fourth (84th) complete calendar month following the Rent Commencement Date.

Options to Extend: Tenant shall have two (2) options to extend the Term for additional periods of five (5) years each subject to and in accordance with provisions of Section 3.

Tenant's Percentage: _____%, being the ratio of rentable square footage of the Premises to the total rentable square footage of the Building as determined by Landlord.

Base Taxes: The Taxes for the tax year 2019, as they may be reduced by the amount of any abatement.

Tax Excess: Tenant's Percentage of the amount by which Taxes for any year during the Term exceed Base Taxes.

Base Operating Expenses: The Operating Expenses for the year 2019.

Operating Expenses Excess: Tenant's Percentage of the amount by which Operating Expenses exceed Base Operating Expenses for any year during the Term.

Security Deposit: \$36,000 _____.

Exhibits:

- Exhibit A The Premises
- Exhibit B Rules and Regulations
- Exhibit C Commencement Letter
- Exhibit D Work Letter
- Exhibit E Guaranty

All of the Exhibits listed above are incorporated into and made part of this Lease.

Base Rent: 2.5 percent annual increase.

<u>Months of Term</u>	<u>Base Rent (per annum)</u>	<u>Base Rent (per month)</u>	<u>Base Rent (per rentable square foot, per annum)</u>
<u>Rent Commencement Date-12</u>	<u>\$90,000</u>	<u>\$7,500</u>	<u>\$18</u>
<u>Year 2</u>	<u>92,500</u>	<u>7,708</u>	<u>18.5</u>
<u>Year 3</u>	<u>94,500</u>	<u>7,875</u>	<u>18.9</u>
<u>Year 4</u>	<u>97,000</u>	<u>8,083</u>	<u>19.4</u>

Year 5	99,500	8,292	19.9
Year 6	102,000	8,500	20.4
Year 7	104,500	8,708	20.9

2. **THE PREMISES.** Landlord leases to Tenant, and Tenant leases from Landlord, upon and subject to the terms and conditions of this Lease, the Premises. The Premises are leased with the right of Tenant to use for its customers, employees and visitors, in common with other entities entitled thereto, such common areas and facilities as Landlord may from time to time designate and provide.

3. **TERM.** The Premises are leased for a term (the "Initial Term" or "Term") beginning on the Rent Commencement Date and ending on the Expiration Date. Tenant's right to occupy the Premises shall not arise until the Possession Date. If for any reason Landlord is unable to deliver possession of the Premises to Tenant, then Landlord shall not be liable to Tenant for any resultant loss or damage and this Lease shall not be affected except that the Possession Date shall be extended by one (1) day for each day of such delay. If Tenant commences operations in the Premises prior to the Possession Date, then, notwithstanding any language of this Lease to the contrary, Tenant shall begin paying Rent as of the date Tenant commences operations in the Premises, including Base Rent at the rate payable for the first month of the Term disregarding any initial abatement period. In the event Tenant fails to take possession of the Premises following the Possession Date, Tenant shall reimburse Landlord promptly upon demand for all costs incurred by Landlord in connection with entering into this Lease including, but not limited to, broker fees and commissions, sums paid for the preparation of a floor and/or space plan for the Premises, costs incurred by Landlord in performing any improvements to prepare the Premises for Tenant's occupancy, loss of rental income, attorneys' fees and costs, and any other damages for breach of this Lease established by Landlord.

So long as there exists no default either at the time of exercise or on the first day of the applicable Extension Term (as hereinafter defined) and Tenant has not assigned this Lease in whole or in part nor sublet the Premises in whole or in part and is in actual occupancy of the entire Premises, Tenant shall have the option to extend the Term for two (2) additional seven (7) year periods (the "Extension Terms"; each an "Extension Term") upon written notice to Landlord given not less than nine (9) months and not more than twelve (12) months prior to the expiration of the current Term, as such Term may be extended. If Tenant fails to exercise an option to extend the Term strictly within the time period set forth in this section, then Tenant's option to extend the Term shall automatically lapse and be of no further force or effect. In the event that Tenant exercises an option granted hereunder, the applicable Extension Term shall be upon the same terms and conditions as are in effect under this Lease immediately preceding the commencement of such Extension Term except that the Base Rent due from Tenant during each year of the applicable Extension Term shall equal One Hundred Two and a Half Percent (102.5%) of the Base Rent payable by Tenant during the immediately preceding year. Tenant shall have no further right or option to extend the Term beyond the expiration of the second Extension Term.

4. **CONDITION OF THE PREMISES.** The Premises are leased in an "as is" and "where is" condition without any warranty of fitness for use or occupation express or implied, it being agreed that Tenant has had an opportunity to examine the condition of the Premises, that Landlord has made no representations or warranties of any kind with respect to such condition, and that Landlord has no obligation to do any work or make any improvements to or with respect to the Premises to prepare the same for Tenant's occupancy except as specifically provided in this section.

Landlord will make improvements to the Premises as described in the Work Letter attached as Exhibit D.

5. MONTHLY RENT. Tenant will pay "Rent" to Landlord for the Premises. Rent shall consist of

Base Rent together with all other amounts required to be paid by Tenant to Landlord pursuant to this Lease ("Additional Rent"). Commencing on the Rent Commencement Date, Base Rent will be paid monthly in advance on or before the first day of each calendar month in accordance with the schedule set forth in Section 1. The Base Rent shall not be adjusted or modified if the actual rentable square footage of the Premises varies from the rentable square footage set forth in Section 1. If the Rent Commencement Date shall be on any day other than the first day of a calendar month, Base Rent for the partial month shall be provided based on the number of days in that month. Unless otherwise provided herein, commencing on the Possession Date, Additional Rent will be paid monthly in advance on or before the first day of each calendar month. If the Possession Date shall be on any day other than the first day of a calendar month, Additional Rent for the partial month shall be prorated based on the number of days in that month. Rent will be paid to Landlord, without notice or demand, and without deduction or offset, in lawful money of the United States of America, at Landlord's Remittance Address as set forth in Section 1 or to such other address as Landlord may from time to time designate in writing. Tenant acknowledges that the late payment of Rent or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or must deed covering the Property. Accordingly, if any installment of Rent or any other sums due from Tenant shall not be received by Landlord within five (5) days of when due, Tenant shall pay to Landlord a late charge equal to fifteen percent (15%) of such overdue amount. In addition, any amount due to Landlord, if not paid within five (5) days of when due, shall bear interest from the due date until paid at the rate of twelve percent (12%) per annum. The parties agree that such late charges represent a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. The acceptance of such late charges by Landlord shall in no event constitute a waiver of Tenant's default with respect to the overdue amount or prevent Landlord from exercising any of the other rights and remedies granted hereunder. Notwithstanding anything to the contrary in this Lease, Tenant shall pay the first installment of Rent due hereunder upon execution of this Lease.

6. TAXES. Tenant will pay, as Additional Rent, the Tax Excess based on estimates provided by Landlord from time to time and subject to reconciliation as provided in Section 10 below. "Taxes" means all taxes, assessments and fees levied upon the Property by any governmental entity based upon the ownership, leasing, renting or operation of the Property. Taxes shall not include any federal, state or local net income, capital stock, succession, transfer, replacement, gift, estate or inheritance taxes; provided, however, if at any time during the Term, a tax or excise on income is levied or assessed by any governmental entity in lieu of or as a substitute for, in whole or in part, real estate taxes or other ad valorem taxes, such tax shall constitute and be included in Taxes. In addition to the foregoing, Taxes will be considered as part of the Taxes for the year in which the expenses are incurred, and Tenant shall not be responsible for any Taxes on the Property for the period prior to the Term.

Tenant shall be responsible for all Personal Property Taxes.

7. INSURANCE.

(A) Tenant shall maintain the following insurance in force from the date upon which Tenant first enters the Premises throughout the Term and thereafter for so long as Tenant is in occupancy of any part of the Premises:

- (i) Commercial General Liability Insurance with limits of at least \$1,000,000 per occurrence, \$2,000,000 general aggregate, and if Tenant manufactures or produces a product, \$2,000,000 products completed operations aggregate covering bodily injury and property damage arising out of the use of the Premises, as well as products/completed operations, blanket contractual liability, personal injury and advertising liability;

(ii) Worker's Compensation insurance as required by the state in which the Premises is located covering occupational injuries or disease to all employees of Tenant and to any contractors, subcontractors or other agents used by Tenant for work or other activities on or about the Premises. Such policy will include Employer's Liability limits of at least \$500,000 each accident, \$500,000 each employee, and \$500,000 disease;

(iii) Property insurance covering "all risk" of physical damage to Tenant's personal property and any property in the care, custody, and control of Tenant. In addition, this policy will cover any direct or indirect physical damage to all alterations, additions, improvements (including carpeting, floor coverings, paneling, decorations, fixtures and any improvements or betterments to the Premises made by Tenant or by Landlord at Tenant's request or for Tenant's benefit) situated in or about the Premises. Such coverage will be for the full replacement value of the covered property.

(B) Tenant's Commercial General Liability, Property, and Excess Liability/Umbrella Liability policies shall name Landlord, Colony Capital, Inc., and Landlord's mortgagee, managing agent, beneficiaries, partners, direct and indirect affiliates, subsidiaries, officers, directors, agents, trustees, employees, contractors and subcontractors as Additional Insureds and shall be primary insurance as to any insurance carried by the parties designated as Additional Insureds. All policies purchased and maintained by Tenant to satisfy the requirements in this Lease must be purchased from an insurance company with a minimum rating of "A- X" or its equivalent from one of the major rating agencies (AM Best, Moodys, Standard & Poors, Fitch) that is admitted or eligible to do business in the state where the Premises is located.

(C) Tenant will provide Landlord with a certificate of insurance for each policy simultaneously with the delivery of an executed counterpart of this Lease and at least thirty (30) days prior to each renewal of such insurance. Such certificates of insurance will be on an ACORD Form 27 or ISO Form 2026 or their equivalent, shall certify that such policy has been or will be issued and that it provides the coverage and limits required above, and shall provide that the insurance will not be canceled or materially changed unless thirty (30) days prior written notice shall have been given to Landlord. In addition to providing the certificates of insurance required herein, Tenant shall also promptly furnish any additional information, including complete copies of Tenant's insurance policies, as Landlord may request from time to time pertaining to Tenant's insurance coverage. Tenant will notify Landlord in writing at least sixty (60) days in advance if Tenant intends to or receives a notice that its insurance company intends to cancel or non-renew such insurance for any reason, or if the required coverage or limits are to be materially changed from the initial requirements in this Lease. In the event that the applicable statutory time period is less than sixty (60) days, then Tenant shall notify Landlord within three (3) business days of receipt of any cancellation or non-renew notice. In the event that Tenant fails to obtain or maintain the insurance required above or fails to provide the Certificates of Insurance required, Landlord may, at its option, obtain such insurance on behalf of Tenant.

(D) Landlord shall carry or cause to be carried such insurance in amounts and with deductibles as a reasonably prudent landlord would purchase and maintain with respect to the Property. Tenant shall pay Tenant's Percentage of Landlord's insurance premiums ("Insurance Premiums") ^{based on the percentage of} during the Term of the Lease as a part of Operating Expenses. Tenant shall not do or permit to be done anything which will contravene, invalidate, or increase the cost of Landlord's insurance and shall comply with all rules, orders, regulations, requirements and recommendations of Landlord or its insurance companies relating to or affecting the condition, use, or occupancy of the Premises.

8. WAIVER OF SUBROGATION. Notwithstanding any other language of this Lease to the contrary, Landlord and Tenant each waive their respective rights to recover from the other for any and all loss of or damage to their respective property if such loss or damage is covered, or required by this Lease to be covered, by a valid and collectible insurance policy. Each party shall obtain an endorsement acknowledging such waiver, if necessary, from their insurance company(s) evidencing compliance with this section.

9. **OPERATING EXPENSES.** Tenant shall pay, as Additional Rent, the Operating Expenses Excess based on estimates based on the prior month of the Building provided by Landlord from time to time and subject to reconciliation as provided in Section 10 below. "Operating Expenses" means and includes all expenses, costs, fees and disbursements paid or incurred by or on behalf of Landlord for managing, operating, maintaining, improving, and repairing the Property and all associated plumbing, heating, ventilation, air conditioning, lighting, electrical, mechanical and other systems, excluding casualty covered by insurance, and including, without limitation, costs of: performing Landlord's obligations described in Section 13; janitorial; the repair, maintenance, repaving and re-striping of any parking and dock areas; providing any services or amenities such as conference rooms, parking garage, cafeteria, or gymnasium; exterior maintenance, repair and repainting; landscaping; snow removal; utilities; management fees; supplies and sundries; sales or use taxes on supplies or services; charges or assessments under any easement, license, declaration, restrictive covenant or association; legal and accounting expenses. Insurance Premiums; and compensation and all fringe benefits, worker's compensation insurance premiums and payroll taxes paid to, for or with respect to all persons engaged in the operation, administration, maintenance and repair of the Property.

Notwithstanding the foregoing, Operating Expenses shall not include costs of alterations to the premises of other tenants of the Property, depreciation charges, interest and principal payments on mortgages, ground rental payments and real estate brokerage and leasing commissions; costs incurred for Landlord's general overhead and any other expenses not directly attributable to the operation and management of the Building or the Property; costs of selling or financing any of Landlord's interest in the Property; costs incurred by Landlord for the repair of damage to the Property to the extent that Landlord is reimbursed by insurance proceeds; the costs of services and utilities separately chargeable to individual tenants of the Building; and Taxes.

10. **RECONCILIATION.** Any failure by Landlord to deliver any estimate or statement of Additional Rent required under this Lease shall not operate as a waiver of Landlord's right to collect all or any portion of Additional Rent due hereunder. Within 90 days after the end of each calendar year, Landlord shall provide Tenant with a statement of all actual Operating Expenses and Taxes for the preceding year. If Tenant has made estimated payments of Operating Expenses or Taxes in excess of the actual amount due, Landlord shall credit Tenant with any overpayment against the next Rent otherwise due. If the actual amount due exceeds the estimated payments made by Tenant during the preceding year, Tenant shall pay the difference to Landlord within ~~thirty (30) business days~~ ~~(10 days)~~ and such obligation shall survive the expiration or earlier termination of this Lease. Tenant, on reasonable notice, is entitled to audit or see proof of expenses.

11. **SECURITY DEPOSIT.** Upon execution of this Lease, Tenant shall deposit with Landlord the amount of the Security Deposit specified in Section 1 of this Lease. Provided that Tenant has paid all amounts due and has otherwise performed all obligations hereunder, the Security Deposit will be returned to Tenant without interest within sixty (60) days of the expiration of the Term, further provided that Landlord may deduct from the Security Deposit prior to returning it any amounts owed by Tenant to Landlord. If Tenant defaults under any provision of this Lease, Landlord may, but shall not be obligated to, apply all or any part of the Security Deposit to cure the default. In the event Landlord elects to apply the Security Deposit as provided for above, Tenant shall, within five (5) days after Landlord's demand, restore the Security Deposit to the original amount. Upon any sale or other conveyance of the Building, Landlord may transfer the Security Deposit (or any amount of the Security Deposit remaining) to a successor owner, and Tenant agrees to look solely to the successor owner for repayment of the same. The Security Deposit will not operate as a limitation on any recovery to which Landlord may be entitled. ~~New owner does not accept and disavows all responsibility for the return of the Security Deposit.~~

12. **USE.** The Premises shall be used for the Permitted Use and for no other purposes whatsoever. Tenant shall not do or permit to be done in or about the Premises, Building or Property anything which is prohibited by any law, statute, ordinance or other governmental rule or regulation now in force or which may

hereafter be enacted, including, without limitation, the Americans with Disabilities Act of 1990, as amended (collectively, "Applicable Law"). Tenant shall use and cause all contractors, agents, employees, invitees and visitors of Tenant to use the Premises and any common area of the Property in such a manner as to prevent waste, nuisance and any disruption of other occupants. No vehicles or materials shall be permitted to block any sidewalks, driveways, loading docks or any other common area nor shall any vehicle be parked in the parking lot for longer than is necessary for the customary business purposes of Tenant. Landlord shall have the right, but not the obligation, to remove any vehicles and dispose of any materials, debris, or other items in violation of this section and such removal or disposal shall be at the sole risk of Tenant and Tenant shall pay the cost therefor to Landlord as Additional Rent upon demand provided Tenant was given reasonable notice and failed to cure the deficiency. Tenant will not allow any signs, cards or placards to be posted, or placed within the Premises such that they are visible outside of the Premises except as specifically provided for in this Lease. Tenant shall not conduct or give notice of any auction, liquidation, or going out of business sale in the Premises. Tenant will not place a load upon any floor in the Premises exceeding the floor load per square foot of area which such floor was designed to carry or which is allowed by law.

12.1 MEDICAL WASTE; HIPAA.

Tenant agrees that it will, at its sole cost and expense:

(a) Strictly comply with all statutes, ordinances, orders, and regulations of all federal, state, municipal and other government authorities and all rules and standards of any medical or professional associations having jurisdiction over Tenant which pertain to Tenant's occupancy or use of the Premises;

(b) Affirmatively determine and strictly comply with all municipal, county, state or federal statutes, ordinances, or regulations concerning discharge and disposal of chemicals and other Hazardous Substances (hereinafter defined) and Medical Waste (hereinafter defined), whether defined by local, state or federal agencies, utilized or generated by Tenant's activities. In any event, Tenant shall not discharge into the Building's sanitary sewer system any such chemicals, hazardous wastes, or other noxious, infectious or offensive fluids or solids;

(c) Notwithstanding anything to the contrary contained in this Lease, Tenant is responsible, at Tenant's sole cost and expense, for proper handling and disposal of Medical Waste (as defined herein) generated in the Premises. Landlord's janitorial provider is not responsible for any handling of contaminated objects, materials or substances. Tenant acknowledges that the laws, ordinances, rules and regulations governing proper waste management may be amended from time to time by city, state, county or federal government agencies. Each and every waste management company chosen by Tenant to handle Tenant's waste removal may change its policies and practices governing the disposal of waste from time to time; provided, however, that such policies and practices will at all times comport with current governmental laws, ordinances, rules and regulations governing proper waste management. Tenant will provide Landlord with a copy of any waste disposal agreement, if any, entered into between Tenant and such waste management company for the removal of waste from the Premises at any time during the Term. Notwithstanding any changes in the rules, regulations, manner of handling or other manner affecting waste management, Tenant agrees to fully cooperate and abide by the foregoing as the same may be amended or changed from time to time. Failure to abide by the aforementioned laws, ordinances, rules and regulations governing proper waste management constitutes an Event of Default and shall be treated in the same fashion as a non-monetary breach under the terms of this Lease. Notwithstanding anything to the contrary contained herein, Tenant agrees to retain all Medical Waste in the Premises or, at Landlord's election, in an area within the Building mutually agreed by Tenant and Landlord, at all times until such Medical Waste is removed therefrom by Tenant's waste management company. Tenant shall be solely responsible for and shall defend, indemnify and hold Landlord and Landlord's agents harmless from and against all claims, costs and liabilities, including attorney's fees and costs, arising out of or in connection with such Medical Waste and the work and materials necessary to return the Premises and Buildings to their condition existing prior to Tenant's

placement of the Medical Waste on the Premises. Tenant will contract for waste removal. In the event Landlord believes removal is unsatisfactory, Landlord shall give Tenant five (5) business days' notice to cure any deficiency.

(d) Landlord and Tenant agree to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

13. TENANT'S OBLIGATIONS; LANDLORD'S OBLIGATIONS. Excepting only for those obligations for which Landlord is expressly responsible pursuant to this section, Tenant will, throughout the Term and at its sole cost, keep and maintain the Premises and all fixtures and equipment located therein clean, safe and in good working order and make all necessary repairs and replacements thereto whether structural or non-structural, foreseen or unforeseen, including, but not limited to, replacing all broken glass with glass of the same size and quality as that broken, ~~replacing all burnt-out light bulbs and ballasts, removing all damage,~~ and repairing or replacing all systems or portions of systems exclusively serving the Premises. All repairs and replacements required of Tenant in connection herewith shall be of a quality and class at least equal to the minimum building standards established by Landlord and shall be done in a good and workmanlike manner in compliance with all applicable laws and the terms and conditions of this Lease. Should Tenant require any additional service not provided by Landlord pursuant to this Lease, including any services furnished outside the Building's normal business hours, Landlord may, but shall not be obligated to, furnish such additional service and Tenant agrees to pay Landlord's charges therefor, including a reasonable administrative fee, any taxes imposed thereon, and, where appropriate, a reasonable allowance for depreciation of any systems being used to provide such service, as Additional Rent upon demand.

Landlord shall maintain the roof, foundation, exterior walls, heating and air, HVAC, plumbing, ~~central air conditioning, electrical, fire alarm, fire extinguishers and trash removal, common office maintenance issues including but not limited to the following: phone, all common areas including ballrooms, hallways and any common areas of the Building.~~ Notwithstanding the foregoing, any damage occasioned by the negligence or willful act of Tenant or any person claiming under Tenant, or contractors, agents, employees, invitees or visitors of Tenant or any such person, shall be repaired by and at the sole expense of Tenant, except that Landlord shall have the right, at its sole option, to make such repairs and to charge Tenant for all reasonable costs and expenses incurred in connection therewith and Tenant shall pay the cost therefor as Additional Rent upon demand.

14. SUBLEASE; ASSIGNMENT. Tenant will not mortgage, pledge, hypothecate or otherwise encumber its interest in this Lease. Tenant will not allow the Premises to be occupied, in whole or in part, by any other entity and will neither sublet the Premises, in whole or in part, nor assign this Lease, nor amend any sublease or assignment to which Landlord has consented, without in each case obtaining the prior written consent of Landlord. Any sublease or assignment, or amendment to any sublease or assignment, without Landlord's prior written consent shall, at Landlord's option, be null, void and of no effect, and shall, at Landlord's option, constitute an Event of Default. The provisions of this section shall apply to a transfer, by one or more transfers, of all, or substantially all, of the business or assets of Tenant, of a majority of the stock or partnership interests, or other evidences of ownership, of Tenant, and of any shares, voting rights or ownership interests of Tenant which results in a change in the identity of the entity or entities which exercise, or may exercise, effective control of Tenant as if such transfers were an assignment of this Lease. Tenant must request Landlord's consent to any assignment or sublease at least sixty (60) days prior to the proposed effective date of the assignment or sublease. At the time of its request, Tenant will provide Landlord in writing: (a) the name and address of the proposed assignee or subtenant, (b) a complete copy of the proposed assignment or sublease, (c) reasonably satisfactory information about the nature, business, and business history of the proposed assignee or subtenant and its proposed use of the Premises, and (d) banking, financial or other credit information about the proposed assignee or subtenant sufficient to enable Landlord to determine its financial condition and operating performance. Landlord shall not unreasonably withhold or delay its consent to Tenant's written request to sublease the Premises or assign this Lease which is made in compliance with the terms and conditions of this section. Without limiting the other instances in which it

may be reasonable for Landlord to withhold its consent to an assignment or sublease. Landlord's refusal to consent to any proposed assignment or sublease shall not be unreasonable if: (a) the financial condition or operating performance of the proposed subtenant or assignee, determined in Landlord's reasonable discretion, is less than the greater of the financial condition or operating performance of Tenant on (i) the date of execution of this Lease or (ii) the date of Tenant's request for Landlord's consent to the proposed assignment or sublease; (h) Tenant is in default under any of the terms, covenants or conditions of this Lease; (c) the proposed use of the Premises may result in: (i) increased wear and tear on the Premises, Building or Property or (ii) any adverse effect on other tenants in the Building or adjacent buildings owned by Landlord; (d) the proposed subtenant or assignee is a governmental agency; (e) Landlord has space available elsewhere in the Building which can accommodate the needs of the proposed subtenant or assignee or the proposed subtenant or assignee is a prospect to whom Landlord has made a proposal for the lease of space within the market area within the prior three (3) months; (f) the proposed assignee or subtenant is a tenant in any building owned by Landlord or any affiliate of Landlord including, without limitation, the Building; or (g) the proposed subtenant or assignee would cause Landlord to be in violation of any covenant or restriction contained in another lease or other agreement.

No subletting or assignment shall release Tenant from Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the Rent and to perform all other obligations to be performed by Tenant hereunder. Any subtenant shall, at Landlord's election, atom to Landlord following any early termination of this Lease and any assignee shall be jointly and severally liable for the full performance of all of Tenant's obligations hereunder. Landlord may require, as a condition to granting Landlord's consent with respect to the provisions of this section, that the proposed subtenant or assignee enter into a written agreement with Landlord confirming the obligations of such subtenant or assignee under this Lease. Tenant shall pay, as Additional Rent on demand, all reasonable legal fees incurred by Landlord in connection with each proposed assignment or sublease whether or not Landlord's consent is obtained. If Tenant receives rent or other payments under any assignment or sublease in excess of the payments made by Tenant to Landlord under this Lease (as such amounts are adjusted on a per square foot basis if less than all of the Premises is transferred), then Tenant shall pay Landlord one half of such excess. Landlord's consent to one assignment or sublease shall not be deemed a waiver of the requirement of Landlord's consent to any subsequent assignment or sublease. In the event Tenant seeks to sublet all or any portion of the Premises or assign its interest in this Lease, and Landlord does not consent to such proposed sublease or assignment, Landlord may elect to terminate this Lease with respect to the portion of the Premises that would be subject to such sublease or assignment, in which case the last day of the Term of this Lease for such space shall be the third (3rd) day after Landlord notifies Tenant of Landlord's election to terminate this Lease and, if less than the entire Premises is affected, Landlord shall have the right to perform any alterations to make such space a self contained rental unit.

15. INDEMNITY; NON-LIABILITY OF LANDLORD. As a material part of the consideration for Landlord's execution of this Lease, Tenant, to the fullest extent permitted by law, shall neither hold nor attempt to hold Landlord or its employees or Landlord's agents or their employees liable for, and Tenant covenants and agrees that it will protect and save and keep Landlord forever harmless and indemnified against and from any and all penalties, damages, fines, causes of action, liabilities, judgments, expenses (including, without limitation, attorneys' fees) or charges incurred in connection with or arising from, except where such penalties, damages, fines, causes of action, liabilities, judgments, expenses (including, without limitation, attorneys' fees) or charges result from the gross negligence or willful misconduct of Landlord, its agents or employees: (i) the use or occupancy of the Premises by Tenant or any person claiming under Tenant; (ii) any acts, omissions or negligence of Tenant or any person claiming under Tenant, or contractors, agents, employees, invitees or visitors of Tenant or any such person; (iii) any breach, violation or nonperformance by Tenant or any person claiming under Tenant of the employees, agents, contractors, invitees or visitors of Tenant or any such person of any term, covenant or provision of this Lease or any law, ordinance or governmental requirement of any kind; or (iv) any injury or damage to the person, property or

business of Tenant, its employees, agents, contractors, invitees, visitors or any other person entering upon the Property under the express or implied invitation of Tenant.

Landlord shall not be liable or responsible to Tenant for any loss or damage to any property or person occasioned by theft or any other criminal act, fire, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, law of requisition or order of any governmental authority.

16. **UTILITIES.** Tenant shall contract directly with public utility providers for all utilities which are separately metered to the Premises and shall pay such utility providers directly when due. If any utility is not separately metered to the Premises, the cost of such utility consumed on the Premises, as reasonably determined by Landlord, shall be paid by Tenant as Additional Rent. Tenant's obligation to pay for utilities provided to the Premises during the Term shall survive the expiration or earlier termination of the Lease. Tenant shall not utilize an alternative provider for a utility service other than the public utility provider servicing the Property unless Tenant shall first obtain the written consent of Landlord. Landlord shall in no way be liable or responsible for any loss, damage, or expense that Tenant may sustain or incur by reason of any change, failure, interruption, or defect in the supply or character of the electric energy furnished to the Premises or Building. To ensure the proper functioning and protection of all utilities, Tenant agrees to abide by all reasonable regulations and requirements which Landlord may prescribe and to allow Landlord and its utility providers access to all electric lines, feeders, risers, wiring, and any other machinery within the Premises.

17. **HOLDING OVER.** If Tenant or any party claiming by or under Tenant remains in occupancy of the Premises or any part thereof beyond the expiration or earlier termination of this Lease, such holding over shall be without right and a tenancy at sufferance, and Tenant shall be liable to Landlord for any loss or damage incurred by Landlord as a result thereof, including consequential damages. In addition, for each month or any part thereof that such holding over continues, Tenant shall pay to Landlord a monthly fee for the use and occupancy of the Premises equal to the greater of (a) the monthly fair market rental for the Premises and (b) thirty-five percent (35%) plus the Rent payable for the month immediately preceding such hold over, and there shall be no adjustment or abatement for any partial month. The provisions of this section shall not be deemed to limit or exclude any of Landlord's rights of re-entry or any other right granted to Landlord hereunder, at law or in equity.

18. **NO RENT DEDUCTION OR SET OFF.** Tenant's covenant to pay Rent is and shall be independent of each and every other covenant of this Lease. Tenant agrees that any claim by Tenant against Landlord shall not be deducted from Rent nor set off against any claim for Rent in any action. No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any remedy provided in this Lease or at law. In connection with the foregoing, Landlord shall have the absolute right in its sole discretion to apply any payment received from Tenant to any account or other payment of Tenant then not current and due or delinquent.

19. **CASUALTY.** If the Premises or any part thereof are damaged by fire or other casualty, Tenant shall give prompt notice thereof to Landlord. If the Premises or the Building are totally or partially damaged or destroyed by fire or other casualty, thereby rendering the Premises totally or partially inaccessible or unusable, Landlord shall diligently restore and repair the Premises and the Building to substantially the same condition they were in prior to such damage. Provided that such damage was not caused by the act or omission of Tenant or any of its employees, agents, licensees, invitees or subtenants, until the repair and restoration of the Premises is completed all Rent due pursuant to this lease shall be abated for that part of the Premises that Tenant is unable to use without substantial interference while repairs are being made, based on the ratio that the amount of unusable rentable area bears to the total rentable area of the Premises. Landlord shall bear the

costs and expenses of repairing and restoring the Premises and the Building, nor shall Landlord be obligated to repair or restore, or to pay for the repair or restoration of, any furnishings, equipment or personal property belonging to Tenant.

Notwithstanding the foregoing, (a) if there is a destruction of the Building that exceeds twenty-five percent (25%) of the replacement value of the Building from any risk, whether or not the Premises are damaged or destroyed, or (b) if Landlord reasonably believes that the repairs and restoration cannot be completed despite reasonable efforts within ninety (90) days after the occurrence of such damage, or (c) if Landlord reasonably believes that there will be less than two (2) years remaining in the Term upon the substantial completion of such repairs and restoration, or (d) if any mortgagee or lender fails or refuses to make sufficient insurance proceeds available for repairs and restoration, Landlord or Tenant shall have the right, at its sole option, to terminate this Lease by giving written notice of termination to Tenant within one hundred twenty (120) days after the occurrence of such damage. If this Lease is terminated pursuant to the preceding sentence, all Rent payable hereunder shall be apportioned and paid to the date of termination.

All time periods provided in this Section for Landlord's performance shall be subject to extension on account of delays in effectuating a satisfactory settlement with any insurance company involved and events beyond Landlord's reasonable control. In the event of any damage or destruction to the Building or Premises, it shall be Tenant's responsibility to secure the Premises and, upon notice from Landlord, to remove forthwith, at its sole cost and expense, property belonging to Tenant or its licensees from such portion of the Premises as Landlord shall request.

20. SUBORDINATION; STOPPEL LETTERS. This Lease is expressly subordinate to any current or future mortgage or mortgages placed on the Property and to all other documents executed in connection with any such mortgage. Tenant agrees not to pay rent more than thirty (30) days in advance and to accorn to any party acquiring rightful possession of the Premises by or through any such mortgage. Tenant agrees that from time to time it will deliver to Landlord or Landlord's mortgagee or designee within ten (10) business days of the date of Landlord's or Landlord's mortgagee or designee's request, a statement, in writing, certifying (i) that this Lease is unmodified and in full force and effect, if this is so, or if there have been modifications that the Lease as modified, is in full force and effect; (ii) the dates to which Rent and other charges have been paid; (iii) that Landlord is not in default under any provisions of this Lease or, if in default, the nature thereof in detail; (iv) confirming the subordination of this Lease to any current or future mortgage or mortgages placed on the Property by Landlord and Tenant's agreement to accorn to any party acquiring rightful possession of the Premises by or through any such mortgage; and (v) such other true statements as Landlord or Landlord's mortgagee or designee may reasonably require.

21. SIGNS. Tenant, at Tenant's expense, may place a sign identifying Tenant in a mutually agreed upon location designated provided, however, that Tenant shall have first obtained the prior written approval of the approved plans. Landlord shall not unreasonably withhold its approval of the plans for such sign, the design and location of other signs identifying tenants in the Building. Such sign shall be subject to all applicable laws and ordinances. Upon termination of this Lease, Tenant shall remove such sign and repair any damage caused thereby.

22. ALTERATIONS; RESTORATION

(A) Tenant will not make or permit to be made any alterations, additions, or improvements in or to the Premises ("Alterations") without first obtaining the prior written consent of Landlord which consent may not be unreasonably withheld. All Alterations (i) must comply with all applicable laws, (ii) must be compatible with the Building and its mechanical, electrical, heating, ventilating, air-conditioning and life safety systems;

(m) must not interfere with the use and occupancy of any other portion of the Building by any other tenant or their invertees; and (iv) must not affect the integrity of the structural portions of the Building. In addition, Landlord may impose as a condition to such consent such additional reasonable requirements as Landlord in its discretion deems necessary or desirable, including, without limitation: (a) Tenant's submission to Landlord's prior written approval of the time or times when the Alterations are to be performed; (b) Landlord's written approval of the contractors and subcontractors performing work in connection with the Alterations; (d) Tenant's receipt of all necessary permits and approvals from all governmental authorities having jurisdiction over the Premises prior to the construction of the Alterations; (e) Tenant's delivery to Landlord of such bonds and insurance as Landlord customarily requires; (f) Tenant's payment to Landlord of a commercially reasonable fee for Landlord's supervision of any Alterations; (g) Tenant's and Landlord's contractor's compliance with such construction rules and regulations and building standards as Landlord promulgates from time to time; and (h) Tenant's delivery to Landlord of "as built" drawings of the Alterations in such form or medium as Landlord may require. All direct and indirect costs relating to any modifications, alterations or improvements of the Building, whether outside or inside of the Premises, effected by Tenant will be borne by Tenant. Landlord may elect to perform such modifications, alterations or improvements (at Tenant's sole cost and expense) or require such performance directly by Tenant. Tenant will not permit any mechanic's lien or other liens to be placed upon the Premises or the Building as a result of any materials, services or labor ordered by or provided to Tenant or any of Tenant's agents, officers, or employees. Without waiving any other rights or remedies under this Lease, Landlord may bond or insure or otherwise discharge any such lien and Tenant shall reimburse Landlord for any amount paid by Landlord in connection therewith as Additional Rent upon demand.

(B) Upon the expiration or earlier termination of the Lease, Tenant will surrender the Premises in good working order and condition. Tenant will remove any and all trade fixtures, equipment, and furniture from the Premises and Tenant will fully repair any damages, including any structural damage, occasioned by the removal of the same.

23. DEFAULT; REMEDIES.

(A) In addition to any other acts or omissions designated in this Lease as Events of Default, each of the following shall constitute an Event of Default by Tenant hereunder: (i) the failure to make any payment of Rent or any installment thereof or to pay any other sum required to be paid by Tenant under this Lease or under the terms of any other agreement between Landlord and Tenant and the continuance of such failure for more than ten (10) days following written notice from Landlord to Tenant and the occupancy of the Premises for any purpose other than the Permitted Use without Landlord's prior written consent or the conduct of any activity in the Premises which constitutes a violation of law; (ii) if the interest of Tenant or any part thereof under this Lease shall be levied on under execution or other legal process and said interest shall not have been cleared by said levy or execution within fifteen (15) days from the date thereof; (iv) if any voluntary or involuntary petition in bankruptcy or for corporate reorganization or any similar relief shall be filed by or against Tenant or any guarantor of the Lease or if a receiver shall be appointed for Tenant or any guarantor or any of the property of Tenant or guarantor; (v) if Tenant or any guarantor of the Lease shall make an assignment for the benefit of creditors or if Tenant shall admit in writing its inability to meet Tenant's debts as they mature; (vi) if any insurance required to be maintained by Tenant pursuant to this Lease shall be cancelled or terminated or shall expire or shall be reduced or materially changed, except, in each case, as permitted in this Lease; or agreed to in writing, mutually, by the parties; (vii) if Tenant shall fail to immediately discharge or bond over any lien placed upon the Premises in violation of this Lease; (viii) if Tenant shall abandon or vacate the Premises during the Term; (ix) if Tenant shall fail to execute and deliver an escrow certificate or subordination agreement as required hereunder; or (x) the failure to observe or perform any of the other covenants or conditions in this Lease which Tenant is required to observe and perform and which Tenant has not corrected within thirty (30) days after written notice thereof to Tenant;

provided, however, that if said failure involves the creation of a condition which, in Landlord's reasonable judgment, is dangerous or hazardous, Tenant shall be required to cure same within 24 hours after actual receipt of written notice.

(B) Upon the occurrence of an Event of Default by Tenant, the cost of all brokerage commissions, rental abatements, legal fees, Tenant allowances, work performed by Landlord to the Premises, and any other Tenant inducements paid or provided under this Lease plus interest on the foregoing items accruing from the Possession Date at the rate of eight percent (8%) per annum shall immediately become due and payable by Tenant to Landlord, and Landlord may, at its option, exercise any one or more of the following described remedies, in addition to all other rights and remedies provided at law, in equity or elsewhere herein, and such rights and remedies shall be cumulative and none shall exclude any other right allowed by law:

(i) Landlord may terminate this Lease, repossess and re-let the Premises, in which case Landlord shall be entitled to recover as damages (in addition to any other sums or damages for which Tenant may be liable to Landlord) a lump sum equal to the amount by which the present value of the excess Rent remaining to be paid by Tenant for the balance of the Term of the Lease exceeds the fair market rental value of the Premises, after deduction of all anticipated expenses of reletting. For the purpose of determining present value, Landlord and Tenant agree that the interest rate shall be the rate applicable to the then-current yield on obligations of the U.S. Treasury having a maturity date on or about the Expiration Date. Should the fair market rental value of the Premises for the balance of the Term (after deduction of all anticipated expenses of reletting) exceed the value of the Rent to be paid by Tenant for the balance of the Term, Landlord shall have no obligation to pay to or otherwise credit Tenant for any such excess amount;

(ii) Landlord may, but shall not be obligated so to do, and without waiving or releasing Tenant from any obligations of Tenant hereunder, make any payment or perform such other act on Tenant's part to be made or performed as provided in this Lease. All sums so paid by Landlord and all necessary incidental costs shall be payable to Landlord as Additional Rent on demand and Tenant covenants to pay such sums.

(C) Tenant agrees that Landlord may file suit to recover any sums falling due under the terms of this section from time to time and that no suit or recovery of any portion due Landlord hereunder shall be any defense to any subsequent action brought for any amount not theretofore reduced to judgment in favor of Landlord.

(D) Tenant shall promptly pay upon notice, as Additional Rent, all reasonable costs, charges and expenses incurred by Landlord (including, without limitation, reasonable fees and out-of-pocket expenses of legal counsel, collection agents, and other third parties retained by Landlord) together with interest thereon at the rate set forth in Section 5 of this Lease, in collecting any amount due from Tenant, enforcing any obligation of Tenant hereunder, or preserving any rights or remedies of Landlord; and Tenant shall defend and hold harmless Landlord from all reasonable attorneys' fees and expenses arising out of any litigation, negotiation or transaction in which Tenant causes Landlord, without Landlord's fault, to become involved or concerned.

(E) No waiver of any provision of this Lease shall be implied by any failure of Landlord to enforce any remedy on account of the violation of such provision, even if such violation be continued or repeated subsequently, and no express waiver by Landlord shall be valid unless in writing and shall not affect any provision other than the one specified in such written waiver and that provision only for the time and in the manner specifically stated in the waiver. No receipt of monies by Landlord from Tenant after the termination of this Lease shall in any way alter the length of the Term or Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given Tenant prior to the receipt of such monies, it being agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any Rent due, and the

payment of Rent shall not waive or affect said notice, suit or judgment. Landlord shall not be required to serve Tenant with any notices or demands as a prerequisite to its exercise of any of its rights or remedies under this Lease, other than those notices and demands specifically required under this Lease.

(f) Notwithstanding anything other rights or remedies of either party, Tenant shall always have a fifteen (15) day right to cure default unless a deficient cure time is specified.

24. **NOTICES.** All notices permitted or required hereunder shall be in writing and (i) delivered personally, (ii) sent by U.S. Certified Mail, postage prepaid, with return receipt requested, or (iii) sent overnight by nationally recognized overnight courier and sent to the respective parties at the Notice Addresses provided in Section 1 of this Lease. If sent by nationally recognized overnight courier, such notice shall be considered received by the addressee on the first (1st) business day after deposit with the courier. Notices may be given by an agent on behalf of Landlord or Tenant. Any notice from Landlord to Tenant will also be deemed to have been given if delivered to the Premises, addressed to Tenant and left with an adult agent of Landlord or Tenant.

25. **EMINENT DOMAIN.** If during the Term (a) the whole of the Premises or the Building shall be taken by any governmental or other authority having powers of eminent domain or conveyed to such entity under threat of the exercise of such power or (b) any part of the Premises or the Building shall be so taken or conveyed and as a result, the remainder of the Premises or the Building has been rendered impractical, in Landlord's sole judgment, for the operation of Landlord's rental activities on the Property, this Lease shall terminate on the date of the taking or conveyance, and rent shall be apportioned to the date thereof. Tenant shall have no right to any apportionment of or any share in any condemnation award or judgment for damages made for the taking or conveyance of any part of the Premises or the Building.

26. **QUIET ENJOYMENT.** Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements contained in this Lease, shall peaceably and quietly have, hold and enjoy the Premises for the Term without hindrance or molestation from Landlord subject to the terms and provisions of this Lease.

27. **RULES AND REGULATIONS.** Tenant agrees to comply with (and cause its agents, contractors, employees and invitees to comply with) the rules and regulations attached hereto as Exhibit B and with such reasonable modifications thereof and additions thereto as Landlord may from time to time make. Landlord agrees to enforce the rules and regulations uniformly against all tenants of the Property.

28. ENVIRONMENTAL.

(A) "Environment" shall mean all indoor and outdoor air, surface water, groundwater, surface or subsurface land, including, without limitation, all fish, wildlife, flora and all other natural resources. "Environmental Laws" shall mean all federal, state and local laws (including, without limitation, case and common law), statutes, regulations, rules, ordinances, guidance, permits, licenses, grants, orders, decrees and judgments relating to the Environment, human health and safety, preservation or reclamation of natural resources, or to the management, handling, use, generation, treatment, storage, transportation, disposal, manufacture, distribution, formulation, packaging, labeling, Release or threatened Release of or exposure to Hazardous Substances, whether now existing or subsequently amended or enacted, including, without limitation: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section

300(f) et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act 7 U.S.C. Section 136 et seq.; the Resource Conservation and Recovery Act of 1976 ("RCRA"), 42 U.S.C. Section 6901 et seq.; and the Oil Pollution Act of 1990, 33 U.S.C. Section 2701 et seq. "Hazardous Substances" shall mean all explosive materials, radioactive materials, hazardous or toxic materials, wastes, chemicals or substances, petroleum, petroleum by-products and petroleum products (including, without limitation, crude oil or any fraction thereof), asbestos and asbestos-containing materials, radon, lead, polychlorinated biphenyls, mold, urea-formaldehyde, and all materials, wastes, chemicals and substances that are regulated by any Environmental Law, including, without limitation, hazardous materials listed in 49 C.F.R. Section 172.101 and materials defined as hazardous substances pursuant to Section 101(14) of CERCLA. "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Substances into the Environment.

(B) Tenant shall not (i) manufacture, generate, utilize, store, handle, treat, process, or Release any Hazardous Substances at, in, under, from or on the Premises or Property except those that may be required within Tenant's scope of use or (ii) suffer or permit to occur any violation of Environmental Laws with respect to the Premises or Property. Tenant shall indemnify, defend (with counsel reasonably acceptable to Landlord and at Tenant's sole cost) and hold harmless Landlord and its partners, officers, directors, employees, agents, successors, grantees, assigns and mortgagees from any and all claims, demands, liabilities, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions, causes of action and losses of any and every kind and nature, including, without limitation, diminution in value of the Property, damages for the loss or restriction on use of the rentable or usable space or of any amenity, natural resource damages, damages arising from any adverse impact on leasing space on the Premises or Property, and sums paid in settlement of claims and for attorney's fees, consultant's fees and expert's fees that may arise during or after the Term or any extension of the Term in connection with any breach by Tenant of the covenants contained in this section, the presence, Release or threatened Release of Hazardous Substances at, in, under, from, to or on the Premises or Property, or any violation or alleged violation of any Environmental Laws. For purposes of this section, the term "costs" includes, without limitation, costs, expenses and consultant's fees, expert's fees and attorney's fees incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, restoration, monitoring or maintenance work. This covenant of indemnity shall survive the termination of this Lease. Notwithstanding the foregoing, the prohibition contained herein shall not apply to ordinary office products that may contain de minimis quantities of Hazardous Substances, provided such products are used in compliance with Environmental Laws; however, Tenant's indemnification obligations are not diminished with respect to the presence of such products. Tenant shall immediately notify Landlord of any Release or threatened Release at, in, under, from, to or on the Premises or Property.

(C) Tenant shall immediately notify Landlord of any Release or threatened Release at, in, under, from, to or on the Premises or Property. Tenant will immediately notify Landlord and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports, notices or requests for information relating to the condition of the Premises or compliance with Environmental Laws. Tenant will immediately supply Landlord with copies of all notices, reports, correspondence, and submissions exchanged between Tenant and the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, and any other local, state, or federal authority which requires submission of any information pursuant to Environmental Laws. Tenant will immediately notify Landlord of any actions brought against Tenant which pertains to Environmental Laws and Tenant's activity at the Premises or Property and provide Landlord, from time to time upon Landlord's request, with periodic updates as to the status of the same. Tenant will keep the Premises free of any lien imposed pursuant to any Environmental Law and shall immediately notify Landlord of any such lien, whether actually imposed or threatened to be imposed.

(D) Landlord and Landlord's agents, servants, and employees including, without limitation, legal counsel and environmental consultants and engineers retained by Landlord, may (but without the obligation or duty

so to do), at any time and from time to time, inspect the Premises and any documentation which Tenant is required by law to maintain with respect to any Hazardous Substance (including, without limitation, "Material Safety Data Sheets") to determine whether Tenant is complying with Tenant's obligations set forth in this section, and to perform environmental inspections and samplings. If Tenant is not in compliance with Tenant's obligations set forth in this section or is otherwise in violation of any Environmental Laws then such shall constitute an Event of Default under the Lease, and Tenant, upon notice, will begin to cure said default as soon as practical. Failure to do so means Landlord may (but without the obligation or duty to do so), in addition to Landlord's other remedies available under this Lease, at law or in equity, enter upon the Premises immediately and take such action as Landlord in its sole judgment deems appropriate and Landlord will not be liable for any interference caused by Landlord's entry and remediation efforts. The reasonable costs of any remediation performed by Landlord pursuant to this section (including, without limitation, transportation and storage costs) will be paid by Tenant as Additional Rent on demand.

29. **FINANCIAL STATEMENTS.** Upon a written request and when warranted by a reasonable cause the Landlord shall from time to time, but not more often than once each year, shall request the Tenant to furnish Landlord within ~~ten (10) business days~~ of such reasonable request copies of financial statements showing Tenant's current financial condition and the results of the previous year's operations.

30. **BROKERS.** None.

31. **MISCELLANEOUS.**

(A) Time is of the essence of this Lease and each of its provisions.

(B) This Lease and all covenants and agreements herein contained shall be binding upon, apply, and inure to the respective heirs, executors, successors, administrators, and assigns of all parties to this Lease; provided, however, that this Lease shall not inure to the benefit of any assignee, heir, administrator, devisee, legal representative, successor, transferee or successor of Tenant except upon the prior written consent of Landlord.

(C) This Lease contains the entire agreement of the parties, all other and prior representations, negotiations and agreements having been merged herein and extinguished hereby. No modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon either party hereto unless in writing signed by both parties.

(D) The captions of sections and subsections of this Lease are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such sections or subsections.

(E) Interpretation of this Lease shall be governed by the laws of the state or commonwealth in which the Premises is located, without regard to conflict of laws.

(F) This Lease is and shall be deemed and construed to be the joint and collective work product of Landlord and Tenant and, as such, this Lease shall not be construed against either party, as the otherwise purported drafter of same, by any court of competent jurisdiction in order to resolve any inconsistency, ambiguity, vagueness or conflict, if any, in the terms or provisions contained herein.

(G) In the event that either party thereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure labor, inability to procure materials or equipment or reasonable substitutes therefor, failure of power, fire or other casualty, restrictive government laws or regulations, judicial orders, enemy or hostile government actions, riots, insurrection or other civil commotions, war or other reason of a like nature not at the fault of the party delayed in performing any act as required under the terms of this Lease ("Force Majeure"), then

performance of such act shall be excused for the period of delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. Force Majeure shall not operate to excuse Tenant from the prompt payment of Rent or any other payments required under the terms of this Lease.

(H) Tenant shall reimburse Landlord as Additional Rent on demand for all reasonable out-of-pocket expenses, including but not limited to legal, engineering or other professional services or expenses incurred by Landlord in connection with any requests by Tenant for consents or approvals hereunder.

(I) A final determination by a court of competent jurisdiction that any provision of this Lease is invalid shall not affect the validity of any other provision, and any provision so determined to be invalid shall, to the extent possible, be construed to accomplish its intended effect.

(J) If more than one person or entity shall ever be Tenant, the liability of each such person and entity shall be joint and several.

(K) If Tenant is a corporation, a limited liability company, an association or a partnership, it shall, concurrently with the signing of this Lease, at Landlord's option, furnish to Landlord certified copies of the resolutions of its board of directors (or of the executive committee of its board of directors) or consent of its members or partners authorizing Tenant to enter into this Lease. Moreover, each individual executing this Lease on behalf of Tenant represents and warrants that he or she is duly authorized to execute and deliver this Lease and that Tenant is a duly organized corporation, limited liability company, association or partnership under the laws of the state of its incorporation or formation, is qualified to do business in the jurisdiction in which the Building is located, is in good standing under the laws of the state of its incorporation or formation and the laws of the jurisdiction in which the Building is located, has the power and authority to enter into this Lease, and that all corporate or partnership action requisite to authorize Tenant to enter into this Lease has been duly taken.

(L) The submission of this Lease to Tenant is not an offer to lease the Premises, or an agreement by Landlord to reserve the Premises for Tenant. Landlord will not be bound to Tenant until Tenant has duly executed and delivered an original Lease to Landlord and Landlord has duly executed and delivered an original Lease to Tenant. Notwithstanding the Possession Date or Rent Commencement Date contemplated in Section 1 hereof, this Lease shall take effect and be binding upon the parties hereto as of its execution and delivery.

(M) This Lease may be executed in any number of counterparts, and by different parties hereto on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any signature to this Lease transmitted via facsimile (or other electronic means) or other electronic signature shall be deemed an original signature and be binding upon the parties hereto (it being agreed that facsimile or other electronic signature shall have the same force and effect as an original signature).

32. **PARKING.** Tenant shall be entitled to the non-exclusive use, on a first come-first serve basis, of parking spaces in parking areas designated by Landlord. Landlord shall not be obligated to enforce parking limits.

33. **CERTAIN RIGHTS RESERVED TO LANDLORD.** Landlord reserves the following rights, each of which Landlord may exercise without notice or liability to Tenant, except as provided herein, and the exercise of any such rights shall not be deemed to constitute an eviction or disturbance of Tenant's use or possession of the Premises and shall not give rise to any claim for set-off or abatement of Rent or any other claim: (a) upon forty-eight (48) hours prior written notice except in the event of an emergency, to enter the Premises for the purposes of examining the same or to make repairs or alterations or to provide any service;

(b) to change the name or street address of the Building or the suite number of the Premises; (c) to install, affix and maintain any and all signs on the exterior or interior of the Building; (d) to make repairs, decorations, alterations, additions or improvements, whether structural or otherwise, in, about and to the Building or common areas and for such purposes temporarily close doors, corridors and other areas of the Building and interrupt or temporarily suspend services or use of common areas; (e) to retain at all times, and to use in appropriate instances, keys to all doors within and into the Premises; (f) to grant to any person or to reserve unto itself the exclusive right to conduct any business or render any service in the Building; (g) upon forty-eight (48) hours prior written notice except in the event of an emergency, to show the Premises at reasonable times and, if vacated or abandoned, to prepare the Premises for reoccupancy; (h) to install, use and maintain in and through the Premises pipes, conduits, wires and ducts serving the Building; and (i) to approve the weight, size and location of safes or other heavy equipment or other articles which may be located in the Premises and to determine the time and manner in which such articles may be moved in, about or out of the Building or Premises; and (j) to take any other action which Landlord deems reasonable in connection with the operation, maintenance, marketing or preservation of the Premises or Building.

34. LEASE COMMENCEMENT/ACCEPTANCE OF PREMISES. At Landlord's request, Landlord and Tenant shall enter into a commencement letter agreement (the "Commencement Letter") in form substantially similar to that attached hereto as Exhibit C. Tenant's failure to execute and return the Commencement Letter, or to provide written objection to the statements contained in the Commencement Letter, within fifteen (15) days shall be deemed an approval by Tenant of the statements contained therein.

35. WAIVER OF RIGHT TO JURY TRIAL. LANDLORD AND TENANT WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM, ACTION, PROCEEDING OR COUNTERCLAIM BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE, THE RELATIONSHIP OF LANDLORD AND TENANT, AND/OR TENANT'S USE OR OCCUPANCY OF THE PREMISES OR BUILDING (INCLUDING ANY CLAIM OF INJURY OR DAMAGE OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY CURRENT OR FUTURE LAWS, STATUTES, REGULATIONS, CODES OR ORDINANCES). However, both the Landlord and the Tenant maintain the right to address any dispute, which may arise, up to the arbitration and accept their resolution as final.


36. RECORDING. Tenant shall not record this Lease without the prior written consent of Landlord. Tenant, upon the request of Landlord, shall execute and acknowledge a short form memorandum of this Lease for recording purposes.

[Signatures on the Following Page]

IN WITNESS WHEREOF, the parties have executed this instrument as of the Date of this Lease stated in Section 1.

TENANT:

LANDLORD:

By: 
Name: _____
Title: Jorge Santarzen, MD

By: _____
Name: _____
Title: _____



Satil Joshi, Ph.D

EXHIBIT A
THE PREMISES
FINAL FLOOR PLAN TO BE ATTACHED

EXHIBIT B
RULES AND REGULATIONS

1. The water and wash closets and other plumbing fixtures shall not be used for any purposes other than those for which they were constructed, and no sweepings, rubbish, rags or other substances (including, without limitation, coffee grounds) shall be thrown therein. All damages resulting from misuse of the fixtures shall be borne by Tenant if Tenant or its servants, employees, agents, visitors or licensees shall have caused the same.
2. No cooking (except for hot plate and microwave cooking by Tenants' employees for their own consumption, the location and equipment of which is first approved by Landlord), sleeping or lodging shall be permitted by any tenant on the Premises. No tenant shall cause or permit any unusual or objectionable odors to be produced upon or permeate from the Premises.
3. Except as otherwise provided in the Lease and Tenants designated use, no inflammable, combustible, or explosive fluid, material, chemical or substance shall be brought or kept upon, in or about the Premises. Fire protection devices, in and about the Building, shall not be obstructed or encumbered in any way.
4. Canvassing, soliciting and peddling in the Building is prohibited and each tenant shall cooperate to prevent the same.
5. There shall not be used in any space, or in the public halls of the Building, either by any tenant or by its agents, contractors, jobbers or others, in the delivery or receipt of merchandise, freight, or other matters, any hand trucks or other means of conveyance except those equipped with rubber tires, rubber side guards, and such other safeguards as Landlord may require, and Tenant shall be responsible to Landlord for any loss or damage resulting from any deliveries to Tenant in the Building. Deliveries of mail, freight or bulky packages shall be made through the freight entrance or through doors specified by Landlord for such purpose.
6. Mats, trash or other objects shall not be placed in the public corridors. The sidewalks, entries, passages, elevators, public corridors and staircases and other parts of the Building which are not occupied by Tenant shall not be obstructed or used for any other purpose than ingress or egress.
7. Tenant shall not install or permit the installation of any awnings, shades, draperies and/or other similar window coverings, treatments or like items visible from the exterior of the Premises other than those approved by Landlord in writing.
8. Tenant shall not construct, maintain, use or operate within said Premises or elsewhere in the Building or on the outside of the Building, any equipment or machinery which produces music, sound or noise which is audible beyond the Premises.
9. Bicycles, motor scooters or any other type of vehicle shall not be brought into the lobby or elevators of the Building except for those vehicles which are used by a physically disabled person in the Premises.
10. All blinds for exterior windows shall be building standard and shall be maintained by Tenant.
11. No additional locks shall be placed upon doors to or within the Premises except as shall be necessary adequately to safeguard United States Government security classified confidential or HIPPA.

documents stored with the Premises. The doors leading to the corridors or main hall shall be kept closed during business hours, except as the same may be used for ingress or egress.

12. Landlord reserves the right to temporarily shut down the air conditioning, electrical systems, heating, plumbing and/or elevators when necessary by reason of accident or emergency, or for repair, alterations, replacements or improvement.

13. No carpet, rug or other article shall be hung or shaken out of any window of the Building and Tenant shall not sweep or throw or permit to be swept or thrown from the Premises any dirt or other substances into any of the corridors or halls, elevator, or out of the doors or windows or stairways of the Building. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance in the Premises, or permit or suffer the Premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors and/or vibrations, or interfere in any way with other tenants or those having business therein, nor shall any animals or birds be kept in or about the Building. Smoking or carrying lighted cigars or cigarettes in the elevators of the Building is prohibited.

14. Landlord reserves the right to exclude from the Building on weekdays between the hours of ~~6:00 p.m. and 8:00 a.m.~~ ^{7:30 p.m. and 10:00 a.m.} and at all hours on weekends and legal holidays, all persons who do not present a pass to the Building signed by Landlord; provided, however, that reasonable access for Tenant's employees and customers shall be accorded. Landlord will furnish passes to persons for whom Tenant requires same in writing. Tenant shall be responsible for all persons for whom it requests such passes and shall be liable to Landlord for all acts of such persons.

15. Tenant agrees to keep all windows closed at all times and to abide by all rules and regulations issued by Landlord with respect to the Building's air conditioning and ventilation systems.

16. Tenant will replace all broken or cracked plate glass windows and doors at its own expense, with glass of like kind and quality, provided that such windows and doors are not broken or cracked by Landlord, its employees, agents or contractors.

17. In the event it becomes necessary for Landlord to gain access to the underfloor electric and telephone distribution system for purposes of adding or removing wiring, then upon request by Landlord, Tenant agrees to temporarily remove the carpet over the access covers to the underfloor ducts for such period of time until work to be performed has been completed. The cost of such work shall be borne by Landlord except to the extent such work was requested by or is intended to benefit Tenant or the Premises, in which case the cost shall be borne by Tenant.

18. Violation of these rules, or any amendments thereof or additions thereto, may be considered a default of Tenant's lease and shall be sufficient cause for termination of the Lease pursuant to the provisions of the Lease at the option of Landlord. ~~It shall be the Landlord's policy to accommodate and allow for the same upon the presentation of written notice to the Landlord.~~

~~It shall be the Landlord's policy to accommodate and allow for the same upon the presentation of written notice to the Landlord.~~

EXHIBIT C
COMMENCEMENT LETTER

_____, 20__

RE: Lease dated _____, between _____, a _____ ("Landlord") and _____, a _____ ("Tenant") concerning _____.

In accordance with the above-referenced Lease, we request that you and/or the proper authority, please confirm the following statements:

1. The Possession Date is deemed to be _____. The Rent Commencement Date is _____.

2. Tenant acknowledges and agrees that as of the date of this letter (i) all improvements required by the Lease to be performed by Landlord to the Premises have been substantially completed; and (ii) Tenant has accepted the Premises in its current condition.

Please confirm your agreement with the above terms of this letter by signing below and returning a copy to Landlord. Failure to execute this letter and deliver the same to Landlord shall be conclusive evidence against Tenant that the above statements are accurate and true.

Again, thank you for your tenancy, and we look forward to a long and harmonious relationship.

Sincerely,

By: _____
Name:
Its:

AGREED TO & ACCEPTED BY:

_____, a _____

By: _____
Name:
Its:

EXHIBIT D
WORK LETTER

1. Tenant's Work, Construction of 901 Vascular.

SCHEDULE I
SPACE PLAN AND SCOPE OF WORK

CONSTRUCTION DOCUMENTS TO BE ATTACHED

GUARANTY OF LEASE

WHEREAS, Poplar Ventures, LLC, a Tennessee limited liability company, (the "Landlord") entered into a certain agreement dated _____ (the "Lease") with 901 Vascular (the "Tenant"), for the premises located at 6584 Poplar Ave, Memphis, Shelby County, Tennessee; and

WHEREAS, to induce the Landlord to enter into the Lease, the undersigned, _____, individually, _____, individually, _____, individually, _____, individually and _____, individually (jointly and severally, the "Guarantors"), hereby agree to guarantee Tenant's performance of the Lease.

WHEREAS, the Guarantors are the individual members of Center for Oral and Facial Surgery thus deriving a benefit in the Tenant entering the Lease.

NOW, THEREFORE, the Guarantors, intending to be legally bound hereby, agree as follows:

1. The Guarantors unconditionally guarantee to the Landlord and the successors and assigns of the Landlord the full and punctual performance and observance, of all the terms, covenants and conditions contained in the Lease. This Guaranty shall include any liability of the Tenant which shall accrue under the Lease. The Guarantors waive notice of any breach or default by the Tenant.
2. If, at any time, default, shall be made by the Tenant in the performance or observance of any of the terms, covenants or conditions in the Lease, the Guarantors will keep, perform and observe the same, as the case may be, in place and stead of the Tenant.
3. Any act of the Landlord, or the successors or assigns of the Landlord, consisting of a waiver of any of the terms or conditions of the Lease, or the giving of any consent to any manner or thing relating to the Lease, or the granting of indulgences or extensions of time to the Tenant, may be done without notice to any of the Guarantors and without releasing the obligations of any of the Guarantors hereunder. No delay in making demand on any of the Guarantors for performance or payment of Guarantors' obligations under this Agreement shall prejudice the right of the Landlord to enforce with performance or payment.
 - a. The obligations of the Guarantors hereunder shall not be released by Landlord's receipt, application or release of security given for the performance and observance of covenants and conditions in the Lease contained on the Tenant's part to be performed or observed; nor by the Landlord's discharge or release from liability of the Tenant or any of the Guarantors.

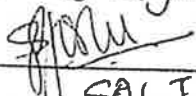
- b. The liability of the Guarantors hereunder shall in no way be affected by (a) the release or discharge of the Tenant in any creditors, receivership, bankruptcy or other proceedings, (b) the impairment, limitation or modification of the liability of the Tenant or the estate of the Tenant in bankruptcy, or of any remedy for the enforcement of the Tenant's liability under the Lease resulting from the operation of any present or future provisions of the Bankruptcy Code or other statute or from the decision of any court; (c) the rejection or disaffirmance of the Lease in any such proceeding; (d) the assignment or transfer of the Lease; (e) any disability of other defense of the Tenant, or (f) the cessation from any cause whatsoever of the liability of the Lease.
- c. The Guarantors agree to pay reasonable attorneys' fees and other costs and expenses which may be incurred by Landlord in the enforcement of this Agreement.
- d. This Agreement shall apply to the Lease, and any extension, modification, amendment, renewal, postponement, compromise, indulgence, waiver, surrender, exchange and release thereof and to any holdover term following the term hereby granted or any extension or renewal thereof.
- e. This agreement may not be changed, modified, discharged or terminated orally or in any manner other than by an agreement in writing signed by the Guarantors and the Landlord. The duties and obligations of the Guarantors may not be delegated, transferred or assigned without the prior written consent of the Landlord.
- f. The Guarantors each agree to be jointly and severally bound by all of the terms of this Guaranty, and jointly and severally liable under this Guaranty. As a result of such liability, each of the Guarantors acknowledges that the Landlord may, in its sole discretion, elect to enforce this Guaranty for the total indebtedness evidenced hereby or by the Lease against one or more of the Guarantors without any duty or responsibility to pursue any other party to this Guaranty, and that such an election by the Landlord shall not be a defense to any action Landlord may elect to take against any one or more of the Guarantors.
- g. The terms of this Agreement and all rights and obligations of the parties shall be governed by the laws of this State of Tennessee.

[signatures on following page]

IN WITNESS WHEREOF, the Guarantors have hereunto set their hands and seals the 3rd
day of March, 2020.

GUARANTORS:

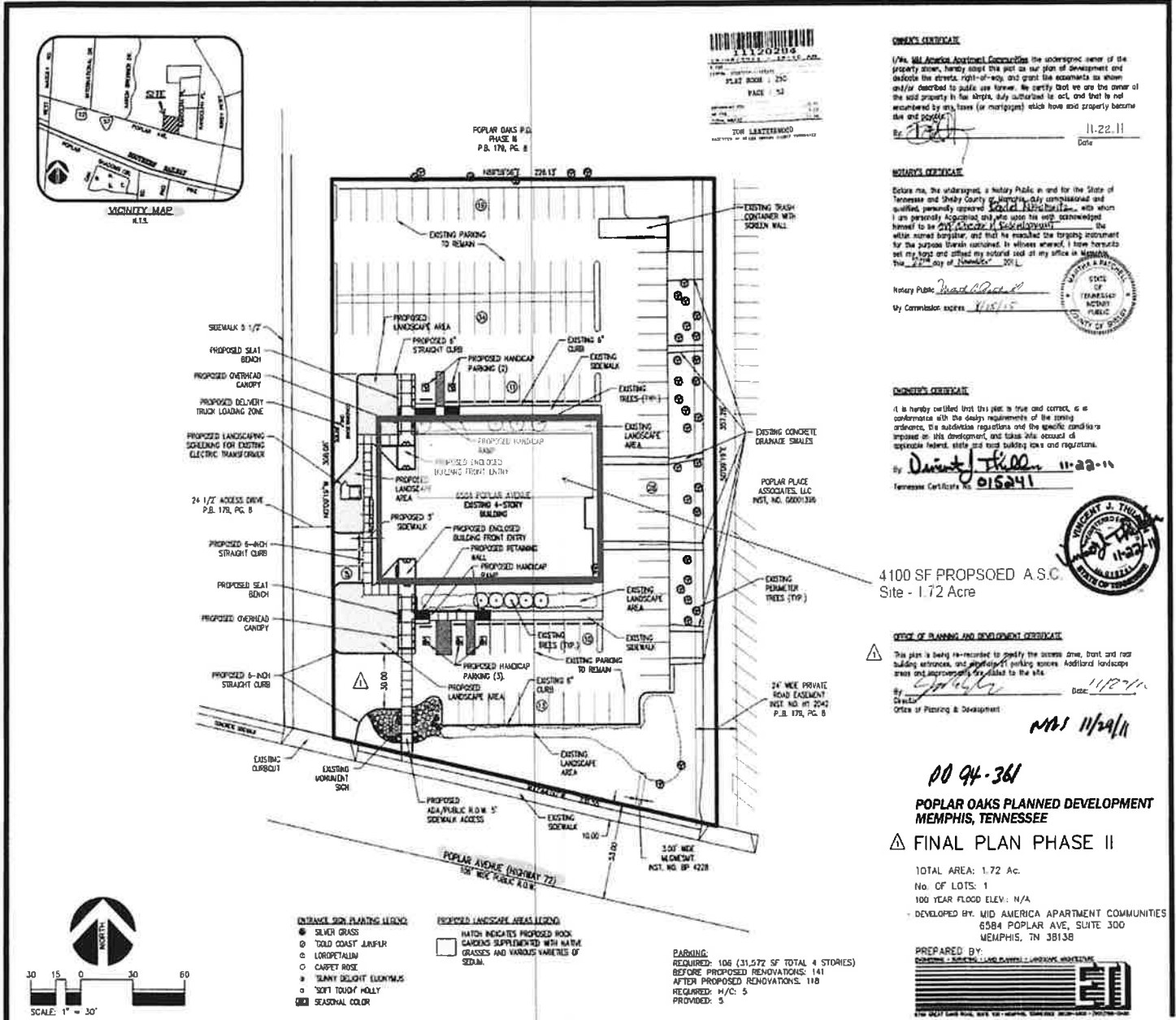
By: 
Name: Jorge Salazar, MD

By: 
Name: SALIL JOSHI, MD

Sanjeev Kumar MD
SANJEEV KUMAR MD

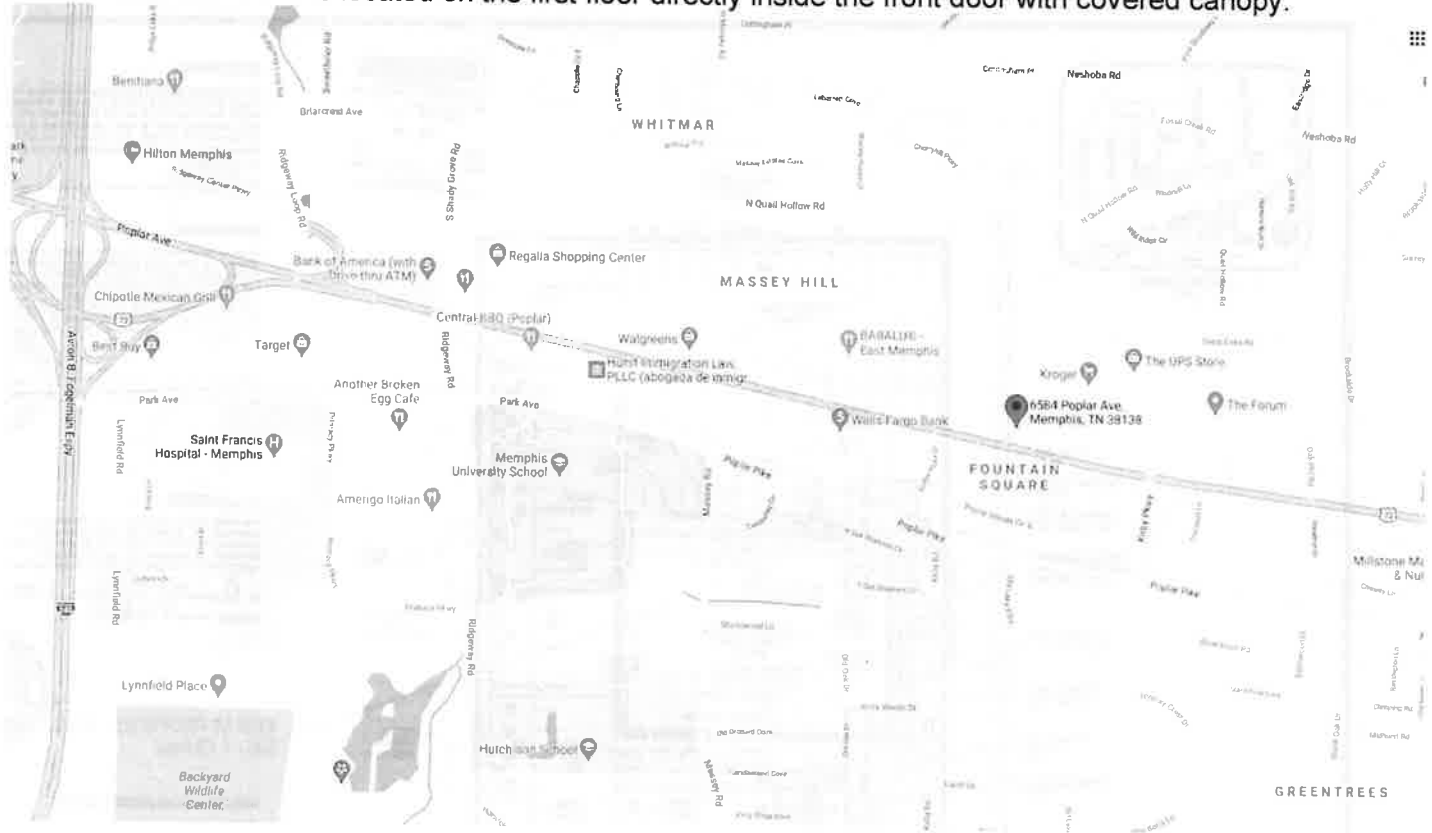
ATTACHMENTS

SECTION A-6B-1 1. Plot Description



- Size of site (*in acres*); Answer: The proposed ASTC is 4,100 square feet out of the total 42,000 square foot building. The medical office building is located on 1.72 acre and is centrally located on the Plat.
- Location of structure on the site; Answer: The proposed ASTC is on the first floor of the 4-story medical office building and located centrally to the building with elevator access directly in front of the entrance of the ASTC suite. The parking area surrounds the building on all four sides.

c) Location of the proposed construction/renovation; and Names of streets, roads or highway that cross or border the site. Answer: The ASTC sits directly on Poplar Avenue with no cross streets. 1.9 miles east of Interstate 240; Address is 6584 Poplar Avenue and the ASTC is located on the first floor directly inside the front door with covered canopy.



ATTACHMENTS

SECTION A-6B

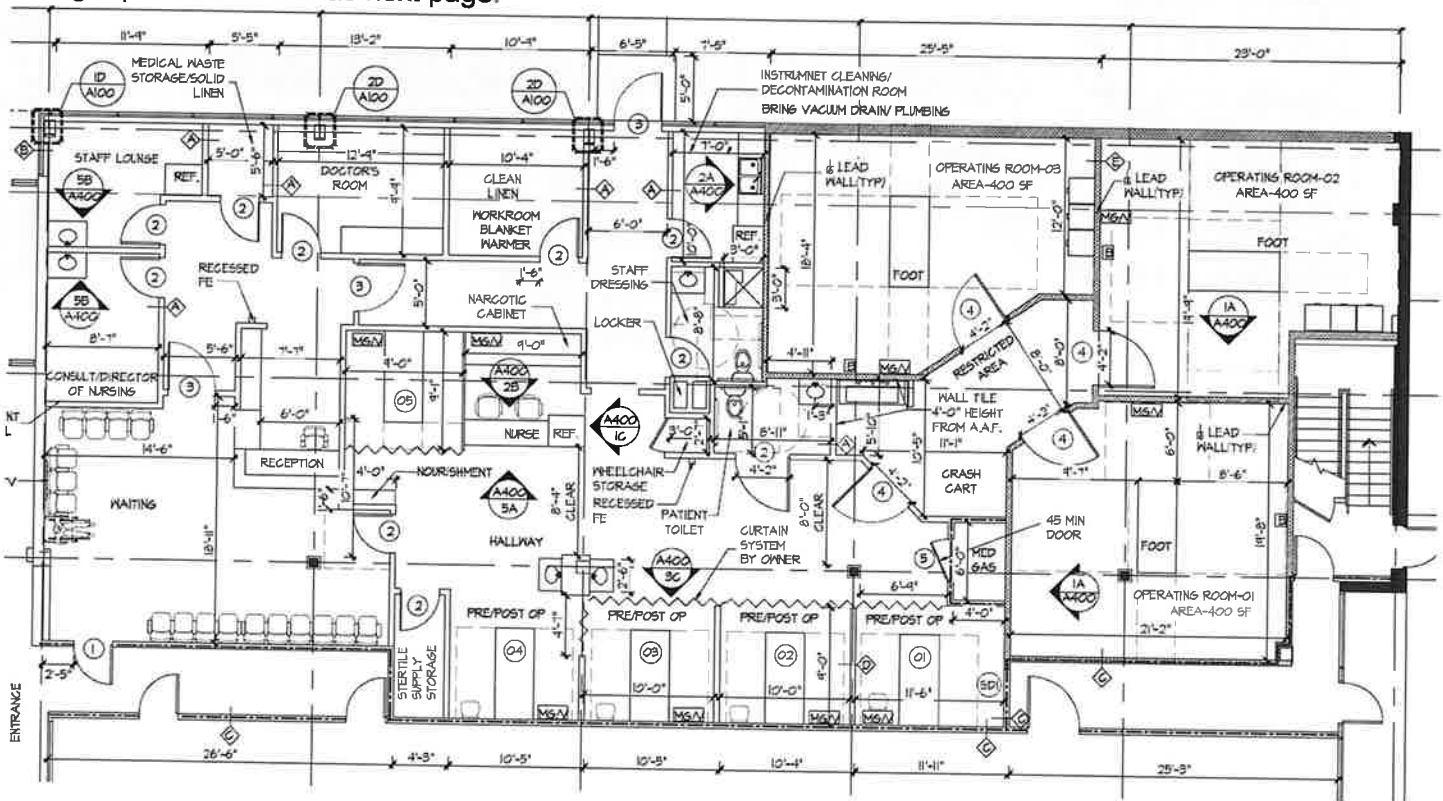


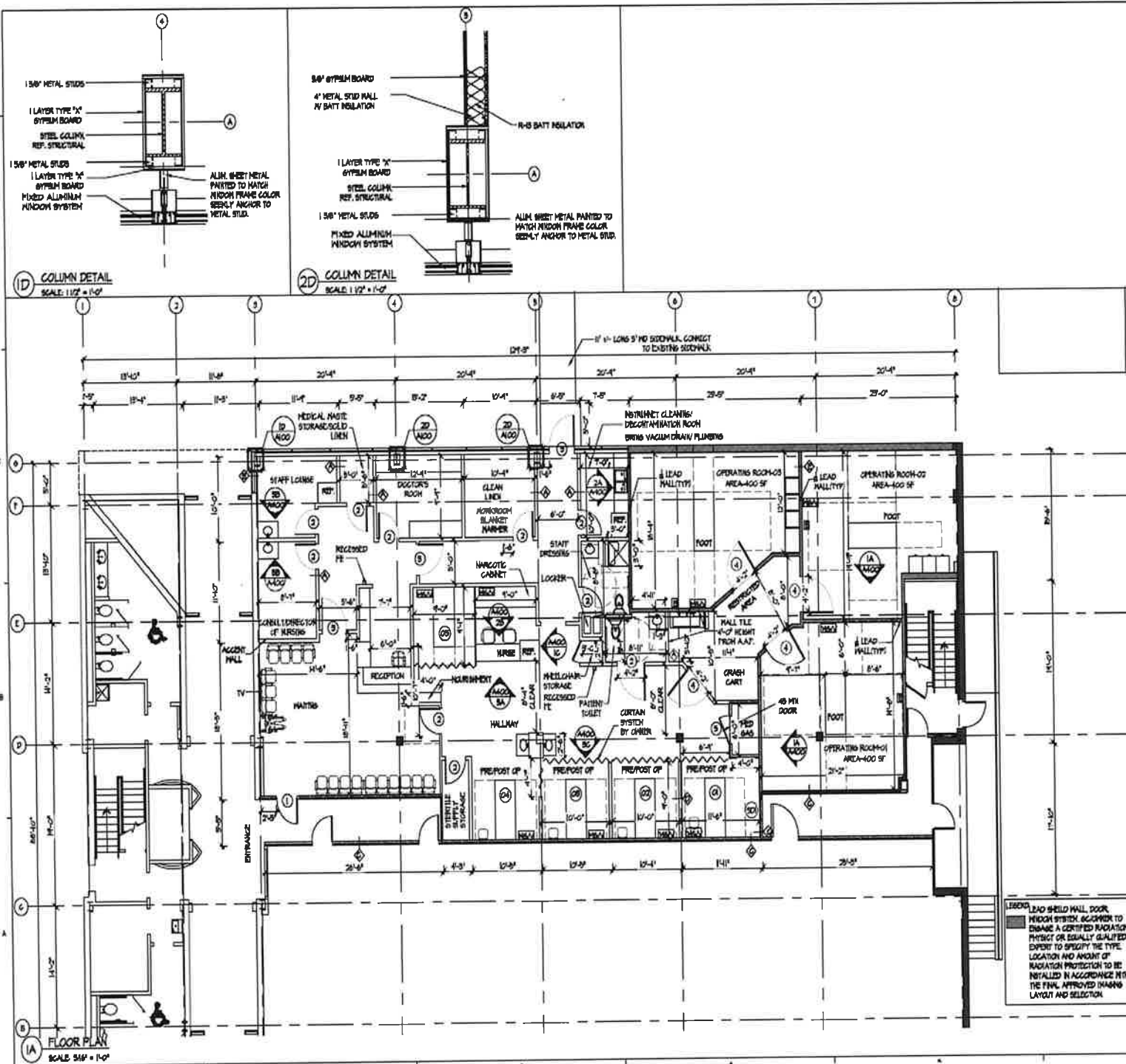
ATTACHMENTS

SECTION A-6B-2 2. Floor Plan

- Patient care rooms (private or semi-private) Answer: The ASTC will have 5 private pre/post-operative bay areas. There will be one (1) private patient consultation room.
- Ancillary areas Answer: Ancillary areas consist of staff lounge, doctors consult room, clean linen, sterile supplies, nourishment station, Director of Nursing office/consult room, staff dressing rooms/locker/bathroom, patient bathrooms in semi-restricted area as well as the waiting room and reception area.
- Equipment areas Answer: Medical capital equipment will be utilized in the three (3) operating rooms, instrument cleaning/decontamination room, wheelchair alcove, and crash cart alcove. Smaller mobile equipment will be kept in ORs.
- Other (specify) Answer:

A larger plan is inserted as next page.





1D COLUMN DETAIL
 SCALE: 1/2" = 1'-0"

2D COLUMN DETAIL
 SCALE: 1/2" = 1'-0"

1A FLOOR PLAN
 SCALE: 3/16" = 1'-0"

LEGEND: LEAD SHIELD WALL DOOR
 WINDOW SYSTEM. EGORNER TO
 CHANGE A CERTIFIED RADIATION
 PROOF OR EQUALLY QUALIFIED
 DOOR TO SPECIFY THE TYPE,
 LOCATION AND AMOUNT OF
 RADIATION PROTECTION TO BE
 INSTALLED IN ACCORDANCE WITH
 THE FINAL APPROVED DRAWING
 LAYOUT AND SELECTION

FLOOR PLAN

A100

52

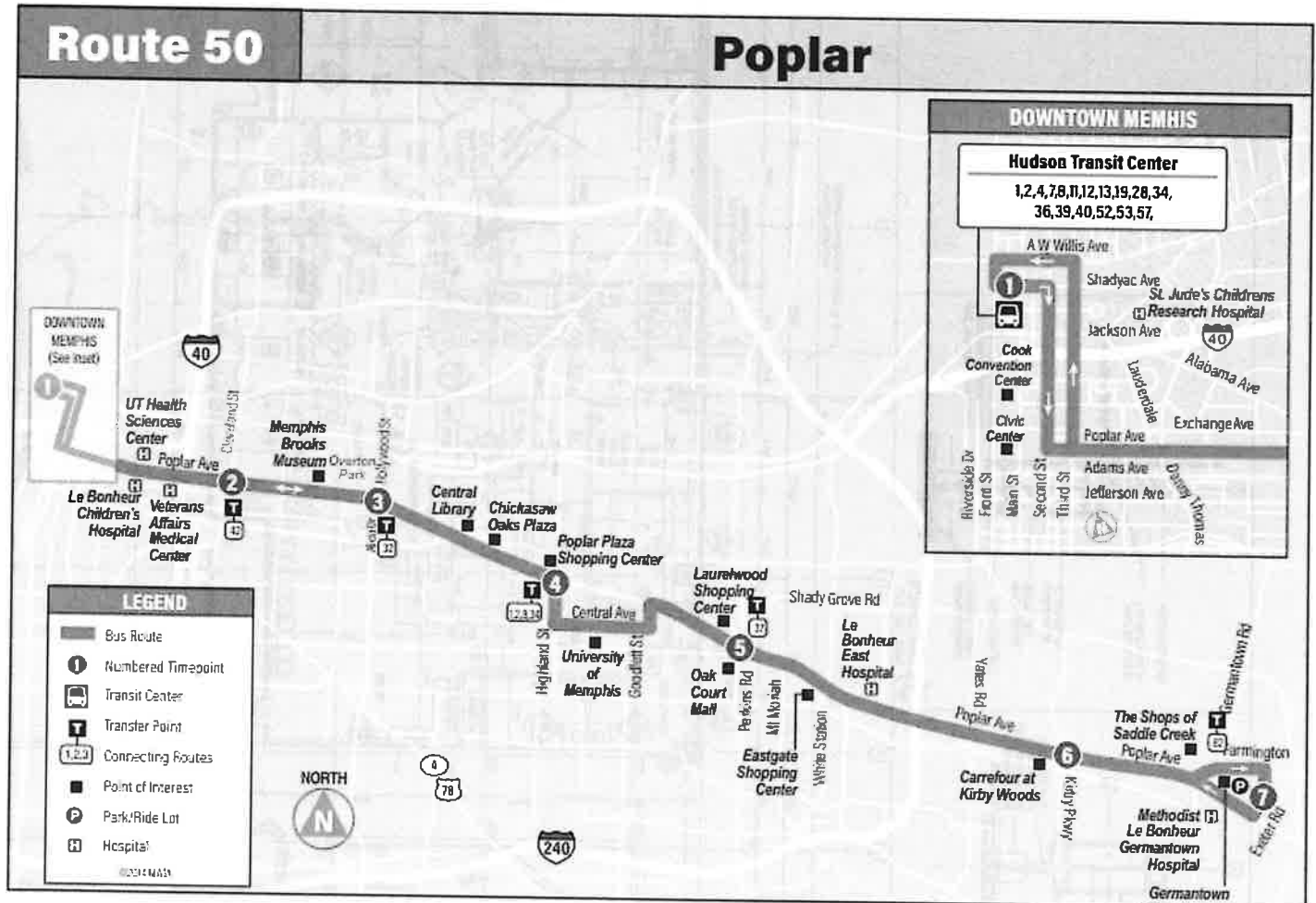
172

ATTACHMENTS

SECTION A-6B-3 3. Public Transportation Route

Describe the relationship of the site to public transportation routes, if any, and to any highway or major road developments in the area. Describe the accessibility of the proposed site to patients/clients. Answer: The ASTC sits on one of the major traveled streets in Memphis which is Poplar Avenue. Poplar Avenue is accessed from other major thoroughfares such as Interstate 240, Kirby Parkway, S. Germantown Road and Farmington Boulevard, The ASTC sits directly on Poplar Avenue with no cross streets and has large parking areas in both the front of the building and behind the building. Accessing the ASTC from Interstate 240 would mean exiting off of Exit 15A from Interstate 240 and driving 1.9 miles. 6584 Poplar Avenue has a bus route stop in front of the building housing the ASTC known as Poplar@Poplar Woods. Taking the bus system from Interstate 240 Poplar@Oakhaven to Poplar@Poplar Woods would be 1.9 miles or 4 minutes via bus or automobile.

Downtown Memphis to Poplar Avenue:



ATTACHMENTS

SECTION B

NEED – 10b-2 Credentialing Criteria

Poplar Ridge Surgery Center, LLC	Original Date:	2/202021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: CREDENTIALING MEDICAL STAFF

PURPOSE:

The purpose of this policy is to ensure that all medical staff are credentialed, and the appropriate credentialing information has been verified. This includes MD's, DO's, CRNA's.

POLICY:

1. The Medical Director is charged with accepting applications from candidates for the medical staff.
2. The Director of Nursing has the responsibility of collecting all information and verifying all information provided by those seeking initial or renewal of privileges.

PROCEDURE:

1. For initial appointment, the applicant submits a completed application and Delineation of Privileges Request Form.
2. The following documentation must accompany the application.
 - 2.1. The completed Applicant's Statement granting permission to verify their credentials.
 - 2.2. The completed application and privileging form.
 - 2.3. Copies of CV, DEA (Federal & State) registrations, State License, Malpractice
 - 2.4. Copies of Medical School Certificates, Board Certifications.
 - 2.5. References (at least 3), Hepatitis B vaccination or waiver, most recent TB test.
3. Upon receipt the Director of Nursing will review for completeness.
4. All requested information is then primary source verified by the facility or a contracted CVO.
5. Poplar Ridge Surgery Center, LLC will search licensure via TN Department of Health including expiration date.
6. The National Practitioner Data Bank (NPDB) is queried by the facility or the CVO. (<http://www.npdb-hipdb.hrsa.gov/>) The NPDB is also used as a reporting mechanism addressing disabilities, medical privacy, fraud and abuse and self-referrals by the facility.
7. An AMA profile (<https://profiles.ama-assn.org/amaprofiles/>) or the AOA profile (<https://www.doprofiles.org/>) will be used for verifications by the facility or CVO.
8. A query of the practitioner on the OIG site is performed by the facility or CVO.
9. Hospital privileges are confirmed and references contacted by the facility or CVO, never the applicant.
10. If the Medical Director determines the applicant to be acceptable based on the completed verifications, the information and application are then forwarded to the Governing Body.
11. Upon approval or rejection by the Governing Body, the Medical Director contacts the applicant with the decision. They are notified in writing to include termination date as well as privileges approved.
12. The Director of Nursing is charged with assembling the new medical staff member's credentialing file including all signatures and documents.
13. Should a physician be denied privileges, he can request a hearing by the Governing Body. If the Governing Body re-reviews the application and still denies the privileges, there is no recourse. The decision of the Governing Body is final.

ATTACHMENTS

SECTION B

NEED – 10b-2 Staffing Requirements Policy

Poplar Ridge Surgery Center, LLC	Original Date:	2/20/2021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: STAFFING REQUIREMENTS

PURPOSE:

The purpose of this policy is for the facility to comply with acceptable standards of care that an adequate number of licensed and ancillary nursing personnel shall be on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the facility and their individual nursing needs.

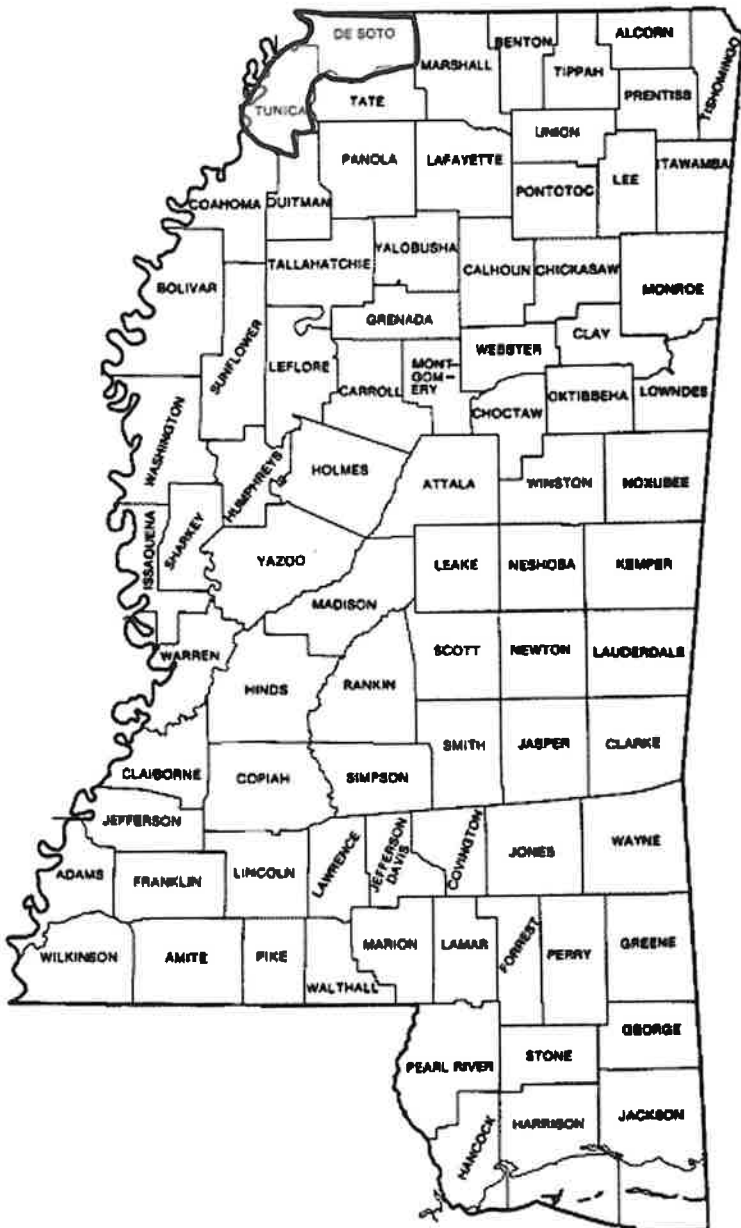
POLICY:

1. A business office person is available to greet patients during patient hours.
2. For each procedure involving sedation, an anesthesiologist or a CRNA will be available.
3. Conscious sedation may be provided by a trained RN who has no other duties in the OR.
4. A second staff member (an RN, LPN, or Technician) assists the surgeon with each procedure.
5. A circulating RN will be present in each OR.
6. The PACU is staffed with an ACLS RN, and LPNs and Technicians in a ratio that is based on the schedule and is conducive to excellent patient care.
7. The pre op area is staffed separately from the PACU area with RNs and additional support staff based on patient census.
8. 2 employees will be onsite whenever patients are present, 1 of which will be an RN during times the center is in operation.
9. A monthly time schedule is prepared by the Director of Nursing or designee and is available for inspection by TN Department of Health, Medicare, and other inspectors.

ATTACHMENTS

SECTION B

NEED – ARKANSAS & MISSISSIPPI



Our current practice/clinic is seeing patients from the DeSoto and Tunica area and we believe that we will continue to have 10-20% of our entire population come from this area. Also stands to reason that about 20% of the Shelby County competitive facilities patient census is also coming from this area.

There is one multi-specialty ASTC in Southaven, MS operated by Surgery Partners. This facility does have several gynecological surgeons on staff but website descriptions are limited and there is no evidence that this facility does robotic gynecologic surgeries. Robotic surgery is performed by several physician specialists at NMMC in Tupelo. General surgeons and obstetrician/gynecologists use this technology at North Mississippi Medical Center Gilmore-Amory and North Mississippi Medical Center-West Point.



Our current practice is seeing some patients from the Marion and Blytheville area. We assume that several other Arkansas counties may contribute patients but the percentage will be insignificant accounting for less than 5% of the total.

The only surgery center in Marion, AR (Crittenden County) is Tri-State Advanced Surgery Center and it has been closed since the advent of covid-19 and the physicians could not financially maintain. The only surgery center in Blytheville is a single specialty ophthalmology center which has gone through an ownership change and may be expanding its surgical specialties at some point down the road. In summary there are no ASTCs in this area offering any of the services that Poplar Ridge Surgery Center will be offering.

ATTACHMENTS

Section B – Economic Feasibility

1 E. – Architect / Engineer / Contractor Letters

Design Group LLC

1255 Lynnfield Road, Suite 259, Memphis TN 38119
www.Designgroupmemphis.com

Feb 28, 2021

Tennessee Health Services and Development Agency

Andrew Jackson State Office Building, Suite 850
500 Deadrick Street,
Nashville, TN 37243

RE: Ambulatory Surgical Center, 6584 Poplar Avenue, Memphis TN

Design Group Architects is engaged for the design and construction administration of the above project. I, Neeraj Kumar, TN architect license # 103811, am writing this letter on the behalf of Design Group Architects. DG was involved with bidding of the above project with two general contractors; F & F Construction and Grinder, Taber and Grinders, Inc. Based on the submitted bids, the cost of construction is approx.. \$950,000. The total floor area for the ASC is 4,100 SF. Our architecture/engineering fee for the project is \$25,000. Following codes were referred in developing the final design

- 2015 International Building Code with Local Amendments
- 2015 International Existing Building Code with Local Amendments
- 2015 International energy Conservation Code with Local Amendments
- 2015 International Electric Code with Local Amendments
- 2015 International Plumbing Code with Local Amendments
- 2015 International Mechanical Code with Local Amendments
- 2015 International Gas Code with Local Amendments
- 2015 International Fire Code with Local Amendments (City of Memphis)
- 2015 International Fire Code with Local Amendments (Shelby County)
- 2018 Edition Facility Guidelines Institute for Design and Construction of Outpatient Facilities
- 2010 ADA Standards for Accessible Design

Should you have any questions, feel free to reach out to me.

Sincerely,

Neeraj Kumar

nkumar@designgroupmemphis.com

901-603-8765

ATTACHMENTS

Section B – Economic Feasibility Funding Letter



March 3, 2021

To whom it may concern,

We understand that the physicians of the Poplar Avenue Clinic have applied for a CON which requires a letter from a qualified financial institution to support various borrowing needs. We will strongly support the Poplar Avenue Clinic physicians' request for the loan up to \$1.8 million to finance tenant improvements, equipment, and furnishings. The physicians of Poplar Avenue Clinic have had an excellent relationship with us, and they consistently keep substantial balances in their account. Their history with us would indicate a strong ability to borrow money subject to further due diligence and approval of their pending CON application.

Should you have any further questions, please feel free to contact me directly at 901-756-2848.

Thank you again for choosing Financial Federal Bank.

Sincerely,

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

Alex Neale
Senior Vice President
Financial Federal Bank
1715 Aaron Brenner Dr, Suite 100
Memphis, TN 38120
Phone: 901-756-2848
Fax: 901-747-4009

ATTACHMENTS

Section B – Economic Feasibility

Medical Capital Equipment > \$50,000 each

MEDICAL CAPITAL EQUIPMENT EXPENDITURES FOR POPLAR RIDGE SURGERY CENTER

Equipment Type	Units	Manufacturer	Model #	Description	Proposed Price
C-ARM	1	GE	OEC 9800	Mobile C-Arm refurbished	70,000
C-ARM	1	GE	OEC 9800	Mobile C-Arm refurbished	70,000
C-ARM	1	GE	OEC 9800	Mobile C-Arm refurbished	70,000

This is the list of medical capital equipment that has been purchased or proposed to be purchased that is equal to or greater than \$50,000 per unit.

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2 Staffing Requirements

Poplar Ridge Surgery Center, LLC	Original Date:	2/20/2021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: STAFFING REQUIREMENTS

PURPOSE:

The purpose of this policy is for the facility to comply with acceptable standards of care that an adequate number of licensed and ancillary nursing personnel shall be on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the facility and their individual nursing needs.

POLICY:

10. A business office person is available to greet patients during patient hours.
11. For each procedure involving sedation, an anesthesiologist or a CRNA will be available.
12. Conscious sedation may be provided by a trained RN who has no other duties in the OR.
13. A second staff member (an RN, LPN, or Technician) assists the surgeon with each procedure.
14. A circulating RN will be present in each OR.
15. The PACU is staffed with an ACLS RN, and LPNs and Technicians in a ratio that is based on the schedule and is conducive to excellent patient care.
16. The pre op area is staffed separately from the PACU area with RNs and additional support staff based on patient census.
17. 2 employees will be onsite whenever patients are present, 1 of which will be an RN during times the center is in operation.
18. A monthly time schedule is prepared by the Director of Nursing or designee and is available for inspection by TN Department of Health, Medicare, and other inspectors.

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2 Quality Improvement Program

See the following 2 pages.

Poplar Ridge Surgery Center, LLC	Original Date:	2/20/2021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT PLAN

PURPOSE:

The purpose of the quality assessment and performance improvement is to be broad in scope to improve patient health outcomes and patient safety, address clinical, administrative and cost-of-care performance issues in the facility. The quality assessment and performance improvement is ongoing and data-driven, shared throughout the entire organization and multi-disciplinary. The quality assessment and performance improvement program, and the committee members, as well as the entire staff assist in identifying processes for improvement.

OBJECTIVES

1. The facility, with active participation from the medical, clinical and administrative personnel, conducts an ongoing quality assessment performance and improvement program designed to:
 - 1.1. Be an ongoing program, not just a one-time effort or occasional effort (i.e. collecting and analyzing data at regular intervals).
 - 1.2. Use quality indicators or performance measures associated with improved health outcomes (i.e. antibiotic prophylaxis, infection control).
 - 1.3. Identify and reduce medical errors and adverse patient events.
 - 1.4. Sets priority to performance improvement activities:
 - 1.4.1. Focus on high risk, high volume, and problem-prone areas.
 - 1.4.2. Consider incidence, prevalence and severity of problems in those areas.
 - 1.4.3. Affect health outcomes, patient safety and quality of care.
 - 1.5. Ensure a linkage between the health information system and the quality assessment and performance improvement program that meets performance improvement/quality indicators and quality improvement activities.
2. The committee consists of the Medical Director, Director of Nursing, and staff members as appointed.
3. The quality assessment and performance improvement committee reports directly to the Governing Body. The Governing Body agrees to provide resources to the committee.
 - 3.1. Committee Duties:
 - 3.1.1. Evaluate data submitted (whether indicator – outcome, process of care, or patient perception) as part of the quality assessment and performance improvement program.
 - 3.1.2. Review infection control program.
 - 3.1.3. Review standards of practice.
 - 3.1.4. Review incident reports, post op infections.
 - 3.1.5. Review patient complaints and comments relating to quality assessment and performance improvement.

- 3.1.6. Review patient satisfaction reports.
 - 3.1.7. Review pathology reports.
 - 3.1.8. Review peer chart audits (physicians and CRNA's).
 - 3.1.9. Review nursing services: orientation and competencies.
 - 3.1.10. Review the results of nursing chart audits including results of pre-procedure testing, if ordered, and ensure that they are present in the chart and reviewed by a physician.
 - 3.1.11. Review the types and numbers of cases being performed in the facility.
 - 3.1.12. Review pharmaceutical services.
 - 3.1.13. Review radiology services.
 - 3.1.14. Meets quarterly.
4. The minutes of the committee meetings include date, time, attendance, description of events, data reviewed and recommendations :

Call to order

Attendance

Review of previous meeting minutes

Approval of minutes / changes to minutes

Previous business

Review of peer review data

Review of nursing chart audit

Review standards of practice / policies and procedures

Review patient satisfaction reports / patient complaints

Review the types of cases and number of cases being performed

Report of ongoing and new studies

Reports:

Safety

Risk Management to include Incident Reports

Credentialing

Infection Control

Pharmacy

Pathology Reports

Contract Review

Peer Review

Plan of correction for committee reports, if applicable.

Responsible person(s)

New business

Adjournment

5. There are sub-committees within the quality assessment and performance improvement committee.
- 5.1. Safety/Risk Management Committee - the safety/risk management committee meets quarterly and reports any ongoing safety measures to the Governing Body.
 - 5.1.1. Safety/Risk Management Committee Meeting Agenda
 - 5.1.1.1. Call to order
 - 5.1.1.2. Attendance
 - 5.1.1.3. Old business
 - 5.1.1.4. Review and approval of minutes
 - 5.1.1.5. Monthly facility safety check report
 - 5.1.1.6. Safety policy and procedure review
 - 5.1.1.7. Safety study report
 - 5.1.1.8. New business
 - 5.1.1.9. Adjournment
 - 5.1.2. The goal of the safety/risk management committee is to prevent occurrences before they happen.

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2 Risk Management Program

See following 3 pages

Poplar Ridge Surgery Center, LLC	Original Date:	2/20/2021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: RISK MANAGEMENT PLAN

PURPOSE:

The purpose of the Risk Management Program is to provide a safe environment for patients, staff, and visitors and to minimize injury and loss. Risk Management strives to:

- Reduce patient and visitor injury
- Minimize legal claims against the facility
- Enhance the quality of care delivered
- Maintain or improve customer satisfaction
- Comply with applicable laws, regulations, and standards.

PROCEDURE:

Risk Management activities include identification and assessment of loss potential, loss prevention, and claims control. The Risk Management Program incorporates the following components:

1. Risk Identification, Analysis, & Mitigation Opportunities

- Event / Variance Reports including adverse events and near misses
- Patient Complaints
- QI/PI Process
- Best Practices
- Safety Rounds
- Licensure and Accreditation Survey standards compliance
- Attorney/payor requests for medical records
- Legal Notices or Suits
- Action Plan Development and Implementation
- Policies and Procedures
- Staff Education
- Employee Health
- Infection Control
- Credentialing & Peer Review
- Security Management
- Ethics and Compliance Programs
- Confidentiality / HIPAA Protection

2. Claims Management

- Timely Probable Claim Reports
- Workers Compensation Reports
- Sequestering and Retention of Records
- Litigation Management/Coordination with Health Care Indemnity

3. Variance Reporting

- Any happening out of the ordinary which results in a potential or actual injury to a patient, visitor, employee, or physician, or damage to facility property or reputation will be reported on a Variance Report.
- The individual with the most knowledge of the occurrence will be responsible for initiating and completing the Variance Report.
- Variance Reports must be completed as soon as possible after the occurrence, preferably on the day of the incident. Variance Reports will be delivered to the Risk Manager within 72 hours after identification of the incident.
- Variance reports should be legible and factual; no accusations, conclusions or subjective information should be entered on the report.

4. Confidentiality

1. The data, reports and committee minutes generated by Risk Management and Quality Improvement activities are confidential and statutorily privileged. They are accessible only to those individuals who participate in the process and to those agencies responsible for ascertaining the existence of ongoing and effective Risk Management and Quality Improvement Programs.
2. Committee members recognize that any and all data reviewed by them shall be held in strict confidence. Any breach of confidentiality may result in disciplinary action, up to and including termination.
3. Any photographic or videotaped recording, other than that deemed necessary for patient care or educational purposes must first be approved by the Risk Manager to ensure that the rights of patients and employees are protected.
4. Risk Management records will be retained as required by the state of Tennessee.

RESPONSIBILITIES & AUTHORITY:

1. Risk Manager

The Risk Manager is responsible for the implementation and coordination of the Risk Management program. The Risk Manager reports to the Administrator and is empowered with the authority and responsibility necessary to perform the functions and activities of the Risk Management Program by Administration, the Medical Staff and Governing Body.

The Risk Manager is responsible for developing and implementing appropriate measures to minimize the risk of injuries to patients, visitors, and staff, and to minimize loss or damage to property or the reputation of the center.

Specific duties include but are not limited to:

- Review all variance reports; investigate and analyze the frequency, causes and trends of general categories and specific types of adverse incidents.
- Collect data and coordinate analysis of serious incidents or undesirable patterns or trends.
- Assist with development, implementation, and ongoing monitoring of risk reduction strategies.
- Provide quarterly and annual summary reports on variance reports and risk management activities to Administration, QI Committee, and the Governing Body.
- Submit reports as required by state regulations.
- Ensure risk management training is provided to all new staff within 30 days of hire; provide annual risk management / risk prevention education to all staff.
- Assist Administration with review and analysis of patient satisfaction data and patient grievances.
- Assist with the medical staff credentialing process by providing risk and quality information.
- Assist supervisors in identifying and correcting unsafe conditions and high risk or problem prone processes.
- Refer medical staff variances to peer review as appropriate.
- Maintain professional relationships with internal and external contacts to ensure appropriate communication.

- Participate in safety rounds.
- Attend continuing education.
- Incorporate Risk Management findings with the Quality Improvement program and initiatives.
- Collaborate with legal counsel to coordinate the investigation, processing, and defense of claims against the Center.
- Ensure that disclosure policy is followed for serious preventable medical errors.

2. Employees

Employees have the responsibility to themselves and others to observe safe and healthful work practices, and to comply with policies, procedures, and applicable regulations. All employees have an affirmative duty to identify and report adverse incidents to their supervisor and the Risk Manager and to actively participate in Quality Improvement and Risk Management activities.

The employees are responsible to:

- Maintain a safe working environment.
- Ensure variance reports are completed and delivered to the Risk Manager within 72 hours after identification of the incident.
- Work collaboratively to analyze variances and develop and monitor action plans to reduce risk.

3. Administration

The Administrator is responsible to:

- Oversee the Risk Management program linking to QA/PI and Infection Control.
- Provide leadership and guidance to the Risk Manager.
- Support collaboration and teamwork to facilitate initiatives throughout the organization.
- Provide qualified personnel and resources to support the proper functioning and operation of the Center.
- Take appropriate actions to address identified risk issues.

4. Governing Body

The Governing Body has overall responsibility for risk management. The responsibilities of the Governing Body include:

- Provide support and resources for the risk management program.
- Ensure risk management is an integral component of the Center's objectives, plans and management structure.
- Take appropriate actions based on recommendations from the Risk Manager and Administrator.
- Review and approve Risk Management policies and reports including the annual Risk Management Plan and Evaluation.

The Governing Body's commitment to the Risk Management Program, including allocation of human and financial resources necessary to implement and maintain the Program, is evidenced by its approval of the Risk Management Plan on an annual basis.

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2 Quality Improvement Form

It is the intention of Poplar Ridge Surgery Center to become accredited by A.A.A.H.C. and therefore we will be utilizing the Quality Improvement Form that is recommended by A.A.A.H.C.

See following 4 pages.

Developing Meaningful Quality Improvement Studies

The following template is designed to help you through the process of documenting a QI study in your organization using ten distinct elements. The individual items are not meant to be steps completed in order, but elements that should be included in written review of the problem and how it was solved in a way that will be sustainable going forward. Feel free to photocopy these pages for use with multiple studies.

Element 1	Description	Hints for Getting Started
	A statement of the purpose of the QI activity that includes a description of the known or suspected problem, and explains why it is significant to the organization	<ol style="list-style-type: none"> 1. Briefly state your known or suspected problem 2. Describe why it is important for your organization to address this problem
	<p><i>Use the space below to state the purpose of the QI study you are conducting, and to describe why it is important for your organization to address this problem</i></p>	

Element 2	Description	Hints for Getting Started
	Identification of the performance goal against which the organization will compare its current performance in the area of study	Determine and describe the level of performance your organization wants to achieve in the area of study. For example, if you are studying medication error rates, your goal might be to have zero medication errors. If you are studying rates of compliance with a particular policy, your goal might be 100% compliance. Before setting your goal, it is often useful to determine if there are internal or external benchmarks available to help you decide on a goal that is both realistic and constructive. Zero occurrences or 100% compliance may not be realistic for every issue you study.
	<p><i>Use the space below to identify the performance goal for the QI study you are conducting</i></p>	

Developing Meaningful Quality Improvement Studies

Developing Meaningful Quality Improvement Studies	
Element 3	Description
	Hints for Getting Started
Description of the data that have been or will be collected in order to determine the organization's current performance in the area of study	<p>Determine the following:</p> <ol style="list-style-type: none"> 1. What data is needed in order to verify: <ul style="list-style-type: none"> ▪ Whether the problem actually exists (if this is uncertain) ▪ Frequency and severity of the problem expressed as a number or percentage ▪ Source(s) of the problem 2. How will the data be collected? <p>For example, if you are studying medication error rates, what information do you need in order to determine your current error rate? How will you collect that information?</p>
<p><i>Use the space below to describe the data you will collect for the QI study you are conducting, and how you will collect it</i></p>	
Element 4	Description
	Hints for Getting Started
Evidence of data collection	<p>Describe the data you actually collected. For example, did you review X number of charts for patient visits that occurred from Month A to Month F? What did you look at in those charts? What information did you extract from them? How did you record the data that you collected?</p> <p>At this point you are not trying to describe your conclusions about the data – just the data itself.</p>
<p><i>AFTER YOU HAVE COLLECTED THE DATA FOR THE QI STUDY, use the space below to briefly describe the data collected.</i></p>	

Developing Meaningful Quality Improvement Studies

Element 5	Description	Hints for Getting Started
	Data analysis that describes findings about the frequency, severity, and source(s) of the problem(s)	<ol style="list-style-type: none"> 1. Carefully analyze the data you have collected. (The complexity of the analysis you need to do will depend on various factors, such as the amount and type of data you have collected.) 2. Determine what the data tells you about whether the suspected problem actually exists. Describe how the data was analyzed and your findings (conclusions) regarding whether or not the problem exists. 3. If the problem DOES exist, determine what the data tells you about the frequency, severity, and source(s) of the problem(s). 4. If the problem DOES NOT exist, then choose another known or suspected problem and begin again.
	<i>Use the space below to briefly record your findings for the QI study you are conducting</i>	
Element 6	Description	Hints for Getting Started
	A comparison of the organization's current performance in the area of study against the previously identified performance goal	Compare the results of your data analysis to the performance goal you identified in Element 2. For example, if the data indicates that you currently have 65% compliance and the goal is 90% compliance, a simple statement to that effect is sufficient.
	<i>Use the space below to briefly state your comparison of current performance vs. goal for the QI study you are conducting</i>	
Element 7	Description	Hints for Getting Started
	Implementation of corrective action(s) to resolve identified problem(s)	<ol style="list-style-type: none"> 1. Based on what you have learned about the frequency, severity, and source(s) of the problem(s), determine what corrective action(s) you will take to improve your performance in the area of study. 2. Implement the selected corrective action(s) and determine the appropriate length of time until re-measurement is to occur.
	<i>Use the space below to describe what corrective action(s) were taken for the QI study you are conducting, including how the corrective actions were implemented</i>	

Developing Meaningful Quality Improvement Studies

Element 8	Description	Hints for Getting Started
	<p>Re-measurement (a second round of data collection and analysis) to objectively determine whether the corrective actions have achieved and sustained demonstrable improvement</p>	<ol style="list-style-type: none"> 1. At the designated re-measurement time, repeat the steps shown for Elements 4 and 5 2. Compare the results of your second round of data collection and analysis to the performance goal you identified as Element 2, and determine whether the corrective actions have achieved the desired performance goal
<p><i>Use the space below to describe the second round of data collected and how you collected it. Also state your comparison of the new current performance vs. goal for the QI study you are conducting</i></p>		

Element 9	Description	Hints for Getting Started
	<p>If the initial corrective action(s) did not achieve and/or sustain the desired improved performance, implementation of additional corrective action(s) and continued re-measurement until the problem is resolved</p>	<ol style="list-style-type: none"> 1. Determine whether this step is applicable to the study you are conducting. If you have met and are sustaining your performance goal, this step does not apply 2. If this step does apply, repeat the steps shown for Elements 7 and 8 until your performance goal has been achieved in a sustainable manner
<p><i>Use the space below to indicate whether this step applies to the QI study you are conducting. If it applies, describe what additional corrective action(s) were taken for the QI study you are conducting, including how the corrective actions were implemented. Also describe the additional round of data collected and how you collected it, and state your comparison of the new current performance vs. goal for the QI study you are conducting</i></p>		

Element 10	Description	Hints for Getting Started
	<p>Communication of the findings of the quality improvement activities:</p> <ul style="list-style-type: none"> ▪ to the governing body ▪ throughout the organization, as appropriate 	<ol style="list-style-type: none"> 1. Report your QI study and its results to your governing body. Ensure that the governing body's review of the report is appropriately documented 2. Determine who else in the organization needs to know about the results of the study. Communicate the findings to those people, and document that this has occurred 3. Determine whether other educational activities of the organization should reflect the findings of the study. If so, take appropriate steps to have this occur
<p><i>Use the space below to describe how the results of the study will be reviewed by the governing body, and how this review will be documented. Also describe other groups that will be notified of the study's results, and how this notification will take place, and educational activities that will take place as a result of this study</i></p>		

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2A Charity Discount Policy

Poplar Ridge Surgery Center, LLC	Original Date:	2/20/2021
	Approved By:	Governing Body
Policy & Procedure Manual	Revised Date/Approval:	
	Revised Date/Approval:	
	Revised Date/Approval:	

POLICY TITLE: CHARITY DISCOUNT POLICY

PURPOSE:

To provide guidance to the ambulatory surgery center when a procedure is not covered by insurance such that there is a process by which an equitable and consistent procedure is utilized.

POLICY:

1. A Financial Assistance Application (FAA) for charity/hardship care will be completed by the patient or responsible party.
2. The surgery center Administrator will review and determine if the patient meets the requirements for assistance. Upon review of documentation, if income for the preceding 12 mos. was not greater than twice the applicable poverty income guideline, the patient will be eligible. This will be documented prior to patient notification.
3. All accounts (including Medicare patients) will be required to have supporting income verification documentation. The preferred documentation will be the most recent year's Federal tax return (Form 1040). Alternate documents may include state income tax return for the most recent year, W-2 and or 1099 forms, or current credit report.
4. All efforts should be documented in a clear, concise, and consistent manner in the billing system.
5. Staff will demonstrate respect and integrity in all internal and external dealings. Confidentiality and security of the patient's information will be of the utmost importance.
6. If there is a pending Medicaid application, the status must be known before evaluating the case for a potential Charity Discount.
7. For uninsured patients, the discount will be applied to the total liability. For under insured patients, the discount should be applied to the net patient due.
8. The general expectation is that all patients pay for services rendered if they are not fully covered by a third party. Should the patient make a payment and then it is realized they meet the charity discount guidelines, the payment made will not be refunded, the charity discount will be applied to the remaining patient balance.

ATTACHMENTS

Section B - Quality

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-2A Patient's Rights and Responsibilities

Poplar Ridge Surgery Center, LLC
6584 Poplar Avenue Memphis, Tennessee 38138

PATIENT RIGHTS AND RESPONSIBILITIES

RIGHTS OF THE PATIENT:

- Every patient has the right to courtesy, respect, dignity, privacy, responsiveness, and timely attention to his/her needs regardless of age, race, sex, national origin, religion, cultural, or physical handicap, personal value, and beliefs.
- Every patient has the right to every consideration of his privacy and individuality as it relates to his/her social, religious, and psychological well-being.
- Every patient has the right to confidentiality. Has the right to approve or refuse the release of medical information to any individual outside the facility, except in the case of transfer to another health facility, or as required by law or third-party payment contract.
- Every patient has the right to express grievances or complaints without fear of reprisals.
- Every patient has the right to continuity of health care. The physician may not discontinue treatment of a patient as long as further treatment is medically indicated, without giving the patient sufficient opportunity to make alternative arrangements.
- Every patient is provided complete information regarding diagnosis, treatment, and prognosis, as well as alternative treatments or procedures and the possible risks and side effects associated with treatment. If medically inadvisable to disclose to the patient such information, the information is given to a person designated by the patient or to a legally authorized individual.
- Every patient has the right to make decisions regarding the health care that is recommended by the physician. Accordingly, the patient may accept or refuse any recommended medical treatment.
- Every Patient has the right to be informed of any research/experimental projects and to refuse participation without compromise to their usual care.
- Every patient has the right to appropriate treatment and care to include the assessment/managements of pain.
- Every patient has the right to understand facility charges. You have the right to an explanation of all facility charges related to your health care.
- Every patient has the right to all resuscitative measures; therefore, we will attempt to resuscitate a patient and transfer that patient to a hospital in the event of deterioration.
- If a patient is adjudged incompetent under applicable State health and safety laws by a court of proper jurisdiction, the rights of the patient are exercised by the person appointed under State law to act on the patient's behalf.
- If a State court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with State laws may exercise the patient's rights to the extent allowed by State Law.
- Patients have the right to request the credentials of all providers caring for them.

RESPONSIBILITIES OF THE PATIENTS

- Patients are responsible to be honest and direct about matters that relate to them, including answering questions honestly and completely.
- Patients are responsible to provide accurate past and present medical history, present complaints, past illnesses, hospitalizations, surgeries, existence of advance directive, medication, and other pertinent data.
- Agree to accept all caregivers without regard to race, color, religion, sex, age, gender preference or handicap, or national origin.
- Patients are responsible for assuring that the financial obligations for health care rendered are paid in a timely manner.
- Patients are responsible to sign required consents and releases as needed.
- Patients are responsible for their actions if they should refuse a treatment or procedure, or if they do not follow or understand the instructions given them by the physician or Surgery Center employees.
- Patients are responsible for the disposition of their valuables, as the Surgery Center does not assume the responsibility.
- Patients are responsible to be respectful of others, or other people's property and the property of the Surgery Center. Patients are to observe safety and no smoking regulations.
- Patients must have a responsible adult to drive them and remain with them as directed by their provider or discharge plans.

ADVANCE DIRECTIVES

- In the State of Tennessee, each person has the primary right to request or refuse medical treatment subject to the state's interest in protecting innocent third parties and to make Advance Directives or to execute Powers of Attorney that authorize others to make decisions on their behalf.
- Poplar Ridge Surgery Center will attempt to resuscitate you and transfer you to a hospital in the event of deterioration.
- Poplar Ridge Surgery Center provides full resuscitative services for all patients requiring emergency lifesaving/support measures. All patients are asked if they have an advance directive, which is placed in their medical record if provided. All patients are also informed that the resuscitative efforts and transfer will occur in the event of deterioration at Poplar Ridge Surgery Center.
- If an adverse event occurs during your treatment at Poplar Ridge Surgery Center, we will resuscitate or provide other stabilizing measures and transfer you to an acute care hospital for further evaluation. At the acute care hospital, further treatments or withdrawal of treatment measures already begun will be ordered in accordance with your wishes, Advance Directive, or health care Power of Attorney. Your agreement with this facility's policy will not revoke or invalidate any current health care directive or health care power of attorney.
- If you wish to complete an Advance Directive, copies of official state forms are available at Poplar Ridge Surgery Center.

PATIENT COMPLAINT OR GRIEVANCE:

To report a complaint or grievance you may contact the facility Administrator by phone at 901-300-6713 or by mail at the address listed at the top of this page. The Administrator will investigate within seven days after the receipt of such grievance and make every effort to resolve the grievance to the patient's satisfaction. You will receive a written response within twenty-one days. Additional contact information is listed below for state, federal and our accrediting association:

1. TN Division of Health Care Facilities Centralized Complaint Intake Division 665 Mainstream Drive, Second Floor Nashville TN 37243 Phone 1-877-287-0010
2. Accreditation Association for Ambulatory Health Care, Inc. 5250 Old Orchard Road, Ste. 200, Skokie, IL 60077.

All Medicare beneficiaries may file a complaint or grievance with the Medicare Beneficiary Ombudsman online at:
<http://www.medicare.gov/claims-and-appeals/medicare-rights/get-help/ombudsman.html> Telephone: 800.633.4227

PHYSICIAN OWNERSHIP DISCLOSURE:

<u>Physician</u>	<u>Address</u>	<u>NPI Number</u>
Dr. Salil Joshi	6584 Poplar Ave. Memphis, TN 38138	1558329169
Dr. Sanjeev Kumar	6584 Poplar Ave. Memphis, TN 38138	1932381530
Dr. Jorge Salazar	6584 Poplar Ave. Memphis, TN 38138	1225012867

ATTACHMENTS

Section B – Orderly Development

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

B-1 Transfer Agreement

A transfer agreement will be obtained once the ASTC is licensed and accredited and before we see patients.

ATTACHMENTS

Letter of Intent

See following 4 pages



State of Tennessee
Health Services and Development Agency

Andrew Jackson Building, 9th Floor
 502 Deaderick Street
 Nashville, TN 37243

www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

GENERAL INSTRUCTIONS FOR FILING
LETTER OF INTENT/PUBLICATION OF INTENT TO FILE A CERTIFICATE OF
NEED APPLICATION

Please read the following instructions, the Rules and Regulations of the Agency, and Tennessee Code Annotated, §68-11-1601 *et seq.*, prior to preparation of the letter of intent/publication of intent (LOI/POI).

REVIEW CYCLES: A review cycle is no more than sixty (60) days. The review cycle begins on the first day of each month.

COMMUNICATIONS: All documents for filing an LOI/POI with the Health Services and Development Agency must be received at the Agency office located at The Andrew Jackson Building, Ninth Floor, 502 Deaderick Street, Nashville, Tennessee 37243, during normal business hours. For the purpose of filing LOI/POIs, the filing date is the actual date of receipt in the Agency office. These documents, as well as other required documents must be received as original, signed documents in the Agency office. Fax and e-mail transmissions **will not** be considered to be properly filed documentation. In the event that the last appropriate filing date falls on a Saturday, Sunday, or legal holiday, such filing should occur on the preceding business day. All documents are to be filed with the Agency in ***triplicate***.

LETTER OF INTENT: Applications shall be commenced by the filing of a Letter of Intent. The Letter of Intent must be filed with the Agency between the first day and the tenth day of the month prior to the beginning of the review cycle in which the application is to be considered. This allowable filing period is inclusive of both the first day and the tenth day of the month involved. The Letter of Intent must be filed in the form and format as set forth in the application packet.

Any Letter of Intent that fails to include all information requested in the Letter of Intent specific instructions and form, or is not timely filed, will be deemed void and the applicant will be notified in writing. The Letter of Intent may be refiled but, if refiled, is subject to the same requirements as set out above.

PUBLICATION OF INTENT: Simultaneously with the Letter of Intent filing, the Publication of Intent should be published for one day in a newspaper of general circulation in the county where the proposed project is to be located. The Publication of Intent must be in the form and format as set forth in the application packet. The Publication of Intent should be placed in the Legal Section in a space no smaller than four (4) column inches. Publication must occur between the first day and the tenth day of the month, inclusive.

1. A "newspaper of general circulation" means a publication bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one-year period, which is published for the dissemination of news of general interest, and is circulated generally in the county in which it is published and in which notice is given.
2. In any county where a "newspaper of general circulation" does not exist, the Agency's Executive Director is authorized to determine the appropriate publication to receive any required Letter of Intent. A newspaper which is not engaged in the distribution of news of general interest to the public, but which is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a "newspaper of general circulation."

3. In the case of an application for or by a home care organization, the Publication of Intent must be published in each county in which the agency will be licensed or in a regional newspaper which qualifies as a newspaper of general circulation in each county. In those cases where the Publication of Intent is published in more than one newspaper, the earliest date of publication shall be the date of publication for the purpose of determining competition deadlines and filing the application.

PROOF OF PUBLICATION Documentation of publication must be filed with the application form. Please submit proof of publication with the application by attaching either the full page of the newspaper in which the notice appeared, with the ***mast and dateline intact***, or a publication affidavit supplied by the newspaper.

SIMULTANEOUS REVIEW Those persons desiring a simultaneous review for a Certificate of Need for which a Letter of Intent has been filed should file a Letter of Intent with the Agency and the original applicant (as well as any other applicant filing a simultaneous review), and should publish their Letter of Intent concurrently in a newspaper of general circulation in the same county as the original applicant. The publication of the Letter of Intent by the applicant seeking simultaneous review must be published within ten (10) days after publication by the original applicant.

INSTRUCTIONS SPECIFIC TO COMPLETION OF LETTER OF INTENT/PUBLICATION OF INTENT FORMS

1. Immediately following identification of the applicant, existing facilities **must identify** the applicant's type of health care institution, (e.g., hospital, nursing home, ambulatory surgical treatment center, outpatient diagnostic center), as defined in Tennessee Code Annotated, §68-11-1602 (7)(A) or as a professional private practice as defined in Tennessee Code Annotated, §68-11-1602 (7)(B)(iii). Applicants proposing new facilities should put "NA" in this space.
2. Ownership type may include but is not limited to: Sole Proprietorship, Partnership, Limited Partnership (LP), Corporation (Inc.), Governmental (State of TN or Political Subdivision), Limited Liability Company (LLC), Professional Corporation (PC), Professional Limited Liability Company (PLLC), Joint Venture.
3. For applicants proposing new facilities, project description **must begin** with an establishment of a health care institution (e.g., hospital, nursing home, ambulatory surgical treatment center, outpatient diagnostic center) as defined in Tennessee Code Annotated, §68-11-1602 (7)(A).
4. Project description should include a brief discussion including services to be provided or affected.
5. The location of the proposed project **must be** included with identification of street address, if available, or description of location, e.g. distance from intersection of two roads, and city/town.
6. If applicable, identify total number of beds affected, licensure proposed for such beds, and intended uses. For hospital applications, the beds affected must be broken down by category to include acute, neonatal intensive care, rehabilitation, adult/geriatric psychiatric, and child/adolescent psychiatric.
7. If applicable, include the initiation of health care services as identified in Tennessee Code Annotated, §68-11-1607(4)
8. All LOI/POIs **must include** a project cost. Project cost **must be** at least \$15,000 (minimum CON filing fee).
9. For home care organizations, list all proposed counties and existing/licensed counties.



State of Tennessee
Health Services and Development Agency

Andrew Jackson Building, 9th Floor
 502 Deaderick Street
 Nashville, TN 37243

www.tn.gov/hstda Phone: 615-741-2364 Fax: 615-741-9884

LETTER OF INTENT

The Publication of Intent is to be published in the The Commerical Appeal which is a newspaper of general circulation in Shelby County, Tennessee, on or before March 5, 2021, for one day.

(Name of Newspaper)
 (County) (Month / day) (Year)

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that:

Poplar Ridge Surgery Center, LLC ambulatory surgical treatment center
 (Name of Applicant) (Facility Type-Existing)

owned by: Physicians: Kumar, Joshi and Salazar with an ownership type of Limited Liability Corporation (LLC) and to be managed by: Physicians: Kumar, Joshi and Salazar intends to file an application for a

Certificate of Need for [PROJECT DESCRIPTION BEGINS HERE]:

for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of ~~outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery.~~ The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building. The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The contact person for this project is Roger Manning, Managing Partner/Consultant
 (Contact Name) (Title)

who may be reached at: Excellentia Advisory Group, LLC, 1101 St. Peters Howell Road, Suite A
 (Company Name) (Address)

Saint Peters Missouri 63376 314 / 399-2335
 (City) (State) (Zip Code) (Area Code / Phone Number)

[Signature] March 3, 2021 roger@excellentiagroup.com
 (Signature) (Date) (E-mail Address)

The Letter of Intent must be filed in triplicate and received between the first and the tenth day of the month. If the last day for filing is a Saturday, Sunday or State Holiday, filing must occur on the preceding business day. File this form at the following address:

Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.



**State of Tennessee
Health Services and Development Agency**

Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243

www.tn.gov/hsda Phone: 615-741-2364 Fax: 615-741-9884

PUBLICATION OF INTENT

The following shall be published in the "Legal Notices" section of the newspaper in a space no smaller than two (2) columns by two (2) inches.

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that: Poplar Ridge Surgery Center, LLC, ambulatory surgical treatment center

(Name of Applicant)

(Facility Type-Existing)

owned by: Physicians: Kumar, Joshi and Salazar with an ownership type of limited liability corporation (LLC)

and to be managed by: Physicians: Kumar, Joshi and Salazar, intends to file an application for a Certificate of Need

for [PROJECT DESCRIPTION BEGINS HERE]:

for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building. The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The anticipated date of filing the application is: March 9, 2021

The contact person for this project is Roger Manning Consultant
(Contact Name) (Title)

who may be reached at: Excellentia Advisory Group, LLC 1101 St. Peters Howell Road, Suite A
(Company Name) (Address)
Saint Peters Missouri 63376 314 / 399-2335
(City) (State) (Zip Code) (Area Code / Phone Number)

Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be sent to:

**Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243**

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

ATTACHMENTS

Public Notice / Publication Copy

Sent to The Commercial Appeal newspaper 3/3/2021- to be published 3/9/21

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that the Poplar Ridge Surgery Center, LLC, a Tennessee limited liability company, privately owned by Drs. Sanjeev Kumar, Salil Joshi and Jorge Salazar intends to file an application for a Certificate of Need for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.

The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The anticipated date of filing the application is March 9, 2021.

The Contact person for this project is Roger Manning, Managing Partner / Consultant who may be reached at Excellentia Advisory Group, LLC at 1101A St. Peters Howell Road, Saint Peters, MO 63376. Roger's direct phone line is (314) 399-2335

Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be sent to:

Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

ATTACHMENTS

Commerical Appeal AFFIDAVIT / Tearsheet



JSU coach Deion Sanders works with the Tigers before their season opener against Edward Waters at Mississippi Veterans Memorial Stadium Sunday, Feb. 21, 2021. BARRARA GAUNT/CLARION LEDGER

Sanders shows he's for real in JSU win at Grambling

Rashad Milligan
Mississippi Clarion Ledger
USA TODAY NETWORK

When Jackson State football named Deion Sanders as its 21st coach in September, it was fair to question whether the move was a publicly stunt designed to shine the spotlight on a struggling program.

Could an A-list celebrity and Pro Football Hall of Famer with no coaching experience beyond the high school level become successful in the college ranks?

Judging by Saturday's statement win over Grambling, the answer yes.

Jackson State reversed its fortunes against Grambling State during a wild 33-28 victory at Eddie Robinson Stadium on Saturday. It was Grambling's first home loss since Sept. 12, 2015. And it is the first time JSU (2-0, 1-0 SWAC) has beaten GSU (0-1, 0-1) since Nov. 3, 2012.

When asked whether the win put the SWAC on notice — Grambling was picked by league coaches to finish second in the West this season, JSU was picked to finish fourth in the East — Sanders sounded more like a confident veteran who'd been there before than the brash superstar whose 'Prime Time' persona captivated the NFL for 14 seasons.

"I don't know about that," Sanders said. "I think (the SWAC) knows we're here. I think they know we're present. You know, like back in the day, when they called roll, you had to raise your

hand and say, 'Here! Baby, we here, We are here!'"

The first-year coach showed passion on the sideline throughout Saturday's game.

When sophomore quarterback Jalon Jones took a big hit that caused him to lose his helmet and headband in the fourth quarter, Sanders ripped into officials so intently about targeting not being called that a staff member had to pull him back toward the sideline.

His frustration came after JSU was called for targeting twice during the game, first on a call against freshman safety Javien Adams, leading to an ejection, and then later on a call that was overturned by video review.

Targeting is the call JSU freshman safety Javien Adams received in the first half, leading to an ejection, which caused him to get ejected. Jackson State's defense received another targeting call before it was overturned by being redacted after video review.

"The play on Jalon looked bad," Sanders said, "but I didn't get to see it on replay."

When junior wide receiver Daylen Baldwin was running to the end zone on his 64-yard touchdown reception in the second quarter, Sanders ran down the sideline with him.

After challenging Jones had to work on "everything" in the preseason, Sanders complimented the quarterback's performance for the second straight game. The Richmond, Virginia, native

completed 12 of 18 passes for 180 yards and three touchdowns.

"Jalon Jones, our quarterback, had another great game," Sanders said.

"He did the doggone thing. The running game was exceptional by both backs (Kymani Clarke and Tyson Alexander)."

When JSU's kickers left five points on the board with two missed extra points and a missed field goal, Sanders reassured them.

"They struggled today, and I'm looking them in their eyes like, 'Guys, you've

got this. You're going to have to win this thing," Sanders said. "I believe in you, you're going to have to believe that you can do it."

If there ever was proof that Sanders has what it takes to coach, Saturday was it. That careful mix of fierce intensity, motivational tactics and soft skills that leads a program in a winning direction.

It's something many people didn't see coming in September.

Contact Rashad Milligan at 601-862-0198 or Jmilligan@gannett.com. Follow @RashadMilligan on Twitter.

Public Notices

public notices/legal email: legals@commercialappeal.com or call 901.529.2211

Your Source Public Notices for the latest...	Your Source Public Notices for the latest...	Your Source Public Notices for the latest...
--	--	--

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

Notice is hereby given that the applicant for a Certificate of Need for the construction of a new hospital facility in the County of Madison, Tennessee, is the Madison County Hospital Authority. The proposed facility is located on the east side of the County, near the intersection of State Route 125 and State Route 126. The proposed facility is a 100-bed hospital facility with an attached ambulatory care center and a long-term care facility. The proposed facility is to be constructed on a 100-acre site. The proposed facility is to be constructed in two phases. The first phase is to be constructed in 2021 and the second phase is to be constructed in 2022. The proposed facility is to be constructed in accordance with the requirements of the Tennessee Health Care Act of 2008. The proposed facility is to be constructed in accordance with the requirements of the Tennessee Health Care Act of 2008. The proposed facility is to be constructed in accordance with the requirements of the Tennessee Health Care Act of 2008.

ZipRecruiter The smartest way to hire.

PEANUTS By Charles M. Schulz

CRANKSHAFT By Tom Batiuk & Chuck Ayers

FRANK & ERNEST By Bob Thaves

BORN LOSER By Art and Chip Sansom

Timestamp

3/8/2021 9:43:00 (CST)

Final Pub Date

3/9/2021 0:00:00 (CST)

Ad Number

GCI0604425

Publication

Commerical Appeal

Special Requests

Please send 3/9/21 via email

Market

Memphis

Delivery Method

Email

Number of Affidavits Needed

1

Customer Name

Excellentia Advisory Group

Account Number (If Known)

500090

Customer Email

roger@excellentiagroup.com

Your Name

Ashley Breeden

Email Address

abreeden@localiq.com

commercial appeal
PART OF THE USA TODAY NETWORK

**EXCELLENTIA ADVISTORY GROUP
1101 A SAINT PETERS HOWELL RD
SAINT PETERS, MO 63376**

Affidavit of Publication

Personally appeared before me, Tara Mondloch, a Notary Public, Joe Heynen, of MEMPHIS PUBLISHING COMPANY, a corporation, publishers of The Commercial Appeal, morning and Sunday paper, published in Memphis, Tennessee, who makes oath in due form of law, that he is Legal Clerk of the said Memphis Publishing Company, and that the accompanying and hereto attached notice was published in the following edition of The Commercial Appeal to-wit:

3/9/2021



Subscribe and sworn to before me this 9th day of March, 2021



Notary Public, State of Wisconsin, County of Brown

TARA MONDLOCH
Notary Public
State of Wisconsin

My commission expires on August 06, 2021

Ad Number: GCI0604425

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 et seq., and the Rules of the Health Services and Development Agency, that the Poplar Ridge Surgery Center, LLC, a Tennessee limited liability company, privately owned by Drs. Sanjeev Kumar, Salil Joshi and Jorge Salazar intends to file an application for a Certificate of Need for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.

The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The anticipated date of filing the application is March 9, 2021.

The Contact person for this project is Roger Manning, Managing Partner / Consultant who may be reached at Excellentia Advisory Group, LLC at 1101A St. Peters Howell Road, Saint Peters, MO 63376. Roger's direct phone line is (314) 399-2335

Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be sent to:

Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street | Nashville, Tennessee 37243

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

MC-GCI0604425-01

ATTACHMENTS

AFFIDAVIT

STATE OF Missouri
COUNTY OF St. Charles

I, Roger Manning, being first duly sworn, says that he is the applicant named in this application or its lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Rules of the Health Services and Development Agency, and T.C.A. §68-11-1601, *et seq.*, and that the responses to this application or any other questions deemed appropriate by the Health Services and Development Agency are true and complete.

Roger Manning
SIGNATURE/TITLE

Sworn to and subscribed before me this 6th day of MARCH, 2021 a Notary
(Month) (Year)

Public in and for the County/State of St. Charles Mo

DAVID A PAVONE
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Charles County
My Commission Expires: Jan. 3, 2023
19537617

David Pavone
NOTARY PUBLIC

My commission expires JAN. 3, 2023
(Month/Day) (Year)



State of Tennessee
Health Services and Development Agency
Andrew Jackson Building, 9th Floor
www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

March 23, 2021

Roger Manning
Excellentia Advisory Group LLC
1101 St. Peters Howell Rd
Saint Peters, MO 63376

RE: Certificate of Need Application CN2103-014
Poplar Ridge Surgery Center, LLC

Dear Mr. Manning:

This will acknowledge our March 10, 2021 receipt of your application for a Certificate of Need for the establishment of a multi-specialty ambulatory surgical treatment center ("ASTC"), for the performance of surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The facility will consist of three operating rooms and no procedure rooms. The ASTC will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

Please submit responses in triplicate by 4:00 p.m., Monday, March 29, 2021. If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

1. Section A, Executive Summary, Item 3.A.4 Overview (Existing Similar Service Providers)

What existing ASTCs in the proposed service area perform urology surgical procedures and oral maxillofacial surgical procedures?

RESPONSE: We are not applying for an urology Certificate of Need. I have honored your request however for those ASTCs that performed urology procedures according to the JARs.

ASTC -2020	Urology	Oral Maxillofacial
East Memphis Urocenter	3374	No
Wolf River Surgery Ctr	3414	No
Surgery Center at St. Francis	697	No
Le Bonheur East Surgery center	267	540
Methodist Surg Ctr Germantown	65	No

The applicant states that “there appear to be no licensed ASTCs providing this service since Vascular Access Centers went out of business in 2020.” Please address the vascular services offered by UHC-University Clinical Health Vascular Access ASC, which is a service area ASTC listed in the Joint Annual Reports. What vascular surgical procedures are offered by this ASTC, and are there any overlap between the interventional radiologic vascular access procedures proposed by the applicant?

RESPONSE:

As discussed with Thomas Pitt this week, my statement was made since UHC University Clinical Health did not appear on the JAR pdf files but Mr. Pitt sent Master excel reports to me clarifying that they are an ASTC and reporting for at least 2 out of the last 3 years. My supplemental report has been updated accordingly.

According to the United States Renal Data System (USRDS) annual report of 2020 [<https://adr.usrds.org/2020>], Substantial need exists for prompt creation of the AV fistula for patients needing dialysis throughout the country. “Death is twice as common at 18 months among ESRD (End Stage Renal Disease) patients who initiated hemodialysis with a catheter compared with an AV fistula. Disappointingly, little progress has been made over the decade of 2009-2018 in creation of a permanent dialysis access prior to dialysis initiation. The U.S. lags other countries in use of permanent vascular access.” Despite the fistula first initiative by CMS; roughly four in five incident patients began hemodialysis utilizing a central venous catheter in 2018, presenting a substantial missed opportunity to improve care in ESRD. [Annual Data Report // End Stage Renal Disease // 3: Vascular Access <https://adr.usrds.org/2020/end-stage-renal-disease/3-vascular-access>]. These public available data indicate a pressing need to increase access to state of the art facilities which can create prompt AV fistulas to fulfill the unmet need of the ESRD patients in our community. Dr. Joshi and Dr. Salazar, working through the Poplar Ridge ASTC will be able to make substantial contribution toward that unmet need.

Dr. Salazar and Dr. Joshi are the only physicians performing Bayliss wire recanalization in the city of Memphis. This is a hot wire reconstruction of central venous occlusion in dialysis patients where a simple wire crossing of an occluded central vein is not successful. Dr. Salazar and Dr. Joshi continue to get referrals from Memphis and the region for this procedure. This a very unique procedure, that will be available at our ASTC. UHC-University Clinical Health Vascular Access ASC does not offer this procedure.

It is possible there is some overlap in the procedures offered at the UHC-ASTC and the proposed new ASTC. Both do perform Dialysis, angioplasty, stent placements, central venous catheters, thrombectomy, and PAD evaluation. University Vascular is a single center with two rooms offering Shelby county patients dialysis access maintenance or percutaneous fistula creation. Just looking at the Memphis metro population of 1.3 million, it is obvious to the casual observer that a single two room center is woefully inadequate to deal with the tsunami of ESRD patients. A simple catheter rate

evaluation across all the centers across Shelby county will verify our argument. Our city and county needs an additional dedicated ASTC to cater to our ESRD population. Our CON application wants to precisely satisfy this urgent need.

It is noted a significant amount of vascular access procedures were performed at Vascular Access Centers. In addition, the applicant notes Vascular Access Centers has ceased business due to Chapter 7 bankruptcy and was where the applicant's two vascular surgeons were on staff (employed) thus creating a new need for an alternate location. However, the website of <https://www.vascularaccesscenters.com/tennessee/> indicates Vascular Access Centers is still active and accepting patients. Please clarify.

RESPONSE: Vascular Access Centers as a company could not survive Bankruptcy and has since closed the operations. Its Memphis operations have been either closed or liquidated. The websites have not been updated yet. Further details of the case can be found on the web.

<https://casetext.com/case/in-re-vascular-access-ctrs>.

The website for Memphis has not been taken offline and is connected to the Pennsylvania Headquarter website. I called the local (901) phone number listed on the website and it is answered by someone in the Pennsylvania offices.

The applicant noted Vascular Access Centers filed Chapter 7 Bankruptcy. Please provide documentation to verify the statement.

RESPONSE: SEE Amendments/Corrections/Resubmittal Section for 2 inserted documents. Vascular Access Centers filed for Chapter 11 first and then chapter 7. Since that time, the company has been liquidated. The remaining assets of the company are gradually being liquidated.

<https://casetext.com/case/in-re-vascular-access-ctrs>

Please clarify if the two vascular surgeons that were formerly employed by Vascular Access Centers worked at both VAC of Memphis and VAC of East Memphis. If so, where are these centers located?

RESPONSE: Yes and both of the below centers are now closed.

The midtown center was located at:
1750 Madison Avenue, Suite 300
Memphis, TN 38104

The east Memphis center was located at:
6401 Poplar Avenue, Suite 505
Memphis, TN 38119

Please clarify if Vascular Access Centers is an ASTC. If not, why is there a need now for the two vascular surgeons that were formerly employed by Vascular Access Centers to perform procedures in an ASTC? Where are the two vascular surgeons currently performing outpatient surgeries?

RESPONSE: Vascular Access Centers were not ASTCs. Due to its Bankruptcy and poor management, both Interventional Radiologists resigned from Vascular Access Centers. Currently the two Interventional Radiologists work at Outpatient office-based labs. There is need for the ASTC because under general anesthesia, their procedures can be done with greater patient comfort and are the procedures are more accurate when patient is fully relaxed.

Please clarify if Salil Joshi, MD and Jorge Salazar, MD are board certified in their specialties. If so, please list.

RESPONSE: Dr. Joshi and Dr. Salazar are both Board certified in

1. Diagnostic Radiology
2. Vascular & Interventional Radiology

Please clarify if any of the applicant owners were previously associated with VAC of Boliver. If so, please discuss.

RESPONSE : Yes, Salil Joshi, MD and Jorge Salazar, MD were both covering VAC of Bolivar. However, due to Bankruptcy and poor management, both resigned from Vascular Access Centers and are no longer covering VAC of Bolivar.

When was the last date of employment of the two vascular access surgeons (Joshi and Salazar) at Vascular Access Centers?

RESPONSE: Last day of working at Memphis was 29th Jan 2021. Last day of working at Bolivar was 10th of March 2021.

Please confirm the applicant will accept a CON condition to limit surgical procedures to oral maxillofacial procedures, gynecological surgery, and interventional radiologic vascular access surgeries.

RESPONSE: Yes

In general, what type of services will be offered by the proposed ASTC?

RESPONSE: Oral maxillofacial procedures, gynecologic pelvic surgery, and interventional radiologic procedures.

2. Section A, Project Details, Item 4.A., Ownership of the Institution

It is noted the owner of the proposed project is Sanjeev Kumar, MD. However, Sanjeev Kumar, MD is one of three owners of Poplar Ridge Surgery Center, LLC. Please correct the name of the owner of the applicant and the ZIP code, and submit a replacement page 7 (labeled as 7R).

RESPONSE: Correction is made. See Replacement pages.

A cell phone number was given as a phone number for Sanjeev Kumar, MD. Please be aware the information provided in this application is public. If needed, please provide an alternative phone number, and include the revision in replacement page 7. **RESPONSE:** Cell phone number is okay. 248-924-1791

Section A, Project Details, Item 4.B. (Type of Ownership of Control)

The ownership structure is noted. However, the operating agreement submitted with the application is not signed by the members and does not include the Capital Contribution of each member. Are any of the Physician partners in Poplar Ridge Surgery Center LLC providing capital contributions for the corporation? If so, how much is each partner member providing to support operations of the LLC?

RESPONSE: Three owners providing 33.33% coverage of the capital needed; equal shares.

3. Section A, Applicant Profile, Item 5. Name of Management/Operating Entity

A Business Associate Agreement between 901 Vascular / Poplar Ridge Surgery Center LLC and Excellentia Advisory Group LLC is attached to the application. Please explain the relationship between these parties as it relates to this project and the any costs associated with the operation of the new ASTC.

RESPONSE: Excellentia Advisory Group is a surgery center regulatory compliance consulting company that has been engaged by the physician partners to assist with the Certificate of Need application. We are subcontractors. We are not their management company nor have any financial relationship with this client. Our fee for Certificate of Need work is \$25,000.00. The 901 Vascular LLC will provide staffing and logistic support to the Poplar Ridge Surgery Center LLC.

4. Section A, Applicant Profile, Item 6.A. Legal Interest in the Site

The attached lease is not between the applicant and the landlord of the facility being leased and the lease agreement is not signed by the landlord of the property. The tenant is identified as 901 Vascular and the Landlord is Poplar Ventures LLC. Please attach a fully executed lease, or Option to Lease agreement between the applicant - Poplar Ridge Surgery Center LLC and Poplar Ventures LLC.

SEE ATTACHMENT SECTION for Sublease agreement between 901 vascular LLC and Poplar Ridge Surgery Center LLC.

Please provide documentation such as a deed that demonstrates Poplar Ventures, LLC has site control.

SEE ATTACHMENT SECTION for the PV Real Estate Deed of Trust

5. Section A, Applicant Profile, Item 12.A. Square Footage and Cost Per Square Footage Chart

Please describe the construction and renovation associated with the proposed project.

RESPONSE: Construction and upgrades to the space will follow the attached architectural plans [with application] and guidelines. Letter from our chief architect is attached as well. Briefly, the bones and the basic structure in our building already conform to the ASTC structure due to it being a clinical space. Medgas, sprinkler system and power systems will be upgraded to conform to ASTC criteria and will follow Facilities Guidelines Institute (FGI). Detailed drawings are provided for the construction specifications. The rooms and square footage are shown in the Table #12 Square Footage and Cost Per Square Footage Chart.

6. Section B, Need (Specific Criteria - ASTC), Item 1. Need

Please clarify whether urology and oral maxillofacial surgeries are included in the projections. Which physicians will be performing these surgery types?

RESPONSE: Urology is not included in our CON application. The oral maxillofacial surgeons will be (1) Ronald Staples, MD and (2) Ricky Meekins, MD and will be credentialed to utilize the ASTC. According to these two physicians, their hospital cases will remain in the hospital since they are considered oral maxillofacial trauma cases. The hospital that they utilize is Le Bonheur for children and Baptist Memorial for adults. They use Methodist South Hospital occasionally for outpatient procedures and do not do any procedures at any other ASTCs. Their desire would be to have the

convenience of an ASTC in the same building as their practice. This is not only convenient for themselves but also for their patient's convenience. This would eliminate a barrier for patients going to the hospital for minor procedures like teeth extractions and minor oral surgery. They estimate their past three years of cases to have been:

Surgeon	2018	2019	2020
Ronald Staples	3512	3021	2808
Ricky Meekins	3484	2912	2318

*Estimated cases done in both in-hospital and outpatient.

I have included an update of those projected oral maxillofacial surgeries at our ASTC:

Surgeon	1 st Year	2 nd Year	3 rd Year
Ronald Staples	150	200	275
Ricky Meekins	150	200	275

*This is an estimate of what they will do as outpatient requiring ASTC and not in-hospital.

7. Section B, Need (Specific Criteria - ASTC), Item 3. Need and Economic Efficiencies Access

Please provide the following information for the most recent three years for the specialties identified by the applicant: Gynecology, Vascular, Radiological/Oncology, Urology, and Oral Maxillofacial. For each of the three most recent years please list all existing comparable outpatient Operating Rooms and Procedure Rooms based on the type of Cases to be performed. Do not include any outpatient operating rooms which do not perform the same types of cases proposed by the applicant. RESPONSE: To clarify, we have not applied for radiation oncology, urology, vascular surgery or general radiology. Below are the available case volumes for the specialties we applied for-

- Gynecologic surgery/women's health
- Interventional radiology vascular access
- Oral maxillofacial

Service Area ASTC Utilization by Specialty - (2018)

ASTC	# Operating Rooms	# Procedure Rooms	Total Procedures	Gynecology	Vascular Access	Oral Maxillo Facial
East Memphis Surgery Center	6	3	4287	803	0	0
LeBonheur East Surgery center	4	0	3371	0	0	607
Memphis Surgery Center	4	1	3238	27	0	0
Methodist Germantown	4	1	4307	245	0	0
North Surgery Center	4	1	935	9	0	0
University Clinical Health Vascular Access ASC	1	1	225 as reported on JAR	0	300	0

Service Area ASTC Utilization by Specialty - (2019)

ASTC	# Operating Rooms	# Procedure Rooms	Total Procedures	Gynecology	Vascular Access	Oral Maxillo Facial
East Memphis Surgery Center	6	3	4023	1100	0	0
LeBonheur East Surgery center	4	0	2839	0	0	437
Memphis Surgery Center	4	1	2941	47	0	0
Methodist Germantown	4	1	4472	222	0	1
North Surgery Center	4	1	2295	3	0	0
University Clinical Health Vascular Access ASC	Not reporting on JAR					

Service Area ASTC Utilization by Specialty - (2020)

ASTC	# Operating Rooms	# Procedure Rooms	Total Procedures	Gynecology	Vascular Access	Oral Maxillo Facial
East Memphis Surgery Center	6	3	3651	669	0	0
LeBonheur East Surgery center	4	0	2688	0	0	540
Memphis Surgery Center	4	1	2886	41	0	0
Methodist Germantown	4	1	3823	284	0	0
University Clinical Health Vascular Access ASC	1	1	924 as reported on JAR	0	1910	0

8. Section B, Need (Specific Criteria - ASTC), Item 4. Need and Economic Efficiencies

Please estimate the number of outpatient surgeries performed annually by each physician member of the LLC over the past three years and a breakout of surgeries by location. Please then discuss the impact of the proposed project on these locations including an estimate of the number of surgeries that will shift to the proposed facility.

RESPONSE: Gynecology Discussion: In gynecologic surgery, the below table represent the outpatient surgical procedures done by Dr. Kumar in the respective hospitals. In the respective hospitals, the above volume represents less than 2 percent of the total outpatient case volumes. Hence, the existing facilities will not be affected. Moreover, the hospital operating rooms will be utilized by the other needy surgeons. Baptist, Methodist and St. Francis systems have a combined compliment of more than 100 obgyn physicians on staff. Needless to say, any slots vacated by Dr. Kumar will be filled promptly by other physicians. Moreover, Dr. Kumar will continue to utilize the hospitals for cases needing inpatient surgery services.

Dr. Kumar’s outpatient procedure volume is indicated below; followed by outpatient case volumes of the area hospitals-

Surgeon / Location	2018	2019	2020
Sanjeev Kumar, MD	# Surg	# Surg	# Surg
Baptist Hospital for Women	165	56	98
Baptist Memorial Hospital	35	27	7
Methodist Germantown	58	31	72
Methodist Memphis	0	0	0
St. Francis Hospital	51	49	71
Other?	0	0	0
TOTALS	309	163	248

Vascular Access Discussion: Dr. Joshi and Dr. Salazar had performed all their procedures at the Vascular Access Centers (VAC). Since VAC has gone bankrupt and ceased the operations in Memphis, it will not be affected by our physicians moving their cases at the newly proposed ASTC. Their case volumes are provided below-

Surgeon / Location	2018	2019	2020
Salil Joshi, MD	# Surg	# Surg	# Surg
Vascular Access Centers	1121	1456	808
TOTALS			

Surgeon / Location	2018	2019	2020
Jorge Salazar, MD	# Surg	# Surg	# Surg
Vascular Access Centers	1233	1318	808
TOTALS			

Please complete the following chart of ASTCs in 2020 that performed oral maxillofacial surgical procedures, gynecological surgery, and interventional radiologic vascular access surgeries.

ASTC	# ORs	Cases	Cases/OR	*% of Optimal Capacity
University Clinical Health Vascular Access ASC	1	999	999	113%
Single-Specialty Sub-Total	1	999	999	113%
East Memphis Surgery Center	6	3215	536	60.6%
Le Bonheur East Surgery center	4	2727	682	77.1%
Memphis Surgery Center	4	2802	701	79.2%
Methodist Germantown	4	3771	943	106.7%
Multi-Specialty Sub-Total	18	12515	695	78.7%
All ASTC Total	19	13514	711	80.5%

Source: 2020 ASTC JAR

*Optimal capacity is 884 cases per operating room

9. Section B, Need, Item 5. (Specific Criteria - ASTC). Need and Economic Efficiencies

Please complete the following chart to show the projected number of cases for the first two years of operation.

	Year 1	Year 2
Cases	2937	3172
# of operating Rooms	3	3
Cases per operating Room	979	1057
Optimum Utilization (70%)	884	884
Percentage of Optimal Utilization	110.7%	119.6%

10. Section B, Need, Item 2, Project Relationship to Existing Facilities

What is the relationship between the proposed ASTC and Dr. Kumar's existing practice?

RESPONSE: Dr. Kumar’s existing practice is located in the same building. Dr. Kumar will be part owner of the ASTC. No other relationship. The ASTC will be located in the same building as the practice, so it will save time and will be very convenient for the patients as well. It will increase the access to the patients.

What are the plans for future development at the proposed ATSC?

RESPONSE: ASTC will provide state of the art treatments in the given specialties and future developments will be dictated by the technology and patient need.

What number of surgeries currently performed at other ASTCs/hospitals will be shifted to the new ASTC?

RESPONSE: None of the surgeries are being done at any other ASTCs; hence they will not be affected. Less than 2 percent of the procedures may be shifted to the proposed ASTC from the area hospitals, as indicated in the above table. However, as indicated in the same table, the respective area hospital outpatient case load has grown more than 15 percent every year in last 3 years, so it is likely that the hospitals will not be affected. On the contrary, it may be necessary to increase the respective area hospital capacity as the procedure volume has grown 180% to 300% per the data indicated above.

11. Section B, Need, Item 4.A., Demographics

The demographics table is noted. However, the target population columns are using 2020 - 2023 data instead of 2021 - 2025. Please revise the table to show 2021 -2025 population data and submit a replacement page 27R. If any text on other pages is affected, please submit appropriate replacement pages.

RESPONSE: See 27R for 2021-2015 revised table.

Please clarify the target population in the population table.

RESPONSE: It has been clarified to be ages 18+

In addition, the TennCare Enrollees as a % of total Population column is incorrect. Please also include corrections in replacement page 27R.

RESPONSE: I have corrected the percentage to be the percentage of the total targeted age group by County, Service Region and State.

Please complete the following chart for hospitals in the proposed service area that perform outpatient surgeries.

**Service Area Hospital Outpatient Surgical Utilization
2017-2019**

Hospital	County	2017 OP Cases	2018 OP Cases	2019 OP Cases	% Change 2017-2019
Baptist Memorial Hospital	Shelby	3945	4123	12218	+309.7%
Baptist Collierville	Shelby	1803	1716	3111	+172.5%
Baptist Memorial for Women	Shelby	2328	2736	5481	+235.4%
Methodist Germantown	Shelby	6258	5986	11590	+185.2%
Methodist H.C. Memphis	Shelby	7343	6537	14558	+198.3%
Methodist Hospital North	Shelby	1066	911	3207	+300.8%
Methodist Hospital South	Shelby	849	782	1712	+201.6%
Regional One Health	Shelby	2371	2329	8754	+369.2%
St. Francis Hospital Shelby	Shelby	5339	4854	10207	+191.1%
St. Francis Bartlett	Shelby	2102	2483	4204	+200%
Lauderdale Community	Lauderdale	130	415	189	+45.4%
Baptist Memorial Tipton	Tipton	617	545	609	-1.3%
Total		34,151	33,417	76,440	+223.8%

Please complete the following chart of the proposed service area ASTC utilization from 2018 to 2020 that provide comparable surgical procedures that are being proposed by the applicant.

RESPONSE: Please note that vast majority of the cases done in the proposed ASTC will be interventional radiology procedures, as noted above. These cases are not done in any of the ASTCs or the hospitals because Dr. Joshi and Dr. Salazar do not operate in any other ASTCs or any of the area hospitals. However, we have provided the requested data.

2018-2020 Service Area Utilization Trend
Proposed Service Area

ASTC	County	2020 #ORs	2018 Cases OR	2019 Cases OR	2020 Cases OR	% Change 2018-2020 OR
Single-Specialty ASTCs						
University Clinical Health Vascular Access ASC	Shelby	1	Not reported	300	999	333%
Multi-Specialty ASTCs						
East Memphis Surgery Center	Shelby	6	532	602	601	13%
LeBonheur East Surgery center	Shelby	4	710	843	672	-5.4%
Memphis Surgery Center	Shelby	4	730	789	701	-4.0%
Methodist Germantown	Shelby	4	912	865	839	-8.0%
<i>Total</i>		<i>19</i>	<i>2884</i>	<i>3399</i>	<i>3812</i>	<i>32.2%</i>

Source: ASTC JAR, 2018-2020

12. Section B, Economic Feasibility, Item 1 Project Cost Chart

Lease costs listed in the lease agreement are listed as \$92,000 in Year 1 and \$92,500 in Year 2. \$680,000 total costs over the initial seven-year term of the lease which is greater than the amount allocated in the Project Cost Chart \$560,000. Please indicate what the fair market value of the leased space is and compare it to the total lease costs over the initial term of the lease. Use the greater amount in the project cost chart.

RESPONSE: The leased space is at fair market value. It was determined by a major commercial real estate advisory firm; Newmark team (<https://www.nmrk.com/people>). Baseline lease rate is 18 dollars per foot, NNN. A value of 92,000 in year 1 represents baseline rent, and 92,500 represents baseline rent in year 2. In a NNN lease, the tenant is responsible for paying for CAM charges, utilities, cleaning supplies, taxes and insurance etc. These exact costs will become evident when the ASTC becomes operational; hence it cannot be estimated upfront. A cost of 680,000 includes the common area factor of the building whereas 560,000 is the cost of the ASTC suite itself; hence these numbers are accurate per the best of our knowledge.

13. Section B, Economic Feasibility, Item 2. Funding Source

The Financing Letter from Alex Neale, Senior Vice President of Financial Federal Bank does not include the required elements or refer to the applicant (Poplar Ridge Surgery Center LLC) as the recipient of a commercial loan for the project. The funding amount referenced in the letter is less (\$1.8 million) than the project cost for this CON application (\$2,012,000). The letter must include the following elements: 1) state favorable initial contact with the applicant for this CON, 2) the proposed loan amount, 3) expected interest rates, 4) anticipated term of the loan, and 5) any restrictions or conditions.

RESPONSE: See Attachments for amended Financial Federal Letter with financing option up to \$2.5 million with the above variables that have been added.

14. Section B, Economic Feasibility, Item 4. Projected Data Chart

The Projected Data Chart contains calculation errors and omissions. Please address the following:

The Projected Data Chart appears to have calculation errors under the following line items: Year 1 - Total Deductions, Total Operating Expenses, Earnings Before Interest, Taxes and Depreciation, Net Income (Loss), Net Balance, Free Cash Flow (Net Balance + Depreciation). Year 2 - Total Deductions, Net Operating Revenue, Total Operating Expenses, Earnings Before Interest, Taxes and Depreciation, Net Income (Loss), Net Balance, Free Cash Flow (Net Balance + Depreciation).

Please adjust the amounts listed in the Projected Data Chart and submit a revised pages 41 & 42 (labeled as pages 41R and 42R).

RESPONSE: Errors noted and corrected. See 41R and 42R in the Amendments /Corrections/Resubmittals section.

15. Section B, Economic Feasibility, Item 5. Average Gross Charge

The Average Gross Charge, Average Deduction from Operating Revenue and Average Net Charge to not match the Projected Data Chart. Please revise this chart and submit a revised page 43 (labeled as page 43R).

RESPONSE: Errors noted and corrected. See 43R in the Amendments /Corrections/Resubmittals section.

16. Section B, Economic Feasibility, Item 6.A.2., Demonstrating the Availability of Sufficient Cash Flow

The applicant has selected Commercial Loan as the source of funding for this project but refers to the attached bank funding letter as assurance of the availability of adequate cash reserves to fund operations for the first year of the project. Please clarify how the project will be funded.

RESPONSE: Project will be funded by the commercial lender. A financing option of 2.5 million covers the costs of the project and gives operative reserves of year 1 operations. Any emergency shortfall will be covered by the physician partners.

Please provide financial information for the corporation, partnership, or principal parties that will be a source of funding for the project.

RESPONSE: The bank letter of financing support is attached; and provides adequate reserves. The corporation is a new entity, hence does not have income yet. Financial information on all the physician partners is available and can be shared on a confidential fashion since we do not want that sensitive information the public domain.

17. Section B, Economic Feasibility, Item 6.B. Net Operating Margin Ratio

The Net Operating Margin Ratio does not appear to be accurate based on the Projected Data Chart. Please revised the Projected Data Chart and recalculate the Net Operating Margin Ratio for Year One and Year Two of the project. Please revise and resubmit a page 45 (labeled as page 45R).

RESPONSE: Errors noted and corrected. See 45R in the Amendments /Corrections/Resubmittals section.

18. Section B, Economic Feasibility, Item 8. Applicant's Projected Staffing

The number of non-patient care positions calculated in the staffing chart are not calculated correctly. Please revise and resubmit a page 47 (labeled as page 47R).

RESPONSE: Errors noted and corrected. See 47R in the Amendments / Corrections/Resubmittals section.

19. Section B, Economic Feasibility, Item 9.A.B. Alternatives Considered

Please provide a response to questions 9.A.B.

A. The availability of less costly, more effective and/or more efficient methods of providing the benefits intended by the project. If development of such alternatives is not practicable, justify why not, including reasons as to why they were rejected.

RESPONSE: As stated in our application, the reason for the project was to create greater efficiencies for the surgeons and their patients and community at large. The gynecologic surgeon has long wait times in between cases at hospitals thus causing him to have periods of down time as much as 1 to 2 hours in between cases. The other issue is the need to be driving from one hospital to another because of the patients' commercial insurance plan restrictions. Getting favorable block time at competing ASTCs is sometimes an issue again causing wasted time for the surgeon which reduces patient access.

Regarding the vascular surgeons, they cannot take their cases to the local hospitals without being employed by the hospital. This is not their career desire or choice. No other ASTC (without hospital control) in the area is licensed to provide vascular access procedures except University Clinical Health and that is not in their career plan. Drs. Joshi and Salazar wish to have the convenience of an ASTC within the same building as their practice offices. Moreover, the ESRD patient population desperately needs more ASTCS for fistula creation as noted above in identification of the need.

The project is intended to support the three physician owners by allowing not only greater time and operational efficiencies for them but also better access, greater customer service for the patient and easier access coming to an outpatient center rather than a hospital setting.

We feel that the combination of "less costly, more effective and more efficient methods" exist for these surgeons in form of ASTC in their own facility. It is true that building a new ASTC project is more money spent upfront but it is widely established by CMS that the care provided with the ASTC is more cost effective than that in the hospital. There are no higher costs to the patient or the macroscopic healthcare system of Western Tennessee. An ASTC project is intended to offer third party payors a more cost-effective alternative through competition. Competition also fosters greater concerns to all who compete for these services by offering higher quality care and greater customer service in order to be on top of their field.

[<https://www.ascassociation.org/advancingsurgicalcare/reducinghealthcarecosts/costsavings/healthcarebluebookstudy>]

B. Document that consideration has been given to alternatives to new construction, e.g., modernization or sharing arrangements.

RESPONSE: This is excellent thought. Most of the construction is actually repurposing the older

building; i.e. modernizing. Sharing arrangements are being considered with other groups such as Oral and Maxillofacial surgery group.

20. Section B, Orderly Development, Item 3 - ASTC

Please document the availability of an anesthesiologist for the proposed project and the anesthesiologist (s) acceptance of the Medicare and TennCare plans that the applicant accepts.

RESPONSE: See attached document from *Anesthesia Health Consultants* for anesthesia services that will be provided to our ASTC. *Anesthesia Health Consultants* have agreed to accept all payor classes including Medicare and TennCare plans.

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." **For this application the sixtieth (60th) day after written notification is May 21, 2021. If this application is not deemed complete by this date, the application will be deemed void.** Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Re-submittal of the application must be accomplished in accordance with Rule 0720-10-.03 and requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

If all supplemental information is not received and the application officially deemed complete prior to the beginning of the next review cycle, then consideration of the application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. § 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Thomas Pitt
HSD Examiner

Enclosure

AMENDMENTS/ CORRECTIONS / RESUBMITTALS

1. VASCULAR ACCESS CHAPTER 11 BANKRUPTCY DOCUMENTATION

Documentation Sources:

<https://www.inforuptcy.com/browse-filings/pennsylvania-eastern-bankruptcy-court/2:19-bk-17117/bankruptcy-case-vascular-access-centers-lp>

<https://cases.omniagentsolutions.com/?clientId=CsgAAncz%252b6ab%252bOqmFDx6yi15DkuOwEFLpRZiizMKlCpv41NA4eiGNLiw1Dlo3JKY%252fKTEUhr7UpY%253d>

<https://casetext.com/case/in-re-vascular-access-ctrs>

<https://www.docketbird.com/court-documents/Vascular-Access-Centers-L-P/Exhibit-M/paeb-2:2019-bk-17117-00547-013>

Case number: 2:19-bk-17117 - Vascular Access Centers, L.P. - Pennsylvania Eastern Bankruptcy Court

**U.S. Bankruptcy Court
Eastern District of Pennsylvania (Philadelphia)
Bankruptcy Petition #: 19-17117-amc**

Assigned to: Judge Ashely M. Chan
Chapter 11
Involuntary
Asset

Date filed: 11/12/2019
341 meeting: 03/09/2020
Deadline for filing claims: 06/19/2020
Deadline for filing claims (govt.): 06/19/2020
Deadline for objecting to discharge: 02/02/2021

Debtor

Vascular Access Centers, L.P.

2929 Arch Street, Suite 1705
Philadelphia, PA 19104
PHILADELPHIA-PA
Tax ID / EIN: 76-0790010

represented by **ANNE M. AARONSON**

Dilworth Paxson LLP
1500 Market Street
Suite 3500E
Philadelphia, PA 19102
215 - 575-7000
Fax : 215-575-7000
Email: aaaronson@dilworthlaw.com

LAWRENCE G. MCMICHAEL

Dilworth Paxson LLP
1500 Market Street
Suite 3500E
Philadelphia, PA 19102
(215) 575-7000
Fax : 215-575-7200
Email: lmcmichael@dilworthlaw.com

JESSE N. SILVERMAN

Dilworth Paxson LLP
1500 Market Street, Suite 3500
Philadelphia, PA 19102
215-575-7284
Email: jsilverman@dilworthlaw.com
TERMINATED: 02/18/2020

Petitioning Creditorrepresented by **GEORGE BOCHETTO****Philadelphia Vascular Institute, LLC**

585 County Line Road
Radnor, PA 19087

Bochetto & Lentz, P.C.
1524 Locust Street
Philadelphia, PA 19102
(215) 735-3900
Email: gbochetto@bochettoandlentz.com

DAVID B. SMITH

Smith Kane Holman, LLC
112 Moores Road, Suite 300
Malvern, PA 19355
(610) 407-7215
Fax : (610) 407-7218
Email: dsmith@skhlaw.com

Petitioning Creditorrepresented by **DAVID B. SMITH****Metter & Company**

(See above for address)

831 DeKalb Pike
Blue Bell, PA 19422

Petitioning Creditorrepresented by **DAVID B. SMITH****Crestwood Associates, LLC**

(See above for address)

240 East Lincoln Street
Mount Prospect, IL 60056

Trusteerepresented by **SYDNEY J. DARLING****STEPHEN V. FALANGA, Chapter 11 Trustee**

100 Mulberry Street, 15th Floor
Three Gateway Center
Newark, NJ 07102
Email: sdarling@walsh.law

Walsh Pizzi O'Reilly Falanga LLP
100 Mulberry Street, 15th Floor
Three Gateway Center
Newark, NJ 07102
(973) 757-1107

STEPHEN V. FALANGA

Walsh Pizzi O'Reilly Falanga LLP
100 Mulberry Street, 15th Floor
Three Gateway Center
Newark, NJ 07102
(973) 757-1107
Fax : (973) 757-1090

Email: sfalanga@walsh.law

CHRISTOPHER M. HEMRICK

100 Mulberry Street, 15th Floor
Three Gateway Center
Newark, NJ 07102
Email: chemrick@walsh.law

ERIC S. PADILLA

100 Mulberry Street, 15th Floor
Three Gateway Center
Newark, NJ 07102
Email: epadilla@walsh.law

PETER JOSEPH PIZZI

Walsh Pizzi O'Reilly Falanga LLP
1500 Market Street
12th Floor
Philadelphia, PA 19102
215 279 8771
Email: ppizzi@walsh.law

represented by **KEVIN P. CALLAHAN**

Office of the United States Trustee
200 Chestnut Street, Suite 502
Philadelphia, PA 19106-2912
215-597-4411
Email: kevin.p.callahan@usdoj.gov

GEORGE M. CONWAY

United States Trustee
200 Chestnut Street
Suite 501, U S Customs House
Philadelphia, PA 19106
(215) 597-8418
Email: george.m.conway@usdoj.gov

NICHOLAS S. HERRON

Office of the United States Trustee
200 Chestnut Street, Suite 502
Philadelphia, PA 19106-2912
215-597-4411
Fax : 215-923-1293
Email: nicholas.s.herron@usdoj.gov

U.S. Trustee

United States Trustee

Office of the U.S. Trustee
200 Chestnut Street
Suite 502
Philadelphia, PA 19106
(215) 597-4411

REPLACEMENT OPERATING AGREEMENT
With Signatures

2. Section A, Project Details, Item 4.A., Ownership of the Institution

OPERATING AGREEMENT

For

Poplar Ridge Surgery Center, LLC

December 20, 2020

TABLE OF CONTENTS

OPERATING AGREEMENT	3
ARTICLE I: TERMS & CONDITIONS	3
ARTICLE II: AGREEMENT	8
ARTICLE III: BUSINESS OF THE COMPANY	8
ARTICLE IV: MEMBERS	9
ARTICLE V: MEMBER RIGHTS & DUTIES	10
ARTICLE VI: MANAGER RIGHTS & DUTIES	13
ARTICLE VII: MEETINGS OF MEMBERS	16
ARTICLE VIII: CONTRIBUTIONS	19
ARTICLE IX: ALLOCATIONS & DISTRIBUTIONS	21
ARTICLE X: TAXES	24
ARTICLE XI: DISPOSITION OF INTERESTS	25
ARTICLE XII: ADMITTING ADDITIONAL MEMBERS	29
ARTICLE XIII: DISSOCIATION OF MEMBERS	29
ARTICLE XIV: DISSOLUTION AND WINDING UP	31
ARTICLE XV: GENERAL PROVISIONS	34
EXHIBIT A: MEMBERS	38
EXHIBIT B: MANAGERS	39

DISCLAIMER/ Read and Delete: This Agreement is not a substitute for professional legal and accounting advice tailored to your individual business situation. It certainly is not intended to replace the services of an attorney or accountant although this document was created by one of attorneys. Used as a starting point, your attorney can modify this agreement for your needs if you prefer or perhaps even suggest a different Agreement entirely, perhaps due to some unique detail in your situation.

OPERATING AGREEMENT

This Operating Agreement of Poplar Ridge Surgery Center, LLC, a limited liability company organized pursuant to the laws of the State of Tennessee, is entered into and shall be dated and effective as of the Effective Date, December 20, 2020 by and among the Company and the persons executing this Agreement as Members.

ARTICLE I

TERMS & CONDITIONS

- a. The terms and conditions used in this Agreement shall have the meanings set forth in the codified laws of the state of Tennessee, or as set forth below (unless otherwise expressly provided herein.)
1. “Act” shall mean the set of laws expressly enacted to deal with limited liability companies in Tennessee (known as Title 48, Chapter 249 Tennessee Revised Limited Liability Company Act) and all amendments thereto.
 2. “Additional Member” shall mean a member other than an initial member or a substitute member who has acquired a membership interest in the Company.
 3. “Agreement” shall mean this Operating Agreement, as originally executed and as it may be amended from time to time.
 4. “Articles of Organization” shall mean the Articles of Organization of the Company filed or to be filed with the Tennessee Secretary of State for the purpose of forming the Company and as they may from time to time be amended.
 5. “Assignee” shall mean the transferee of a Membership Interest who has not been admitted as a substituted member.

6. "Bankrupt Member" shall mean a Member who (a) has become the subject for an order for relief under the United States Bankruptcy Code, (b) has initiated, either in an original proceeding or by way of answer in any state, insolvency receivership proceeding, an action for liquidation arrangements, composition, readjustment, dissolution or similar relief.
7. "Capital Account" as of any date shall mean the Capital Contribution to the Company by a Member, adjusted as of such date pursuant to this Agreement.
8. "Capital Contribution" shall mean any contribution by a Member to the capital of the Company in cash, property, services rendered or a promissory note or other binding obligation to contribute cash or property or to render services. "Initial Capital Contribution" shall mean the initial contribution to the capital of the Company.
9. "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time, or the corresponding provisions of any superseding federal revenue statute.
10. "Company" shall refer to Poplar Ridge Surgery Center, LLC.
11. "Company Property" shall mean any Property owned by the Company.
12. "Default Interest Rate" shall mean the higher of the legal rate or the then prime rate quoted in The Wall Street Journal plus two points.
13. "Disposition" (Dispose) shall mean any sale, assignment, exchange, mortgage, pledge, grant hypothecation, or other transfer, absolute or as security or encumbrance (including dispositions by operation of law).

14. "Disassociation" shall mean any action which causes a person to cease to be a Member as described in Article XIII hereof.
15. "Dissolution Event" shall mean an event, the occurrence of which will result in the dissolution of the Company under Article XIV unless the Members agree to the contrary.
16. "Distribution" means any cash and other property paid by the Company to a Member of the Company in his or her capacity as a Member.
17. "Effective Date" shall mean: December 20, 2020.
18. "Entity" shall mean any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative or association, or any foreign trust or foreign business organization.
19. "Fiscal Year" shall mean the fiscal year of the Company, which shall be the year beginning on January 1st and ending December 31st.
20. "Gifting Member" shall mean any Member or Economic Interest Owner who gifts, bequeaths or otherwise transfers for no consideration (by operation of law or otherwise, except with respect to bankruptcy) all or any part of its Membership Interest or Economic Interest.
21. "Manager" shall mean one or more managers. Specifically, "Manager" shall mean those names listed on Exhibit B, or any person that succeed him in that capacity.
22. "Member" shall mean each of the parties who executes a counterpart of this Operating Agreement as a Member, and each of the parties who may hereafter become Members in accordance Article XII.

23. "Membership Interest" shall mean a Member's entire interest in the Company, including the right to participate in the management of the business and affairs of the Company, including the right to vote on, consent to, or otherwise participate in any decision or action of or by the Members granted pursuant to this Operating Agreement and the Act.
24. "Net Losses" shall mean the losses and deductions of the Company, determined in accordance with accounting principles consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.
25. "Net Profits" shall mean the income and gains of the Company, determined in accordance with accounting principals consistently applied from year to year employed under the method of accounting adopted by the Company, and as reported separately or in the aggregate, as appropriate, on the tax return of the Company filed for federal income tax purposes.
26. "Person" shall mean any association, corporation, stock company, estate, general partnership (including any Registered Limited Liability Partnership), limited association, limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, real estate investment trust, business trust or other trust, or other individual in its own or any representative capacity. In addition, it shall mean the heirs, executors, administrators, legal representatives, successors and assigns of such "Person" where the context so permits.
27. "Proceeding" shall mean any judicial or administrative trial, hearing or other activity, civil, criminal or investigative, the result of which may be that a court,

arbitrator or governmental agency may enter a judgment, order, decree or other determination.

28. "Property" shall mean any Property, real or personal, tangible or intangible, including money and any legal or equitable interest in such Property, but excluding services and promises to perform services in the future.
29. "Reserves" shall mean, with respect to any fiscal period, funds set aside or amounts allocated during such period to Reserves which shall be maintained in an amount deemed sufficient by the Managers to pay taxes, insurance, or other costs or expenses incident to the ownership or operation of the Company's business.
30. "Resignation" shall mean the act by which a Manager ceases to be a Manager.
31. "Selling Member" shall mean any Member who or which desires to or does sell, assign, pledge or otherwise transfers for a consideration all or any portion of the Member's Membership Interest.
32. "Taxable Year" shall mean the taxable year of the Company as determined pursuant to Section 706 of the Code.
33. "Taxing Jurisdiction" shall mean any state, local or foreign government that collects tax, interest or penalties, however designated, and any Member's share of the income or gain attributable to the Company.

ARTICLE II

Agreement

a. Agreement. For and in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Members executing this Agreement hereby agree to the terms and conditions of the Agreement as it may be from time to time amended according to its terms.

It is the express intention of the Members that the Agreement shall be the sole source of agreement of the parties, and except to the extent a provision of this Agreement expressly incorporates federal income tax rules by reference to the sections of the Code or Regulations, or is expressly prohibited or ineffective under the Act, even when inconsistent with or different from the provisions of the Act or any other law or rule. To the extent any provision of the Agreement is prohibited or ineffective under the Act, the Agreement shall be considered amended to the smallest degree possible in order to make the Agreement effective under the Act. In the event the Act is subsequently amended or interpreted in such a way to make any provision of the Agreement that was formerly invalid valid, such provision shall be considered to be valid from the effective date of such interpretation or amendment.

ARTICLE III

Company Business

- a. Nature of Business. The Company is formed for, and the business of the Company shall be to create an ambulatory surgery center for the purpose of providing high quality care to patients needing outpatient surgical procedures specifically in the gynecological surgery, gynecological oncology, interventional radiology / vascular access and other future multi-specialties surgical fields. The Company is created to offer a safer environment, more cost-effective alternative to hospitals and more efficient method of delivering quality patient care.
- b. The Company exists only for the purposes specified in Section A and may not conduct any other business without (a) unanimous consent of the Board, (b) Members General Consensus and (c) the Tennessee Department of Health department of licensure.

ARTICLE IV

Members

- a. Names and Addresses. The names and addresses of the Initial Members are as set forth in Exhibit A to this Agreement.
- b. Additional Members. In the event that a Person is hereafter admitted as an Additional Member, their name, address and Capital Contribution shall be added to Exhibit A.

- c. *Membership Interests in the Company shall be represented by certificates. They shall be numbered and entered in the books of the Company as they are issued. They shall exhibit the holder of the Membership Interest and the numerical percentage or other designation of the Member's Interest and shall be signed by the Members.
- d. The Members may issue a new certificate or certificates in place of any certificate or certificates therefore issued by the Company, alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate to be lost or destroyed. When authorizing such issue of a new certificate or certificates, the Members may, in their discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Members may require, and/or give the Company a bond in such sum and with such surety or sureties as it may direct as indemnity against any claim that may be made against the Company with respect to the certificate or certificates alleged to be lost or destroyed.
- e. Transfer of Certificates. Upon proof of compliance with the provisions of Article XI relating to transfer of Membership Interest, duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Company shall issue a new certificate to the Person entitled thereto and cancel the old certificate, a record of every such transfer shall be entered upon the transfer book of the Company, which shall be kept at its principal office. No transfer shall be made within ten (10) days next preceding the annual meeting of Members.
- f. The Company shall be entitled to treat the owner of record of any certificates of Membership Interest as the holder in fact thereof and shall not be bound to recognize any equitable claim on the part of any other Person, whether or not it shall have express or other notice thereof, except as expressly provided by the laws of Tennessee.

ARTICLE V

Member Rights and Duties

a. **Management Rights.** All Members who have not dissociated shall be entitled to vote on any matter submitted to a vote of the Members. Notwithstanding the foregoing, the following actions require the vote or consent of a majority:

1. any amendment to this Agreement
2. the admission of Assignees as a Member
3. the continuation of the Company after a Dissolution Event

b. **Majority.** Whenever any matter is required or allowed to be approved by a Majority of the Members or a Majority of the Remaining Members under the Act or this Agreement, such matter shall be considered approved or consented to upon the receipt of the affirmative approval or consent, either in writing or at a meeting of the Members, of Members entitled to vote on a particular matter. Disassociating Members shall not be considered Members entitled to vote for the purpose of determining a Majority.

c. **Limitation of Liability of Members.** Members shall not be liable for any debts, obligations or liability of the Company or each other, whether arising in tort, contract or otherwise, solely by reason of being such Member. However, each Member shall remain personally liable for payment of his, her or its Capital Contribution.

d. **Indemnification.** The Company shall indemnify the Members, Managers, and agents for all costs, losses, liabilities and damages paid or accrued by such Member, Manager or agent in connection with the business of the Company.

e. **Books and Records.** The Managers shall maintain and preserve during the term of the Company and for six (6) years thereafter, all accounts, books, minutes of meetings of Members, and all other relevant Company documents. Upon reasonable request, each Member shall have the right, during ordinary business hours and at the principal place of business of the company, to inspect and copy such documents, at the requesting Member's expense.

f. **Sale of All Assets.** The Members shall have the right, by the vote or written consent of Members holding at least two-thirds of all Capital Interests, to approve the sale, lease, exchange or other disposition of all or substantially all of the assets of the Company which is to occur as part of a single transaction or plan.

g. **Priority and Return of Capital.** Except as may be expressly provided in Articles VIII or IX, no Member shall have priority over any other Member.

h. **Financial Adjustments.** No Members admitted after the date of this Agreement shall be entitled to any retroactive allocations of losses income or expense deductions incurred by the Company.

i. **Representations and Warranties.** Each Member, and in the case of an organization, the person(s) executing the Agreement on behalf of the organization hereby represents and warrants to the Company and each other Member and Manager that:

1. If that Member is an organization, that it is duly organized, validly existing, and in good standing under the law of its state of organization, and that it has full organizational power to execute and agree to the Agreement to perform its obligations hereunder;
2. That the Member is acquiring its interest in the Company for the Member's own account as an investment and without an intent to distribute the interest;
3. The Member acknowledges that the interests have not been registered under the Securities Act of 1933 or any state securities laws and may not be resold or transferred by the Member without appropriate registration or the availability of an exemption from such requirements.

j. **Conflicts of Interest.** A Member shall be entitled to enter into transactions that may be considered competitive with, or a business opportunity that may be beneficial to, the Company, it being expressly understood that some of the Members may enter into

transactions that are similar to the transactions into which the Company may enter. Notwithstanding the foregoing, Members shall account to the Company and hold as trustee for it any property, profit or benefit derived by the Member, without the consent of the other members, in the conduct and winding up of the Company business or from a use or appropriation by the Member of Company Property, including information developed exclusively for the Company and opportunities expressly offered to the Company.

ARTICLE VI

Rights and Duties of Managers

- a. **Management.** The business and affairs of the Company shall be managed by its Managers. The Managers shall direct, manage and control the business of the Company to the best of their ability. Managers will manage through the direction and approval of the Governing Board and except for situations in which the approval of the Members is expressly required by this Operating Agreement or by non-waivable provisions of applicable law. The Managers shall have full and complete authority, power and discretion to manage and control the business, affairs and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business.
- b. **Number, Tenure and Qualifications of Managers.** The Company shall initially have one Manager. Each of the individuals listed on Exhibit B to this Agreement shall initially serve as the Managers. The number of Managers of the Company may be amended by the vote or written consent of Members holding at least two-thirds of the Membership Interests. Each Manager shall hold office until the next annual meeting of Members, or until a successor shall have been elected and qualified.
- c. **Certain Powers of Managers.** Except as set forth in this Agreement, the Managers shall have the power and authority, on behalf of the Company to:
 1. Purchase, lease or otherwise acquire from, or sell, lease or otherwise dispose of to any property, to any Person.
 2. Open bank accounts and otherwise invest the funds of the Company.
 3. Borrow money for the Company from banks or other lending institutions and on such terms as the Members deem appropriate.
 4. Purchase insurance on the business and assets of the Company.
 5. Commence lawsuits and other proceedings.
 6. Enter into any agreement, instrument or other writing.

7. Retain accountants, attorneys, or any other professionals or agents.
 8. Take any other lawful action that the Managers consider necessary, convenient, or advisable in connection with any business of the Company.
- d. Binding Authority. Unless authorized to do so by the Manager, no attorney-in-fact, employee or other agent of the Company shall have any power or authority to bind the Company in any way. No Member shall have any power or authority to bind the Company unless the Member has been authorized by the Members to act as an agent of the Company.
- e. Liability for Certain Acts. Each Manager shall perform his duties as Manager in good faith, in a manner he reasonably believes to be in the best interests of the Company, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.
- f. No Exclusive Duty to Company. The Managers shall be required to manage the Company as their sole and exclusive function and they may not have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have the right pursuant to this Agreement to share or participate in such other business interests, activities or to the income or proceeds derived therefrom.
- g. Indemnification. The Company shall indemnify and hold harmless the Managers from and against all claims and demands to the maximum extent permitted under applicable laws.
- h. Resignation. Any Manager may resign at any time by giving written notice to the Company, with a copy to each Member. The resignation of any Manager shall take effect upon receipt of such notice by the Company or at any later time specified in such notice. Unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective. The resignation of the Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

- i. **Removal.** Any manager may be removed or replaced with or without cause by the vote or written consent of Members who hold at least a two-thirds majority.
- ii. **Membership Interests.** The removal of a Manager who is also a Member shall not affect the Manager's rights as a Member and shall not constitute a withdrawal of such Member.

- k. **Vacancies.** Any vacancy occurring for any reason in the number of Managers may be filled by the vote or written consent of at least a Majority two-thirds of the Membership interests. A Manager elected to fill a vacancy shall be elected for the unexpired term of the Manager's predecessor and shall hold office until the expiration of such term and until the Manager's successor has been elected and qualified.

- k. **Salaries.** Each Manager shall be reimbursed for all reasonable expenses incurred in managing the Company. The salaries and other compensation of the Managers shall be fixed from time to time by the vote or written consent of at least a majority of the Membership Interests.

- j. **Officers.** All Officers shall be hired with the approval of the Governing Board to the Company.

ARTICLE VII

Meetings of Members

- a. **Annual Meeting.** The annual meeting of the Members shall be held during the month of December, or at such other time as shall be determined by the Managers.

- b. **Special Meetings.** Special meetings of the Members, for any purpose or purposes, may be called by any Manager or any Member or group of Members holding collectively not less than two-thirds of the Membership Interests.

c. **Place of Meetings.** Meetings of the Members may be held at any place, within or outside of the State of Tennessee, for any meeting of the Members designated in any notice of such meeting. If no such designation is made, the place of the meeting shall be the chief executive office of the company.

d. **Notice of Meetings.** Except as per written notice stating the place, day and hour of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting, stating the purpose or purposes for which the meeting is called, shall be delivered no fewer than ten (10) nor more than thirty (30) days before the date of the meeting.

e. **Record Date.** For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment of such meeting, or Members entitled to receive payment of any Distribution, or to make a determination of Members for any other purpose, the date on which the notice of the meeting is mailed or the date on which the resolution declaring Distribution is adopted, as the case may be, shall be not more than sixty (60) nor less than ten (10) days.

f. **Quorum.** Members holding a Majority of all Membership interests, represented in person or by proxy, shall constitute a quorum at any meeting of Members. In the absence of a quorum at any meeting of Members, a Majority of the Membership Interests so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days without further notice.

g. **Manner of Acting.** If a quorum is present at any meeting, the vote or written consent of Members holding not less than a Majority of Membership Interests shall be the act of the Members.

At all meetings of Members, a Member may vote in person or by proxy. The proxy shall be executed in writing by the Member granting the proxy or by a duly authorized attorney-in-fact of the Member. Such proxy shall be filed with the Managers of the Company before or

at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided for in the proxy.

i. **Actions by Members Without a Meeting.** Whenever the Members of the Company are required or permitted to take any action by vote or consent, such action may be taken without a meeting, without prior notice, and without a vote.

1. The action so taken shall be signed by the Members who hold the Membership Interests, having not less than the minimum number of votes that would be necessary to authorize such actions.

2. Every written consent shall bear the date of signature of each Member who signs the consent, and no written consent shall be effective to take the action referred to therein unless written consents signed by a sufficient number of Members are delivered within sixty (60) days to the office of the Company, its principal place of business, or to a Manager, employee, or agent of the Company having custody of the records of the Company.

3. Delivery of consents to such office or principal place of business of Manager, employee, or agent shall be by hand, including messenger or other courier, or by certified or registered mail, return receipt requested.

4. Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to each Member who has not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting.

j. **Waiver of Notice of Meeting.** Notice of a meeting need not be given to any Member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting about the lack of notice of such meeting shall constitute a waiver of notice by him or her.

ARTICLE VIII

Contributions

- a. **Capital Contributions.** Each member shall contribute such amount as is set forth in Exhibit A hereto as its share of the Initial Capital Contribution.
- b. **Additional Contributions.** Each Member shall be required to make such additional Capital Contributions as shall be determined by the Managers from time to time to be reasonably necessary to meet the expenses of the Company. Upon the making of any such determination, the Manager shall give written notice to each Member of the amount of required additional contribution, and each Member shall deliver to the Company its pro rata share thereof (in proportion to the respective Capital Interest of the Member on the date such notice is given) no later than thirty (30) days following the date such notice is received by the Member.
- c. **Capital Accounts.** A Capital Account shall be established and maintained for each Member and each Assignee. Each Member's Capital Account shall be increased by the value of each Capital Contribution made by the Member, allocations to such Member of the Net Profits and any other allocations to such Member of income pursuant to the Code. Each Member's Capital Account will be decreased by the value of each Distribution made to the Member by the Company, allocations to such Member of Net Losses, and other allocations to such Members pursuant to the Code.
- d. **Transfers.** Upon a permitted sale or other transfer of a Membership Interest in the Company, the Capital Account of the Member transferring his/her/its Membership Interests shall become the Capital Account of the Person to which or whom such Membership Interest is sold or transferred in accordance with Section 1.704-1(b)(2)(iv) of the Treasury Regulations.
- e. **Modifications.** The manner in which Capital Accounts are to be maintained pursuant to this Section is intended to comply with the requirement of Section 704(b) of the Code. If, in the opinion of the Managers, the manner in which Capital Accounts are to be maintained pursuant to this Agreement should be modified to comply with Section 704(b) of the Code,

then the Managers shall so modify its practices, provided, however, that any change in the manner of maintaining Capital Accounts shall not materially alter the economic agreement between or among the Members.

f. Deficit Capital Account. Except as otherwise required in the Act or this Agreement, no Member shall have any liability to restore all or any portion of a deficit balance in a Capital Account.

g. Withdrawal or Reduction of Capital Contributions. A Member shall not receive from the Company any portion of his Capital Contribution until all indebtedness and liabilities of the Company have been paid. No distributions shall be made from the Capital Contributions of a Member without the consent of Members owning a majority of Membership Interests in the Company. A Member, irrespective of the nature of the Capital Contribution of such Member, has only the right to demand and receive cash in return for such Capital Contribution.

ARTICLE IX Allocations and Distributions

a. Allocations of Profits and Losses. The Net Profits and the Net Losses of the Company for each Fiscal Year shall be allocated as follows:

1. to each Member in accordance with the ratio of the value of the Member's Capital Account in proportion to the value of all Capital Accounts in the aggregate.

b. Distributions. The Manager must, not less than quarterly, make Distributions of the Net Cash Flow of the Company, less any Reserves.

c. Offset. The Company may offset all amounts owing to the Company by a member against any Distribution to be made to such Member.

- d. **Limitation Upon Distributions.** No Distribution shall be declared and paid unless, after such Distribution is made, the assets of the Company are in excess of all liabilities of the Company.
- e. **Interest on and Return of Capital Contributions.** No Member shall be entitled to interest on his Capital Contribution, or to a return of his Capital Contribution.
- f. **Accounting Principles.** The profits and losses of the Company shall be determined in accordance with accounting principles applied on a consistent basis using the accrual method of accounting. It is intended that the Company will elect those accounting methods which provide the greatest tax benefits.
- g. **Accounting Period.** The Account Period of the Company shall be the calendar year ending on December 31st.
- h. **Loans to Company.** Nothing in this Operating Agreement shall prevent any Member from making secured or unsecured loans to the Company by agreement with the Company.
- i. **Records, Audits and Reports.** At the expense of the Company, the Manager shall maintain records and accounts of all operations and expenditures of the Company. At a minimum, the Company shall keep at its principal place of business the following records:
1. A current list of the full name and last known business, residence, or mailing address of each Member, Economic Interest Owner and Manager, both past and present.
 2. A copy of the Articles of Organization of the Company and all amendments, together with executed copies of any powers of attorney pursuant to which any amendment has been executed.
 3. Copies of the Company's federal, state, and local income tax returns and reports, if any, for the four (4) most recent years.
 4. Copies of the Company's currently effective written Operating Agreement, copies of any writings permitted or required with respect to a Member's obligation to contribute

cash, property or services, and copies of any financial statements of the Company for the three (3) most recent years.

5. Minutes of every annual, special, and court-ordered meeting. Any written consents obtaining from Members for actions taken by Members without a meeting.

ARTICLE X

Taxes

a. **Tax Returns.** The Managers shall cause to be prepared and filed all necessary federal and state income tax returns for the Company. Copies of such returns shall be furnished to the Members within a reasonable time after the end of the Company's Fiscal Year. Each Member shall furnish to the Managers all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

b. **Tax Elections.** The Company shall make the following elections on the appropriate tax returns:

1. To adopt the calendar year as the Fiscal Year;
2. To adopt the accrual method of accounting and keep the Company's books and records on the income tax method;
3. If a Distribution as described in section 734 of the Code occurs, or if a transfer of a Membership Interest described in Section 743 of the Code occurs, upon the written request of any Member, to elect to adjust the basis of the property of the Company pursuant to Section 754 of the Code;
4. To elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under Section 185 of the Code, pro rated over a period of sixty (60) months as permitted by Section 708(b) of the Code;
5. Any other election that the Managers may deem appropriate and in the best interest of the Members Neither the Company nor any Member may make an election for the Company to be excluded from the application of Subchapter K of Chapter 1 of

Subtitle A of the Code or any similar provisions of applicable state law, and no provisions of this Agreement shall be interpreted to authorize any such election.

c. Tax Matters Partners. The Managers shall designate one Manager to be the “tax matters partner” of the Company pursuant to Section 6231 (a) (7) of the Code. Any Manager who is designated as such shall take any action as may be necessary to cause each other Member to become a “notice partner” within the meaning of Section 6223 of the Code.

ARTICLE XI Disposition of Interests

a. General. Except as otherwise specifically provided herein, a Member shall have the right to: Sell, assign, pledge, hypothecate, transfer, exchange or otherwise transfer for consideration (collectively, “sell”), gift, bequeath, or otherwise transfer for no consideration (whether or not by operation of law, except in the case of bankruptcy) all or any part of its Membership Interest or Economic Interest.

b. Gift of Membership Interest. A Transferring Member may gift all or any portion of its Membership Interest, provided that the donee or other successor-in-interest (collectively, “donee”) is either the Gifting Member’s spouse, former spouse, or lineal descendent (including adopted children) and provided that it is done in accordance with this Agreement and all state law requirements are met.

c. Sale of Membership Interest. If a Selling Member desires to sell all or any portion of its Membership Interest or Economic Interest to another person, the Selling Member shall obtain from such purchaser a bona fide written offer to purchase such interest, stating the terms and conditions upon which the purchase is to be made. The Selling Member shall give written Notice to the remaining Members of its intention to so transfer such interest, with a copy of such bona fide written offer to purchase such interest.

d. First Refusal. Each of the remaining Members, on a basis pro rata to their Capital Interests or on a basis pro rata to the Capital Interests of those remaining Members exercising their right of first refusal, shall have the right to exercise a right of first refusal to purchase all (but not less than all) of the interest proposed to be sold by the Selling Member upon the same terms and conditions as stated in the bona fide written offer to purchase by giving Notice to the Selling Member of their intention to do so within 90 days after receiving written notice from the Selling Member. The failure of the remaining Members to so notify the Selling Member of their desire to exercise this right of first refusal with respect to all of the interest desired to be sold within said period of days shall result in the termination of the right of first refusal, and the Selling Member shall be entitled to consummate the sale of its interest in the Company, or such portion of its interest, if any, with respect to which the right of first refusal has not been exercised, to such third party purchaser.

e. Closing. In the event the remaining Members (or any one or more of the remaining Members) give written notice to the Selling Member of their desire to purchase all of the Selling Member's interest in the Company which the Selling Member desires to sell upon the same terms and conditions as are stated in the aforesaid written offer to purchase, the remaining Members shall have the right to designate the time, date and place of closing, provided that the date of closing shall be no later than the date set forth for closing in the bona fide offer or within 90 days after receipt of written notification from the Selling Member of the third party offer to purchase.

f. Conditions of Transfer. In the event of either the purchase of the Selling Member's interest in the Company by a third party purchaser or a gift of an interest in the Company (including an Economic Interest), and as a condition to recognizing one or more of the effectiveness and binding nature of any such sale or gift and (subject to this Operating agreement) substitution of a new Member as against the Company or otherwise, the Managers may require the Selling Member or Gifting Member and/or the proposed purchaser, donee or successor-in-interest, as the case may be, to execute, acknowledge and deliver to the remaining Members, such instruments of transfer, assignment and assumption

and such other certificates, representations and documents, and to perform all such other acts which the Managers may deem necessary or desirable to:

1. constitute such purchaser, as a Member, donee or successor-in-interest as such;
2. confirm that the person desiring to acquire an interest or interests in the Company, or to be admitted as a Member, has accepted, assumed and agreed to be subject to and bound by all of the terms, obligations and conditions of the Operating Agreement, as the same may have been further amended (whether such Person is to be admitted as a new Member or will merely be an Economic Interest Owner);
3. preserve the Company after the completion of such sale, transfer, assignment, or substitution under the laws of each jurisdiction in which the Company is qualified, organized or does business;
4. maintain the status of the Company as a Limited Liability Company for federal tax purposes;
5. assure compliance with any applicable state and federal laws, including securities laws and regulations.

g. **Effective Date.** Any sale or gift of a Membership Interest or Economic Interest or admission of a Member in compliance with this Article XI shall be deemed effective as of the last day of the calendar month in which the remaining Members' consent thereto was given or, if no such consent was required pursuant to Section 11(d.), then on such date that the donee or successor interest complies with the provisions of Section 11(f.). The Selling Member agrees, upon request of the Managers, to execute such certificates or other documents and perform such other acts as may be reasonably requested by; the Managers from time to time in connection with such sale, transfer, assignment or substitution. The Selling Member hereby indemnifies the Company and the remaining Members against any and all loss, damage or expense (including, without limitation, tax liabilities or loss of tax benefits) arising directly or indirectly as a result of any transfer or purported transfer in violation of this **Article XI**.

h. Transferee Not Member in Absence of Unanimous Consent. Notwithstanding anything contained herein to the contrary (including, without limitation, Section 11 (c.) hereof), if all of the remaining Members do not approve by unanimous consent of the proposed sale or gift of the Transferring Member's Membership Interest or Economic Interest to a transferee or donee which is not a Member immediately prior to the sale or gift, then the proposed transferee or donee shall have no right to participate in the management of the business and affairs of the Company or to become a Member. The transferee or donee shall be merely an Economic Interest Owner. No transfer of a Member's interest in the Company shall be effective unless and until written notice has been provided to the Company and the non-transferring Members. Notice shall include the name and address of the proposed transferee or donee and the date of such transfer. This provision shall include any transfer of an Economic Interest or any other transfer which has not been approved by a unanimous written consent of the remaining Members.

i. Remaining Rights. Upon and contemporaneously with any sale or gift of a Transferring Member's Economic Interest in the Company which does not at the same time transfer the balance of the rights associated with the Economic Interest transferred by one Transferring Member (including, without limitation, the rights of the Transferring Member to participate in the management of the business and affairs of the Company), the Company shall purchase from the Transferring Member, and the Transferring Member shall sell to the Company, for a purchase price of One Hundred U.S. Dollars (U.S. \$100.00), all remaining rights and interest retained by the Transferring Member which immediately prior to such sale or gift were associated with the transferred Economic Interest.

ARTICLE XII

Admitting Additional Members

a. Admission of New Members or Assignees. From the date of the formation of the Company, any Person or Entity acceptable to the Members by their unanimous Board

approval / vote thereof may become a Member in the Company, subject to the terms and conditions of this Operating Agreement, either by the issuance by the Company of Membership Interests for such consideration as the Members, by their unanimous votes, shall determine, or as an Assignee of a Member's Membership Interest or a portion thereof.

b. **No Retroactive Allocations.** No new Members shall be entitled to any retroactive allocation of losses, income or expense deductions incurred by the Company. At the time a Member is admitted, the Manager or Managers may, at his or their option, close the Company books (as though the Company's tax year had ended) or make pro rata allocations of loss, income and expense deductions to a new Member for that portion of the Company's tax year (admittance year) in accordance with the Provisions of Section 706(d) of the Code and the Treasury Regulations promulgated thereunder.

ARTICLE XIII

Dissociation of Members

a. **Dissociation.** A Person shall cease to be a Member upon the happening of any of the following events (a "Withdrawal Event").

1. The withdrawal of a Member with the unanimous agreement of the remaining Members;
2. A Member becoming a Bankrupt Member;
3. In the case of a Member who is a natural person, the death of the Member or the entry of an order by a court of competent jurisdiction adjudicating the Member incompetent to manage the Member's personal financial affairs;
4. In the case of a Member who is acting as a Member by virtue of being a trustee of a trust, the termination of the trust (but not merely the substitution of a new trustee);
5. In the case of a Member which is a separate Organization other than a corporation, the dissolution and commencement of winding up of the separate Organization;

6. In the case of a Member that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter; or

7. In the case of a Member which is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

b. If the dissociation causes a dissolution and winding up of the Company under **Article XIV**, the Member shall be entitled to participate in the winding up of the Company to the same extent as any other Member, except that any Distributions to which the member would have been entitled shall be reduced by the damages sustained by the Company as a result of the Dissolution and winding up.

c. If the dissociation does not cause a dissolution and winding up of the Company under **Article XIV**, the Member shall be entitled to an amount equal to the value of the Member's Membership Interest in the Company, to be paid within six (6) months of the date of dissociation. Notwithstanding the foregoing, if the dissociation is other than as a result of the death or incompetence of the Member, the Managers may pay the value of the Member's Membership Interest in the Company out over a period not to exceed five (5) years, provided that the dissociating Member shall be entitled to participate as an Assignee in the Company until the value of such interest (plus interest at the Default Interest Rate) is paid in full. The value of the Member's Membership Interest shall include the amount of any Distributions to which the Member is entitled under the Agreement and the fair value of the Member's Membership Interest as of the date of dissociation, based upon the Member's right to share in distributions from the Company, reduced by any damages sustained by the Company as a result of the Member's dissociation.

d. If the dissociation is a consensual withdrawal pursuant to Section 13(a.), then the disposition of the Member's interest shall be provided in the terms of the consent to withdraw.

ARTICLE XIV

Dissolution and Winding Up

- a. **Dissolution.** The Company shall be dissolved and its affairs shall be wound up upon the first to occur of the following Dissolution Events:
1. The latest date on which the Company is to dissolve, if any, as set forth in the Articles of Organization;
 2. The vote or written consent of Members who own at least two-thirds of the Membership interest; or
- b. **Remaining Members' Option to Continue.** The dissociation of any Member or any other event that terminates the continued membership of any Member, unless within one hundred eighty (180) days after such event, the Company is continued by the vote or written consent of a Majority Interest of all the remaining Members or at least two (2) remaining Members. Each of the Members hereby agrees that within ninety (90) days after the occurrence of a Withdrawal Event (and provided that there are then at least two (2) remaining Members of the Company), they will promptly consent, in writing, to continue the business of the Company. Such consents shall be mailed or hand delivered to the principal place of business of the Company, or to such other address designated by the Managers, no later than ninety (90) days after each Withdrawal Event or transfer by a Member of its entire Economic Interest or Membership Interest. The sole remedy for breach of a Member's obligation under this Section shall be monetary damages and not specific performance.
- c. **Winding Up.** Upon the dissolution of the Company, the Managers may, in the name of and for and on behalf of the Company, prosecute and defend suits, whether civil, criminal, or administrative, sell and close the Company's business, dispose of and convey the Company's property, discharge the Company's liabilities, and distribute to the Members any remaining assets of the Company, all without affecting the liability of Members. Upon winding up of the Company, the assets shall be distributed as follows:
1. To creditors, including any Member who is a creditor, to the extent permitted by law, in satisfaction of liabilities of the Company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to Members;
 2. To Members and former Members in satisfaction of liabilities for Distributions; and

3. To Members and owners of Economic Interests, first for the return of their Capital Contributions, to the extent not previously returned, and second, respecting their Membership Interests, in the proportions in which the Members share in Distributions in accordance with this Agreement.
- d. Articles of Dissolution. Within ninety (90) days following the dissolution and the commencement of winding up of the Company, or at any other time there are no Members, the Manager shall file articles of dissolution with the appropriate state agency, pursuant to that state's laws.
- e. Deficit Capital Account. Upon a liquidation of the Company within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has a Deficit Capital Account (after giving effect to all contributions, distributions, allocations and other adjustments for all Fiscal Years, including the Fiscal Year in which such liquidation occurs), the Member shall have no obligation to make any Capital Contribution, and the negative balance of any Capital Account shall not be considered a debt owed by the Member to the Company or to any other Person for any purpose.
- f. Non-Recourse to Other Members. Except as provided by applicable law or as expressly provided for in this Agreement, upon dissolution, each Member shall receive a return of his, her, or its Capital Contribution solely from the assets of the Company. If the assets of the Company are insufficient to return any Capital Contribution of any Member, such Member shall have no recourse, legal or otherwise, against any other Member.
- g. Termination. Upon completion of the dissolution, winding up, liquidation, and distribution of the assets of the Company, the Company shall be deemed terminated.

ARTICLE XV

General Provisions

- a. Notices. Any notice, demand or other communication required or permitted to be given pursuant to this Agreement shall have been sufficiently given for all purposes if it is in

writing and (a) delivered personally to the party or to an executive officer of the party to whom such notice is directed or (b) sent by messenger, or (c) by overnight courier, or (d) by registered or certified mail, postage prepaid, addressed to the Member, Manager or the Company at his/her/its address as set forth in this Agreement or at the address as the Member manager or Company notices for such deliveries of notices. Except as otherwise provided for in this Agreement, any such notice shall be deemed to be given upon delivery, except if sent by registered or certified mail, then five (5) days after the postmark.

b. Entire Agreement and Amendments. This Agreement contains the entire agreement among the Members with respect to the subject matter of this Agreement, and supersedes each course of conduct previously pursued or acquiesced in, and each oral agreement and representation previously made, by the Members with respect thereto, whether or not relied or acted upon. No course of performance or other conduct subsequently pursued or acquiesced in, and no oral agreement or representation subsequently made, by the Members, whether or not relied or acted upon, and no usage of trade, whether or not relied or acted upon, shall amend this Agreement or impair or otherwise affect any Member's obligations pursuant to this Agreement or any right and remedies of a Member pursuant to this Agreement. No amendment to this Agreement shall be effective unless made in writing duly executed by two-thirds of all Members.

c. No Partnership Intended for Non-Tax Purposes. The Members have formed the Company under applicable state law, and expressly do not intend hereby to form a partnership under state law. The Members do not intend to be partners, one to another, or partners as to any third party. To the extent any Member, by work or action, represents to another person that any other Member is a partner or that the Company is a partnership, the Member making such wrongful representation shall be liable to any other Member who incurs personal liability by reason of such wrongful representation.

d. Creditors and Third Party Rights. The Agreement is entered into among the Company and the Members for the exclusive benefit of the Company, its Members, and their successors and assignees. The Agreement is expressly not intended for the benefit of any

creditor of the Company or any other Person. Except and only to the extent provided by applicable statute, no such creditor or third party shall have any rights under the Agreement or any agreement between the Company and any Member with respect to any Capital Contribution or otherwise.

e. Execution of Additional Instruments. Each Member hereby agrees to execute such other and further statements of interest and holdings, designations, powers of attorney and other instruments necessary to comply with any laws, rules, or regulations.

f. Telephonic Conferences. The Members and/or Managers may participate in a meeting of Members or a meeting of Managers, as the case may be, by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence of the Person at the meeting.

g. Construction. Whenever the singular number is used in this Agreement, and when required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

h. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe any provision of this Agreement.

i. Waiver. No failure of a Member to exercise, and no delay by a Member in exercising, any right or remedy under this Agreement shall constitute a waiver of such right or remedy. No waiver by a Member of any such right or remedy under this Agreement shall be effective unless made in a writing duly executed by all Members and specifically referring to each such right or remedy being waived.

j. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable laws. However, if any provision of this Agreement shall be prohibited by or invalid under such law, it shall be deemed


modified to conform to the minimum requirements of such law. If for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid.


k. Binding. This Agreement shall be binding upon and insure to the benefit of all Members, and each of the successors and assignees of the Members, except that right or obligation of a Member under this Agreement may be assigned by such Member to another Person without first obtaining the written consent of all other Members.


l. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument.

m. Governing Law. Should an internal dispute arise among the Members and/or Manager, an alternative conflict resolution method shall be employed first and foremost prior to formal litigation. This Agreement shall be governed by, and interpreted and construed in accordance with, the laws of the State of Tennessee, without regard to principles of conflict of laws.

IN WITNESS WHEREOF, the individuals and entities signing this Agreement below conclusively evidence their agreement to the terms and conditions of this Agreement by so signing this Agreement.

	4/28/21	SALIL JOSHI
Signature	Date	Printed Name

	4/28/21	Jorge Salazar
Signature	Date	Printed Name

	4/28/21	SANJEEV KUMAR
Signature	Date	Printed Name

_____ Signature	_____ Date	_____ Printed Name
--------------------	---------------	-----------------------

EXHIBIT A
Initial Members

Name: Sanjeev Kumar, M.D.

Address:

9245 Emclave Green Ln East 33357
Germantown

Capital Contribution:

Name: Salil Joshi, M.D.

Address:

2233 Houston Levee Road, Germantown TN-38139
33327

Capital Contribution:

Name: Jorge Salazar, M.D.

33327
✓

Address: 8705, Tan Ode Drive, Germantown - TN - 38138

Capital Contribution:

Name:

Address:

Capital Contribution:

EXHIBIT B

Managers

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

Name:

Address:

Relative's Address:

REPLACEMENT PAGE 7R

Languages spoken by the providers are: English, Arabic, Hindi and Spanish.

A. Consent Calendar Justification

If Consent Calendar is requested, please provide the rationale for an expedited review.

A request for Consent Calendar must be in the form of a written communication to the Agency's Executive Director at the time the application is filed.

RESPONSE: N/A

PROJECT DETAILS

A. Owner of the Facility, Agency or Institution See attachment for list of owners; A-4

Drs. Sanjeev Kumar, Salil Joshi and Jorge Salazar	(248) 924-1791 cell
Name	Phone Number
6584 Poplar Avenue	
Street or Route	Shelby County
Memphis	TN
City	State
	38138 zip Code

B. Type of Ownership of Control (Check One)

- | | |
|---------------------------------------|--|
| 1) Sole Proprietorship _____ | 6) Government (State of TN or Political Subdivision) _____ |
| 2) Partnership _____ | 7) Joint Venture _____ |
| 3) Limited Partnership _____ | 8) Limited Liability Company <u>X</u> |
| 4) Corporation (For Profit) _____ | 9) Other (Specify) _____ |
| 5) Corporation (Not-for-Profit) _____ | |

Completed

Attach a copy of the partnership agreement, or corporate charter and certificate of corporate existence. Please provide documentation of the active status of the entity from the Tennessee Secretary of State's web-site at <https://tnbear.tn.gov/ECommerce/FilingSearch.aspx>. **RESPONSE: Attachment Section A-4AB.**

Describe the existing or proposed ownership structure of the applicant, including an ownership structure organizational chart. Explain the corporate structure and the manner in which all entities of the ownership structure relate to the applicant. As applicable, identify the members of the ownership entity and each member's percentage of ownership, for those members with 5% ownership (direct or indirect) interest.

RESPONSE: See Attachments Section 4-AB

5. Name of Management/Operating Entity (If Applicable) NOT APPLICABLE AT THIS TIME

REPLACEMENT LEASE

Section A, Applicant Profile, Item 6.A. Legal Interest in the Site

SUBLEASE AGREEMENT

This **Sublease Agreement** is made between **901 Vascular, PLLC**, individually or collectively as the "Sublessor," and **Poplar Ridge Surgery Center, LLC**, as the "Sublessee," **Poplar Ventures, LLC** as the **owner/landlord** together referred to as the "Parties." Reference is made from the original lease between Poplar Ventures, LLC and 901 Vascular, PLLC. In this sublease agreement all terms and conditions apply from the original lease.

The Parties agree that the Sublessee shall lease from the Sublessor a portion of the Sublessor's interest in the premises located at **6584 Poplar Ave Suite 102 Memphis, TN 38138**, (the "Premises") on the following terms:




SUBLEASE TERM. Terms conditions and rates per original agreement between Poplar Ventures, LLC and 901 Ventures, PLLC.

SUBLEASING AND ASSIGNMENT. Sublessee may not lease, sublease, or assign the Premises without the prior written consent of the Sublessor.

COMPLETE AND BINDING AGREEMENT. All preliminary negotiations between the Parties are merged into, and superseded by, the terms of this Sublease. This Sublease will not be enforceable until signed by both Sublessee and Sublessor. Any modification to this Agreement must be in writing, signed by both Sublessor and Sublessee.

GOVERNING LAW. This Agreement shall be governed by the laws in the state of Tennessee

We, the Undersigned, agree to the above stated terms.

<u>Sublessor</u>	<u>Sublessee</u>	<u>Owner</u>
Signature 	Signature 	Signature 
SANJEEV KUMAR	SANJEEV KUMAR	SANJEEV KUMAR
Printed Name	Printed Name	Printed Name
04/28/2021	04/28/2021	04/28/2021
Date	Date	Date



POPLAR VENTURES PROPERTY DEED

4. Section A, Applicant Profile, Item 6.A. Legal Interest in the Site

This document was prepared by SUSAN WEST
PO BOX 4360 TUPELO, MS 38803-4360
 The MAXIMUM PRINCIPAL INDEBTEDNESS for Tennessee
 Recording Tax Purposes is \$3,034,500.00

_____ State of Tennessee _____ Space Above This Line For Recording Data _____

REAL ESTATE DEED OF TRUST

(With Future Advance Clause)

- This Is A Construction Mortgage Within The Meaning Of Tenn. Code Ann. § 47-9-334(h)
 This Is A Construction Refinance Mortgage Within The Meaning Of Tenn. Code Ann. § 47-9-334(h)

1. **DATE AND PARTIES.** The date of this Deed of Trust (Security Instrument) is 3/04/2019

The parties and their addresses are:

GRANTOR:

POPLAR VENTURES LLC
 6584 POPLAR AVENUE
 MEMPHIS SHELBY COUNTY TN 38138-0000

- If checked, refer to the attached Addendum incorporated herein, for additional Grantors, their signatures and acknowledgments.

TRUSTEE:

JERRY P. SPORE
 P.O. BOX 2004
 JACKSON, TN 38302

LENDER:

BANCORPSOUTH BANK
 PO BOX 4360
 TUPELO, MS 38803-4360

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Grantor's performance under this Security Instrument, Grantor irrevocably grants, conveys and sells to Trustee, in trust for the benefit of Lender, with power of sale, the following described property:

See Exhibit A annexed hereto and made a part hereof as if copied herein verbatim.



TENNESSEE - AGRICULTURAL/COMMERCIAL REAL ESTATE SECURITY INSTRUMENT
 (NOT FOR FNMA, FHLMC, FHA OR VA USE, AND NOT FOR CONSUMER PURPOSES)
 © 1994, 2001 Wolters Kluwer Financial Services - Bankers Systems™ Form AGCO-RESI-TN 5/9/2006

OFS v 9.9 1/14/2019 A002W75027
 L201902060001526L01LANDDOT

(page 1 of 9)

JW

SK

The property is located in SHELBY at _____
(County)
6584 POPLAR AVENUE, MEMPHIS, Tennessee 38138
(Address) (City) (Zip Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers, all water and riparian rights, wells, ditches, reservoirs, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ \$3,034,500.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

NOTICE: Pursuant to Tenn. Code Ann. § 47-28-105, Borrower may reduce the limit on the maximum amount of total principal indebtedness to be secured under an Open End Mortgage Security Instrument (see OTHER TERMS section). This deed of trust is unlimited in amount secured.

4. **SECURED DEBT AND FUTURE ADVANCES.** The term "Secured Debt" is defined as follows:

- A. Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, modifications or substitutions. *(When referencing the debts below it is suggested that you include items such as borrowers' names, note amounts, interest rates, maturity dates, etc.)*

A loan dated 3/04/2019 in the principal amount of \$3,034,500.00 that matures on 3/04/2020.
Given by POPLAR VENTURES LLC

- B. All future advances from Lender to Grantor or other future obligations of Grantor to Lender under any promissory note, contract, guaranty, or other evidence of debt existing now or executed after this Security Instrument whether or not this Security Instrument is specifically referenced. If more than one person signs this Security Instrument, each Grantor agrees that this Security Instrument will secure all future advances and future obligations that are given to or incurred by any one or more Grantor, or any one or more Grantor and others. All future advances and other future obligations are secured by this Security Instrument even though all or part may not yet be advanced. All future advances and other future obligations are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future loans or advances in any amount. Any such commitment must be agreed to in a separate writing.
- C. All obligations Grantor owes to Lender, which now exist or may later arise, to the extent not prohibited by law, including, but not limited to, liabilities for overdrafts relating to any deposit account agreement between Grantor and Lender.
- D. All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

This Security Instrument will not secure any other debt if Lender fails to give any required notice of the right of rescission.

5. **PAYMENTS.** Grantor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.
6. **WARRANTY OF TITLE.** Grantor warrants that Grantor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to irrevocably grant, convey and sell the Property to Trustee, in trust, with power of sale. Grantor also warrants that the Property is unencumbered, except for encumbrances of record.
7. **PRIOR SECURITY INTERESTS.** With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Grantor agrees:
- To make all payments when due and to perform or comply with all covenants.
 - To promptly deliver to Lender any notices that Grantor receives from the holder.
 - Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

(page 2 of 9)

8. **CLAIMS AGAINST TITLE.** Grantor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Grantor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Grantor's payment. Grantor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Grantor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Grantor may have against parties who supply labor or materials to maintain or improve the Property.
9. **DUE ON SALE OR ENCUMBRANCE.** Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable. This covenant shall run with the Property and shall remain in effect until the Secured Debt is paid in full and this Security Instrument is released.
10. **TRANSFER OF AN INTEREST IN THE GRANTOR.** If Grantor is an entity other than a natural person (such as a corporation or other organization), Lender may demand immediate payment if:
- A beneficial interest in Grantor is sold or transferred.
 - There is a change in either the identity or number of members of a partnership or similar entity.
 - There is a change in ownership of more than 25 percent of the voting stock of a corporation or similar entity.
- However, Lender may not demand payment in the above situations if it is prohibited by law as of the date of this Security Instrument.
11. **ENTITY WARRANTIES AND REPRESENTATIONS.** If Grantor is an entity other than a natural person (such as a corporation or other organization), Grantor makes to Lender the following warranties and representations which shall continue as long as the Secured Debt remains outstanding:
- Grantor is duly organized and validly existing in the Grantor's state of incorporation or organization. Grantor is in good standing in all states in which Grantor transacts business. Grantor has the power and authority to own the Property and to carry on its business as now being conducted and, as applicable, is qualified to do so in each state in which Grantor operates.
 - The execution, delivery and performance of this Security Instrument by Grantor and the obligation evidenced by the Secured Debt are within the power of Grantor, have been duly authorized, have received all necessary governmental approval, and will not violate any provision of law, or order of court or governmental agency.
 - Other than previously disclosed in writing to Lender, Grantor has not changed its name within the last ten years and has not used any other trade or fictitious name. Without Lender's prior written consent, Grantor does not and will not use any other name and will preserve its existing name, trade names and franchises until the Secured Debt is satisfied.
12. **PROPERTY CONDITION, ALTERATIONS AND INSPECTION.** Grantor will keep the Property in good condition and make all repairs that are reasonably necessary. Grantor shall not commit or allow any waste, impairment, or deterioration of the Property. Grantor will keep the Property free of noxious weeds and grasses. Grantor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Grantor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Grantor will notify Lender of all demands, proceedings, claims, and actions against Grantor, and of any loss or damage to the Property.
- No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Grantor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Grantor shall not partition or subdivide the Property without Lender's prior written consent.
- Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender shall give Grantor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property shall be entirely for Lender's benefit and Grantor will in no way rely on Lender's inspection.
13. **AUTHORITY TO PERFORM.** If Grantor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Grantor appoints Lender as attorney in fact to sign Grantor's name or pay any amount necessary for performance. Lender's right to perform for Grantor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.
14. **ASSIGNMENT OF LEASES AND RENTS.** Grantor irrevocably assigns, grants and conveys to Lender as additional security all the right, title and interest in the following (Property).

(page 3 of 9)

JK

46

- A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to, any extensions, renewals, modifications or replacements (Leases).
- B. Rents, issues and profits, including but not limited to, security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Grantor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement.

Grantor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Grantor may collect, receive, enjoy and use the Rents so long as Grantor is not in default. Grantor will not collect in advance any Rents due in future lease periods, unless Grantor first obtains Lender's written consent. Upon default, Grantor will receive any Rents in trust for Lender and Grantor will not commingle the Rents with any other funds. When Lender so directs, Grantor will endorse and deliver any payments of Rents from the Property to Lender. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Grantor agrees that this Security Instrument is immediately effective between Grantor and Lender and effective as to third parties on the recording of this Assignment. This Security Instrument will remain effective during any statutory redemption period until the Secured Debts are satisfied.

As long as this Assignment is in effect, Grantor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Grantor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Grantor or any party to the Lease defaults or fails to observe any applicable law, Grantor will promptly notify Lender. If Grantor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance.

Grantor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Grantor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Grantor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

15. **LEASEHOLDS; CONDOMINIUMS; PLANNED UNIT DEVELOPMENTS.** Grantor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Grantor will perform all of Grantor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
16. **DEFAULT.** Grantor will be in default if any of the following occur:
- A. Any party obligated on the Secured Debt fails to make payment when due;
 - B. A breach of any term or covenant in this Security Instrument or any other document executed for the purpose of creating, securing or guarantying the Secured Debt;
 - C. The making or furnishing of any verbal or written representation, statement or warranty to Lender that is false or incorrect in any material respect by Grantor or any person or entity obligated on the Secured Debt;
 - D. The death, dissolution, or insolvency of, appointment of a receiver for, or application of any debtor relief law to, Grantor or any other person or entity obligated on the Secured Debt;
 - E. A good faith belief by Lender at any time that Lender is insecure with respect to any person or entity obligated on the Secured Debt or that the prospect of any payment is impaired or the value of the Property is impaired;
 - F. A material adverse change in Grantor's business including ownership, management, and financial conditions, which Lender in its opinion believes impairs the value of the Property or repayment of the Secured Debt; or
 - G. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.
17. **REMEDIES ON DEFAULT.** In some instances, federal and state law will require Lender to provide Grantor with notice of the right to cure or other notices and may establish time schedules for foreclosure actions. Subject to these limitations, if any, Lender may accelerate the Secured Debt and foreclose this Security Instrument in a manner provided by law if Grantor is in default.

At the option of Lender, all or any part of the agreed fees and charges, accrued interest and principal shall become immediately due and payable, after giving notice if required by law, upon the occurrence of a default or anytime thereafter. In addition, Lender shall be entitled to all the remedies provided by law, the terms of the Secured Debt, this Security Instrument and any related documents including, without limitation, the power to sell the Property.

If there is a default, Trustee shall, in addition to any other permitted remedy, at the request of the Lender, advertise and sell the Property as a whole or in separate parcels at public outcry of the Property to the highest bidder for cash and convey absolute title free and clear of all right, title and interest of Grantor at such time and place as Trustee designates. Trustee shall give notice of sale including the time, terms and place of sale and a description of the Property to be sold as required by the applicable law in effect at the time of the proposed sale.

Upon sale of the Property and to the extent not prohibited by law, Trustee shall make and deliver a deed to the Property sold which conveys absolute title to the purchaser, and after first paying all fees, charges and costs, shall pay to Lender all moneys advanced for repairs, taxes, insurance, liens, assessments and prior encumbrances and interest thereon, and the principal and interest on the Secured Debt, paying the surplus, if any, to Grantor. Lender may purchase the Property. The recitals in any deed of conveyance shall be prima facie evidence of the facts set forth therein.

All remedies are distinct, cumulative and not exclusive, and Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. By not exercising any remedy on Grantor's default, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

18. EXPENSES; ADVANCES ON COVENANTS; ATTORNEYS' FEES; COLLECTION COSTS. Except when prohibited by law, Grantor agrees to pay all of Lender's expenses if Grantor breaches any covenant in this Security Instrument. Grantor will also pay on demand any amount incurred by Lender for insuring, inspecting, preserving or otherwise protecting the Property and Lender's security interest. These expenses will bear interest from the date of the payment until paid in full at the highest interest rate in effect as provided in the terms of the Secured Debt. Grantor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. This Security Instrument shall remain in effect until released.

19. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Grantor represents, warrants and agrees that:

- A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.
- B. Except as previously disclosed and acknowledged in writing to Lender, Grantor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.
- C. Grantor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Grantor will take all necessary remedial action in accordance with Environmental Law.
- D. Except as previously disclosed and acknowledged in writing to Lender, Grantor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Grantor or any tenant of any Environmental Law. Grantor will immediately notify Lender in writing as soon as Grantor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.
- E. Except as previously disclosed and acknowledged in writing to Lender, Grantor and every tenant have been, are and shall remain in full compliance with any applicable Environmental Law.
- F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

- G. Grantor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.
- H. Grantor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Grantor and any tenant are in compliance with applicable Environmental Law.
- I. Upon Lender's request and at any time, Grantor agrees, at Grantor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.
- J. Lender has the right, but not the obligation, to perform any of Grantor's obligations under this section at Grantor's expense.
- K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Grantor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Grantor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.
- L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section shall survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.
- 20. CONDEMNATION.** Grantor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Grantor authorizes Lender to intervene in Grantor's name in any of the above described actions or claims. Grantor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.
- 21. INSURANCE.** Grantor agrees to maintain insurance as follows:
- A. Grantor shall keep the Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Grantor subject to Lender's approval, which shall not be unreasonably withheld. If Grantor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.
- All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause." Grantor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Grantor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Grantor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Grantor.
- Unless otherwise agreed in writing, all insurance proceeds shall be applied to restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of scheduled payment nor change the amount of any payments. Any excess will be paid to the Grantor. If the Property is acquired by Lender, Grantor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.
- B. Grantor agrees to maintain comprehensive general liability insurance naming Lender as an additional insured in an amount acceptable to Lender, insuring against claims arising from any accident or occurrence in or on the Property.
- C. Grantor agrees to maintain rental loss or business interruption insurance, as required by Lender, in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing), under a form of policy acceptable to Lender.
- 22. ESCROW FOR TAXES AND INSURANCE.** Unless otherwise provided in a separate agreement, Grantor will not be required to pay to Lender funds for taxes and insurance in escrow.

- 23. FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS.** Grantor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. Grantor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Grantor's obligations under this Security Instrument and Lender's lien status on the Property.
- 24. JOINT AND INDIVIDUAL LIABILITY; CO-SIGNERS; SUCCESSORS AND ASSIGNS BOUND.** All duties under this Security Instrument are joint and individual. If Grantor signs this Security Instrument but does not sign an evidence of debt, Grantor does so only to mortgage Grantor's interest in the Property to secure payment of the Secured Debt and Grantor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Grantor, Grantor agrees to waive any rights that may prevent Lender from bringing any action or claim against Grantor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Grantor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Grantor's consent. Such a change will not release Grantor from the terms of this Security Instrument. The duties and benefits of this Security Instrument shall bind and benefit the successors and assigns of Grantor and Lender.
- 25. APPLICABLE LAW; SEVERABILITY; INTERPRETATION.** This Security Instrument is governed by the laws of the jurisdiction in which Lender is located, except to the extent otherwise required by the laws of the jurisdiction where the Property is located. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument. Time is of the essence in this Security Instrument.
- 26. SUCCESSOR TRUSTEE.** Lender, at Lender's option, may from time to time remove Trustee and appoint a successor trustee without any other formality than the designation in writing. The successor trustee, without conveyance of the Property, shall succeed to all the title, power and duties conferred upon Trustee by this Security Instrument and applicable law.
- 27. NOTICE.** Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address on page 1 of this Security Instrument, or to any other address designated in writing. Notice to one grantor will be deemed to be notice to all grantors.
- 28. WAIVERS.** Except to the extent prohibited by law, Grantor waives all current and future homestead exemption, curtesy and dower, appraisalment and marshalling of liens and assets rights relating to the Property. In addition, to the extent not prohibited by law, Grantor expressly waives all equitable and statutory rights of redemption.
- 29. U.C.C. PROVISIONS.** If checked, the following are applicable to, but do not limit, this Security Instrument:
- Fixture Filing.** Grantor grants to Lender a security interest in all goods that Grantor owns now or in the future and that are or will become fixtures related to the Property.
 - Crops; Timber; Minerals; Rents, Issues and Profits.** Grantor grants to Lender a security interest in all crops, timber, and minerals located on the Property as well as all rents, issues, and profits of them including, but not limited to, all Conservation Reserve Program (CRP) and Payment in Kind (PIK) payments and similar governmental programs (all of which shall also be included in the term "Property").
 - Personal Property.** Grantor grants to Lender a security interest in all personal property located on or connected with the Property, including all farm products, inventory, equipment, accounts, documents, instruments, chattel paper, general intangibles, and all other items of personal property Grantor owns now or in the future and that are used or useful in the construction, ownership, operation, management, or maintenance of the Property (all of which shall also be included in the term "Property"). The term "personal property" specifically excludes that property described as "household goods" secured in connection with a "consumer" loan as those terms are defined in applicable federal regulations governing unfair and deceptive credit practices.
 - Filing As Financing Statement.** Grantor agrees and acknowledges that this Security Instrument also suffices as a financing statement and any carbon, photographic or other reproduction may be filed of record for purposes of Article 9 of the Uniform Commercial Code.

(page 7 of 9)

30. OTHER TERMS. If checked, the following are applicable to this Security Instrument:

- Open End Mortgage.** This Security Instrument is an "Open End Mortgage" as defined under Tenn. Code Ann. § 47-28-101, et seq. The Secured Debt is due and payable on _____ if not paid earlier. The due date may not be more than thirty years after the date of the Secured Debt. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.
- Commercial Purpose Obligatory Advances.** This Security Instrument secures obligatory future advances for commercial purposes.
- Agricultural Property.** Grantor covenants and warrants that the Property will be used principally for agricultural or farming purposes and that Grantor is an individual or entity allowed to own agricultural land as specified by law.
- Separate Assignment.** The Grantor has executed or will execute a separate assignment of leases and rents. If the separate assignment of leases and rents is properly executed and recorded, then the separate assignment will supersede this Security Instrument's "Assignment of Leases and Rents" section.
- Additional Terms.**

SIGNATURES: By signing below, Grantor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Grantor also acknowledges receipt of a copy of this Security Instrument on the date stated on page 1.

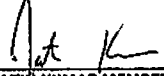
Entity Name: POPLAR VENTURES LLC

Entity Name: _____



(Signature) SANJEEV KUMAR, MEMBER (Date)

(Signature) (Date)



(Signature) JATIN KUMAR, MEMBER (Date)

(Signature) (Date)

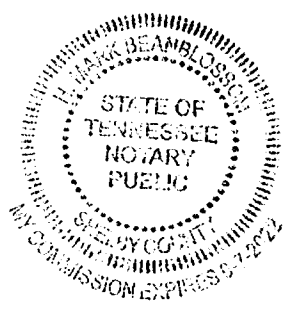
ACKNOWLEDGMENT:

(Individual) STATE OF _____, COUNTY OF _____ } ss.
 Personally appeared before me, the notary named below, _____
 _____, with whom I am personally acquainted, and who
 acknowledged that _____ executed the within instrument for the purposes
 therein contained.
 Witness my hand, at office, this _____ day of _____ 20____.
 My commission expires: _____

 (Notary Public)

(Business or Entity Acknowledgment) STATE OF Tennessee, COUNTY OF Shelby } ss.
 Before me, H. MARK BEAMBLOSSOM of the state and county mentioned, personally
 appeared SANJEEV KUMAR and JATIN KUMAR, with whom I am personally acquainted (or proved
 to me on the basis of satisfactory evidence), and who further acknowledged that he/she
 is the (or they are) MEMBER and MEMBER (Title(s)) of
 the maker or constituent of the maker and is authorized by the maker or its constituent, the constituent being
 authorized by the maker, to execute this instrument on behalf of the maker.
 Witness my hand, at office, this March day of March 2019.
 My commission expires: _____

 (Notary Public)



Please return this document after recording to: BANCORPSOUTH BANK PO BOX 4360 TUPELO, MS 38803-4360
 Mail Tax Bills to: BANCORPSOUTH BANK PO BOX 4360 TUPELO, MS 38803-4360

Attachment to a Deed of Trust dated 03/4/2019 in the name of Poplar Ventures, LLC
Loan # 597000989466

EXHIBIT "A"

Phase II, Poplar Oaks Planned Development, as recorded in Plat Book 250, Page 52 of the Shelby County Register's Office and being further described hereon: Beginning at a found chisel mark in the northeast line of Poplar Avenue (96 feet wide) a called distance of 943.93 feet west of the west line of Kirby Parkway, said point being the southeast corner of said Poplar Oaks P.D., Phase II and the southwest corner of the Poplar Place Townhomes (Inst. 16046398); thence North 77 degrees 44 minutes 00 seconds West along said northeast line of Poplar Avenue a distance of 231.55 feet to a found chisel mark; thence North 00 degrees 09 minutes 19 seconds West along the line dividing said Poplar Oaks P.D., Phase II and Poplar Oaks P.D., Phase I (P.B. 179, P.8) a distance of 308.06 feet to a found iron pin at the southwest corner of Poplar Oaks P.D., Phase III (P.B. 76, P.12); thence North 89 degrees 59 minutes 56 seconds East along the line dividing said Phase II and Phase II a distance of 226.13 feet to a found nail in driveway, being the west line of said Poplar Place Townhomes; thence South 00 degrees 09 minutes 19 seconds East along said west line and asphalt driveway a distance of 357.28 feet to the point


Parcel II:

Together with Easement of record at Instrument Number S7 4754 of record in the Shelby County Register's Office and more particularly described as follows:

A perpetual non-exclusive easement as more particularly described as follows: Beginning at a point in the north line of Poplar Avenue at the southwest corner of Phase I; thence due North along the west line of Phase I, Poplar Oaks Planned Unit Development as shown in Plat Book 77, Page 40, in the Register's Office of Shelby County, Tennessee a distance of 301.56 feet; thence due East 30 feet to the northwest corner of Phase II of such development; thence due South along the west line of Phase II, 308.06 feet to a point in the north line of Poplar Avenue; thence North 77 degrees 44 minutes West 30.70 feet to the point of beginning.

Poplar Ventures, LLC


By: **Sanjeev Kumar, Member**


By: **Jatin Kumar, Member**



Shelby County Tennessee
Shelandra Y. Ford
Shelby County Register

As evidenced by the instrument number shown below, this document
has been recorded as a permanent record in the archives of the
Office of the Shelby County Register.



19021198

03/05/2019 - 02:36 PM

10 PGS

ALONZO 1842945-19021198

VALUE 3034500.00

MORTGAGE TAX 3487.38

TRANSFER TAX 0.00

RECORDING FEE 50.00

DP FEE 2.00

REGISTER'S FEE 1.00

WALK THRU FEE 0.00

TOTAL AMOUNT 3540.38

Shelandra Y Ford

REGISTER OF DEEDS SHELBY COUNTY TENNESSEE

REPLACEMENT PAGE 23R

St. Francis Bartlett	7970	6079	797	80	43	31	606	142	182	10
		76.27%	10.00%	1.00%	0.54%	0.39%	7.60%	1.78%	2.28%	0.13%

Hospital Sample Total	121301	90755	3032	632	341	837	4962	7999	12622	121
		74.82%	2.50%	0.52%	0.28%	0.69%	4.09%	6.59%	10.41%	0.10%

	Total	Shelby	Fayette	Hardemann	Haywood	Lauderdale	Tipton	AR	MS	AL
ASTC & Hospital Sample total	169218	121894	4974	919	487	1098	7410	9872	22387	177
		72.03%	2.94%	0.54%	0.29%	0.65%	4.38%	5.83%	13.23%	0.10%

So, in conclusion studying the sample of ASTCs and hospitals in Shelby County, it appears that 72% of patients reside in Shelby County and the next largest influx of patients into Shelby County come from Northern Mississippi at 13.23%.

5. Access and Economic Efficiencies. An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

Service Area Counties	Projected Utilization-County Residents- Year 1 (YEAR = 2022)	Projected Utilization-County Residents- Year 2 (YEAR = 2023)	% of Total by County
Shelby	2056	2220	70%
Fayette	117	127	4%
Hardemann	30	32	1%
Tipton	147	159	5%
Haywood	15	16	.5%
Lauderdale	15	16	.5%
E Arkansas	117	127	4%
N Mississippi	440	475	15%
Total	2937	3172	100%

Typo was found in Total of year 2 on original application.

RESPONSE:

Regarding our methodology...we took current practice volumes as the basis for assuming that ASTC would be very similar. We also took the 2 vascular access surgeons (Joshi & Salazar) cases from Vascular Access Centers. Then we compared our numbers to those in the chart on pages 19-20 and it surprisingly is very similar to those ASTCs that are located closest to us geographically. So, our assumption is the above chart would be accurate regarding percentage of patients seen from those counties.

REPLACEMENT PAGE 27R 4. A

1) Describe the demographics of the population to be served by the proposal.

RESPONSE: Regarding gynecological services, the patient population will range from teenage females to middle-aged females of all economic walks of life. According to a report by the CDC in 2016, Tennessee had 6,600,299 residents and of that population, 35.9% of adults were overweight and 31.2% were considered obese. <https://www.cdc.gov/nccdphp/dnpao/state-local-programs/profiles/pdfs/tennessee-state-profile.pdf>

Females make up 52% of the Shelby county residents and the obesity population in Shelby County is at 33.4% obesity rate compared to 31.1% for Tennessee as a whole and 27.6% nationally. Obesity in women poses particular risks because of the comorbidity issues (15.3% morbidity) and the need for efficient, cost effective and easily accessed services such as will be provided a Poplar Ridge Surgery Center.

Our interventional radiologists who provide vascular access services will see a higher level of obesity patients (male and female teenager and adults) with predominance of diabetes and kidney disease. One in three adults in Shelby County has diabetes. 60,000 new cases have been reported over the past 10 years according to BetterTennessee (BlueCrossBlueShield of Tennessee). The mortality rate for obese patients with diabetes in the western TN and Shelby County is about 44% in blacks and 16% in whites. Our ASTC through Drs. Joshi and Salazar will be providing valuable vascular access services to these patient populations.

2) Provide the following data for each county in the service area using current and projected population data from the Department of Health (<https://www.tn.gov/content/tn/health/health-program-areas/statistics/health-data/con.html>), the most recent enrollee data from the Division of TennCare (<https://www.tn.gov/tenncare/information-statistics/enrollment-data.html>), and US Census Bureau demographic information (: <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>),.

TennCare Enrollment Data: <https://www.tn.gov/tenncare/information-statistics/enrollment-data.html> Census Bureau Fact

Finder:<http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

Demographic Variable/Geographic Area	Department of Health/Health Statistics							Census Bureau 2019			TennCare 2/2021	
	Total Population-Current Year 2021	Total Population-Projected Year 2025	Total Population-% Change	*Target Population-18+ years old Current Year 2021	Target Population-18+ years old Project Year 2025	Target Population-% Change	Target Population Projected Year 2025 as % of Total	Median Age 2019	Median Household Income 2015-2019	Person Below Poverty Level as % of Total	TennCare Enrollees Target Age 18+	TennCare 2/2021 Enrollees as % of Total Target Ages
Shelby County	942,127	949,181	.7%	709,328	716,053	.1%	75.4%	35.9	51657	19.3%	115,678	16.3%
Fayette County	42,074	43,941	4.4%	34,314	35,873	4.5%	81.6%	39.0	60711	13.1%	3432	10%
Hardeman County	25,048	24,761	-.1%	20,326	20,251	0%	81.8%	40.3	40304	23.5%	3644	17.9%
Tipton County	62,606	63,763	1.8%	47,765	48,990	2.6%	76.8%	37.5	61291	12.0%	6346	13.3%
Haywood County	17,003	16,567	-2.6%	13,352	13,090	-2.0%	79.0%	42.0	37905	20.5%	2755	20.6%
Lauderdale County	25,823	25,760	0%	20,208	20,280	.4%	78.7%	38.3	39896	24.9%	3902	19.3%
Service Area Total	1,114,681	1,123,973	.8%	845,293	854,537	1.1%	76%	38.8	48627	18.9%	135,757	16.1%
State of TN Total	6,942,653	7,153,758	3.0%	5,409,241	5,587,739	3.3%	78.1%	39.0	56,071	13.9%	702,140	13.0%

REPLACEMENT PAGE 41R

PROJECTED DATA CHART

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in January (Month).

	<u>Year 2022</u>	<u>Year 2023</u>
A. Utilization Data		
Specify Unit of Measure <u>Procedures</u>	<u>2937</u>	<u>3172</u>
B. Revenue from Services to Patients		
1. Inpatient Services	<u>\$ 0</u>	<u>\$ 0</u>
2. Outpatient Services	<u>\$10,390,236</u>	<u>\$11,221,454</u>
3. Emergency Services	<u>0</u>	<u>0</u>
4. Other Operating Revenue (Specify) _____	<u>0</u>	<u>0</u>
Gross Operating Revenue	<u>\$10,390,236</u>	<u>\$11,221,454</u>
C. Deductions from Gross Operating Revenue		
1. Contractual Adjustments	<u>\$5,195,118</u>	<u>\$5,610,727</u>
2. Provision for Charity Care	<u>\$51,952</u>	<u>\$56,111</u>
3. Provisions for Bad Debt	<u>\$103,903.76</u>	<u>\$112,215</u>
Total Deductions	<u>\$ 5,350,973.76</u>	<u>\$5,778,053</u>
NET OPERATING REVENUE	<u>\$ 5,039,262.24</u>	<u>\$ 5,443,401</u>
D. Operating Expenses		
1. Salaries and Wages		
a. Direct Patient Care (fully loaded)	<u>907,080</u>	<u>934,292</u>
b. Non-Patient Care (fully loaded)	<u>352,753</u>	<u>363,336</u>
2. Physician's Salaries and Wages		
3. Supplies	<u>1,511,800</u>	<u>1,632,744</u>
4. Rent		
a. Paid to Affiliates	<u>120,000</u>	<u>120,000</u>
b. Paid to Non-Affiliates		
5. Management Fees:		
a. Paid to Affiliates	<u>0</u>	
b. Paid to Non-Affiliates	<u>0</u>	
6. Other Operating Expenses (D6)	<u>\$1,259,883</u>	<u>\$1,335,476</u>
Total Operating Expenses	<u>\$ 4,151,516</u>	<u>\$ 4,385,848</u>
E. Earnings Before Interest, Taxes and Depreciation	<u>\$ 887,746.24</u>	<u>\$ 1,057,553</u>
F. Non-Operating Expenses		
1. Taxes	<u>\$25,197</u>	<u>\$21,144</u>
2. Depreciation	<u>78,571</u>	<u>78,571</u>
3. Interest	<u>67,005</u>	<u>65,893</u>
4. Other Non-Operating Expenses		
Total Non-Operating Expenses	<u>\$ 170,773</u>	<u>\$165,608</u>
NET INCOME (LOSS)	<u>\$ 716,973.24</u>	<u>\$891,945</u>

Chart Continues Onto Next Page

REPLACEMENT PAGE 42R

NET INCOME (LOSS)	<u>\$716,973.24</u>	<u>\$891,945</u>
G. Other Deductions		
1. Estimated Annual Principal Debt Repayment	\$ _____	\$ _____
2. Annual Capital Expenditure	<u>0</u>	<u>0</u>
Total Other Deductions	\$ 0	\$ 0
NET BALANCE	<u>\$716,973.24</u>	<u>\$891,945</u>
DEPRECIATION	<u>78,571</u>	<u>78,571</u>
FREE CASH FLOW (Net Balance + Depreciation)	<u>\$ 638,402.24</u>	<u>\$813,374</u>

- Project Facility
 Total Only

PROJECTED DATA CHART-OTHER EXPENSES

<u>OTHER OPERATING EXPENSES CATEGORIES</u>	<u>Year 2022</u>	<u>Year 2023</u>
(D6)		
1. <u>Professional Services Contract</u>	<u>\$ 25,000</u>	<u>\$ 27,500</u>
2. <u>Maintenance Agreements (Equipment)</u>	<u>\$150,000</u>	<u>\$165,000</u>
3. <u>Imaging Interpretation Fees</u>	_____	_____
4. <u>Building Maintenance & Services</u>	<u>\$120,000</u>	<u>\$132,000</u>
5. <u>Utilities</u>	<u>\$60,000</u>	<u>\$70,000</u>
6. <u>Due, License, Subscriptions</u>	<u>\$8,000</u>	<u>\$8,000</u>
7. <u>General & Administrative</u>	<u>\$896,883</u>	<u>\$932,976</u>
8.		
*Total Other Expenses	<u>\$1,259,883</u>	<u>\$1,335,476</u>

**Total other expenses should equal Line D.6. In the Projected Data Chart*

REPLACEMENT PAGE 43R 5. A Please identify the project’s average gross charge, average deduction from operating revenue, and average net charge using information from the Projected Data Charts for Year 1 and Year 2 of the proposed project. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

	Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Year One Year <u>2022</u>	Year Two Year <u>2023</u>	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)	NA	NA	\$3,537.70	\$3,537.66	0%
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)	NA	NA	\$1,821.92	\$1,821.58	0%
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)	NA	NA	\$1,715.79	\$1,716.08	0%

Total Facility Chart NA

	Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Year One Year _____	Year Two Year _____	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)					
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)					
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)					

B. Provide the proposed charges for the project and discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the project and the impact on existing patient charges. RESPONSE;

CPT	total for Gyn/Onco TOP 20	2020 Medicare Allowable FF+PF	1st Year Gross Charge
58571	PR LAPAROSCOPY W TOT HYSTERECTUTERUS <=250 GRAM W TUBE/OVARY [58571]	4173.26	8346.52
58662	PR LAP,FULGURATE/EXCISE LESIONS [58662]	2710.06	5420.12
58100	PR BIOPSY OF UTERUS LINING [58100]	108.67	217.34
57425	PR LAPAROSCOPY, SURG, COLPOPEXY [57425]	945.04	1890.08
58661	PR LAP,RMV ADNEXAL STRUCTURE [58661]	2652.03	5304.06
58573	PR LAPAROSCOPY TOT HYSTERECTOMY UTERUS >250 GRAM W TUBE/OVARY [58573]	4476.63	8953.26
57452	PR COLPOSCOPY,CERVIX W/ADJ VAGINA [57452]	144.62	289.24

Roger Manning
March 23, 2021
Page 27

49561	PR REPAIR INCISIONAL HERNIA,STRANG [49561]	2153.85	4307.70
49653	PR LAP, VENTRAL HERNIA REPAIR,INCARCERATED [49653]	2362.35	4724.70
57500	PR BIOPSY CERVIX, 1 OR MORE, OR EXCISION OF LESION [57500]	162.62	325.24

REPLACEMENT PAGE 45R6. A. Discuss how projected utilization rates will be sufficient to support financial performance.

- 1) Noting when the project’s financial breakeven is expected, and

RESPONSE: The ASTC will make a profit by the end of the 1st year as noted in the 1st year financial. Statement.

- 2) Demonstrating the availability of sufficient cash flow until financial viability is achieved.

Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For all projects, provide financial information for the corporation, partnership, or principal parties that will be a source of funding for the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as **Attachment Section B-Economic Feasibility-6A**

RESPONSE: Our ASTC Poplar Ridge Surgery Center is new and there are no historical financials for this facility at this time. Our bank funding letter is attached in Attachments B-Economic Feasibility – 1E that assures completion of project with cash reserves for operations in the first year. If there is a need for cash infusion into the ASTC, there will be a cash call from the three owners per Operating Agreement. There are also plans for future syndication of shares to new physicians.

B. Net Operating Margin Ratio: The Net Operating Margin Ratio demonstrates how much revenue is left over after all the variable or operating costs have been paid. The formula for this ratio is: (Earnings before interest, Taxes, and Depreciation/Net Operating Revenue).

Utilizing information from the Historical and Projected Data Charts please report the net operating margin ratio trends in the following tables. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

Year	2nd Previous Year to Most Recent Year Year <u>NA</u>	1st Previous Year to Most Recent Year Year <u>NA</u>	Most Recent Year Year <u>NA</u>	Projected Year 1 Year <u>2022</u>	Projected Year 2 Year <u>2023</u>
Net Operating Margin Ratio				17.6%	19.4%

Total Facility Chart NOT APPLICABLE

Year	2nd Previous Year to Most Recent Year Year _____	1st Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Projected Year 1 Year _____	Projected Year 2 Year _____
Net Operating Margin Ratio					

REPLACEMENT PAGE 47R

1. Provide the projected staffing for the project in Year 1 and compare to the current staffing for the most recent 12-month period, as appropriate. This can be reported using full-time equivalent (FTEs) positions for these positions. Identify projected salary amounts by position classifications and compare the clinical staff salaries to prevailing wage patterns in the proposed service area as published by the Department of Labor & Workforce Development and/or other documented sources, such as the US Department of Labor. Wage data pertaining to healthcare professions can be found at the following link:

https://www.bls.gov/oes/current/oes_tn.htm.

Position Classification	Existing FTEs (enter year)	Projected FTEs Year 1	Average Wage (Contractual Rate)	Area Wide/Statewide Average Wage
A. Direct Patient Care Positions				
<i>Nursing Director</i>	NA	1.0	\$86,000 (\$41,35/hr)	\$84,720 (\$40.73/hr)
<i>PreOp/PAC U RN</i>	NA	2.0	\$81,683 (\$39.27/hour)	\$77,460 (\$37.24/hr)
<i>Surg Tech / Mat Mgr / Instrument Tech</i>	NA	3.0	\$53,360 (\$25.65/hr)	\$53,360 (\$25.65/hr)
<i>Medical Assistant</i>	NA	2.0	\$31,200 (\$15.00/hr)	\$27,250 (\$12.78/hr)
<i>C-Arm Tech</i>	NA	3.0	\$61,801 (\$29.71/hr)	\$69,140 (\$33.24/hr)
Total Direct Patient Care Positions	NA	11.0	\$657,249	

Source: Indeed.com salary survey for consideration of proposed contracted rates.
Bls.gov rates used for Area Wide Average Wages.

B. Non-Patient Care Positions				
<i>Receptionist</i>	NA	2.0	\$31,200 (\$15.00/hr)	\$30,056 (\$14.45/hr)
<i>Biller/Collections/PreAuth</i>	NA	3.0	\$31,200 (\$15.00/hr)	\$38,740 (\$18.63/hr)
<i>Business Operations Specialist</i>	NA	1.0	\$55,000 (\$26.44/hr)	\$63,180 (\$30.38/hr)
Other Clerical/M.A.	NA	1.0	\$31,200 (\$15.00/hr)	\$30,056 (\$14.45/hr)
Total Non-Patient Care Positions	NA	7.0	\$242,200	
Total Employees (A+B)	NA	18.0	\$899,449	
C. Contractual Staff	NA			
Total Staff (A+B+C)	NA	18.0	\$899,449 (not fully loaded)	

2. What alternatives to this project were considered? Discuss the advantages and

disadvantages of each, including but not limited to:

- A.** The availability of less costly, more effective and/or more efficient methods of providing the benefits intended by the project. If development of such alternatives is not practicable, justify why not, including reasons as to why they were rejected.

REPLACEMENT BANK LOAN LETTER
13. Section B, Economic Feasibility, Item 2. Funding Source



April 28, 2021

To whom it may concern,

We understand that physicians of the Poplar Avenue Clinic have applied for a CON which requires a letter from a qualified financial institution to support various borrowing needs. We will strongly support the Poplar Avenue Clinic physicians' request for the loan up to \$2.5 million to finance tenant improvements, equipment and furnishings. Their history with us would indicate a strong ability to borrow money subject to further due diligence and approval of their pending CON application.

- 1) Favorable initial contact with the applicant for this CON-YES
- 2) The proposed loan amount 2.5 million
- 3) Expected interest rates 4.5%
- 4) Anticipated term of the loan 5 years
- 5) Any restrictions or conditions- usual due diligence conditions apply

Should you have any further questions, please feel free to contact me directly at 901-756-2848.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alex W. Neale", with a long horizontal flourish extending to the right.

Alex W. Neale
Senior Vice President
Private Banking
NMLS# 1314667
1715 Aaron Brenner Drive, Suite 100
Memphis, TN. 38120
p. 901.759.2197
c. 901.383.0047

ANESTHESIA CONTRACT
20. Section B, Orderly Development, Item 3 - ASTC

ANESTHESIA HEALTH CONSULTANTS, LLC

AnesthesiaHealth.com

March 26, 2021

102 Wiltshire Avenue
Suite 1
Louisville, KY
40207

Tennessee Department of Health
710 James Robertson Pkwy
Nashville, TN 37243

502-640-8349

To the distinguished members of the TN Dept. of Health:

This letter serves as acknowledgement that Anesthesia Health Consultants (AHC) has been engaged to provide anesthesia services to Poplar Ridge ASTC located at 6584 Poplar Avenue, Suite 102 Memphis, TN 38138.

AHC will provide all clinical anesthesia services required by the practice.

Sincerely yours,



Chad Riddle

Managing Partner

Anesthesia Health Consultants

ATTACHMENTS

AFFIDAVIT

STATE OF Missouri

COUNTY OF St. Charles

I, Roger Manning, being first duly sworn, says that he/she is the applicant named in this application or his/her/its lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Rules of the Health Services and Development Agency, and T.C.A. §68-11-1601, *et seq.*, and that the responses to this application or any other questions deemed appropriate by the Health Services and Development Agency are true and complete.

Roger Manning / consultant
SIGNATURE/TITLE

Sworn to and subscribed before me this 30th day of April, 2021 a Notary
(Month) (Year)

Public in and for the County/State of Missouri

Taylor Baker
NOTARY PUBLIC

My commission expires August 1, 2023
(Month/Day) (Year)

TAYLOR BAKER
Notary Public Notary Seal
State of Missouri
Commissioned for St Charles County
My Commission Expires. Aug. 01 2023
19817367



State of Tennessee
Health Services and Development Agency
Andrew Jackson Building, 9th Floor
www.tn.gov/hsda Phone: 615-741-2364/Fax: 615-741-9884

April 30, 2021

Roger Manning
Excellentia Advisory Group LLC
1101 St. Peters Howell Rd
Saint Peters, MO 63376

RE: Certificate of Need Application CN2103-014
Poplar Ridge Surgery Center, LLC

Dear Mr. Manning:

This will acknowledge our March 10, 2021 receipt of your application for a Certificate of Need for the establishment of a multi-specialty ambulatory surgical treatment center ("ASTC"), for the performance of surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The facility will consist of three operating rooms and no procedure rooms. The ASTC will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.

Several items were found which need clarification or additional discussion. Please review the list of questions below and address them as indicated. The questions have been keyed to the application form for your convenience. I should emphasize that an application cannot be deemed complete and the review cycle begun until all questions have been answered and furnished to this office.

Please submit responses in triplicate by 4:30 p.m., Friday, April 30, 2021. If the supplemental information requested in this letter is not submitted by or before this time, then consideration of this application may be delayed into a later review cycle.

1. Section B, Need, Item 4.A., Demographics

There appears to be an error in the Total Number of 2019 Outpatient Cases listed in the response to supplemental question #11 table **Service Area Hospital Outpatient Surgical Utilization**. Please revise and resubmit the table.

Service Area Hospital Outpatient Surgical Utilization
2017-2019

Hospital	County	2017 OP Cases	2018 OP Cases	2019 OP Cases	% Change 2017-2019
Baptist Memorial Hospital	Shelby	3945	4123	12218	+309.7%
Baptist Collierville	Shelby	1803	1716	3111	+172.5%
Baptist Memorial for Women	Shelby	2328	2736	5481	+235.4%
Methodist Germantown	Shelby	6258	5986	11590	+185.2%
Methodist H.C. Memphis	Shelby	7343	6537	14558	+198.3%
Methodist Hospital North	Shelby	1066	911	3207	+300.8%
Methodist Hospital South	Shelby	849	782	1712	+201.6%
Regional One Health	Shelby	2371	2329	8754	+369.21%
St. Francis Hospital Shelby	Shelby	5339	4854	10207	+191.18%
St. Francis Bartlett	Shelby	2102	2483	4204	+200.00%
Lauderdale Community	Lauderdale	130	415	189	+145.38%
Baptist Memorial Tipton	Tipton	617	545	609	98.7%
Total		34,151	33,417	75,840	+222.07%

2. Section B, Economic Feasibility, Item 4. Projected Data Chart

The Projected Data Chart contains calculation errors and omissions. Please address the following:

The Projected Data Chart appears to have calculation errors under the following line items:

Year 1 - Free Cash Flow (Net Balance + Depreciation). [RESPONSE: CORRECTED](#)

Year 2 - Total Deductions, Net Operating Revenue, Earnings Before Interest, Taxes and Depreciation, Net Income (Loss), Net Balance, Free Cash Flow (Net Balance + Depreciation). [RESPONSE: CORRECTED](#)

Please adjust the amounts listed in the Projected Data Chart and submit a revised pages 41R & 42R (labeled as pages 41R2 and 42R2). [RESPONSE: See revised 41R2 & 42R2 in attachments.](#)

3. Section B, Economic Feasibility, Item 5. Average Gross Charge

Please confirm that any revisions submitted to the Projected Data Chart in response to these supplemental questions include revised calculations for Average Gross Charge, Average Deduction from Operating Revenue and Average Net Charge to not match the Projected Data Chart. Please revise this chart and submit a revised page 43R (labeled as page 43R2).

RESPONSE: Average Gross Charge - No change
Average Deduction from Operating Revenue - Did change slightly- see 43R2 attachment
Average Net Charge - Did change slightly - See 43R2 attachment

4. Section B, Economic Feasibility, Item 6.B. Net Operating Margin Ratio

Please confirm that any revisions submitted to the Projected Data Chart in response to these supplemental questions include revised calculations for the Net Operating Margin Ratio. Please revise and resubmit a page 45R (labeled as page 45R2) as necessary. **RESPONSE:** There is no change - See attached 45R2

In accordance with Tennessee Code Annotated, §68-11-1607(c) (5), "...If an application is not deemed complete within sixty (60) days after written notification is given to the applicant by the agency staff that the application is deemed incomplete, the application shall be deemed void." **For this application the sixtieth (60th) day after written notification is May 21, 2021. If this application is not deemed complete by this date, the application will be deemed void.** Agency Rule 0720-10-.03(4) (d) (2) indicates that "Failure of the applicant to meet this deadline will result in the application being considered withdrawn and returned to the contact person. Re-submittal of the application must be accomplished in accordance with Rule 0720-10-.03 and requires an additional filing fee." Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days allowed by the statute. The supplemental information must be submitted with the enclosed affidavit, which shall be executed and notarized; please attach the notarized affidavit to the supplemental information.

If all supplemental information is not received and the application officially deemed complete prior to the beginning of the next review cycle, then consideration of the application could be delayed into a later review cycle. The review cycle for each application shall begin on the first day of the month after the application has been deemed complete by the staff of the Health Services and Development Agency.

Any communication regarding projects under consideration by the Health Services and Development Agency shall be in accordance with T.C.A. § 68-11-1607(d):

- (1) No communications are permitted with the members of the agency once the Letter of Intent initiating the application process is filed with the agency. Communications between agency members and agency staff shall not be prohibited. Any communication received by an agency member from a person unrelated to the applicant or party opposing the application shall be reported to the Executive Director and a written summary of such communication shall be made part of the certificate of need file.
- (2) All communications between the contact person or legal counsel for the applicant and the Executive Director or agency staff after an application is deemed complete and placed in the review cycle are prohibited unless submitted in writing or confirmed in writing and made part of the certificate of need application file. Communications for the purposes of clarification of facts and issues that may arise after an application has been deemed complete and initiated by the Executive Director or agency staff are not prohibited.

Should you have any questions or require additional information, please do not hesitate to contact this office.

Sincerely,

Thomas Pitt
HSD Examiner

Enclosure

ATTACHMENTS- SUPPLEMENT RESPONSE #2
REPLACEMENT PAGE 41R2

Project Only
 Total Facility

PROJECTED DATA CHART

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in January (Month).

	<u>Year 2022</u>	<u>Year 2023</u>
A. Utilization Data		
Specify Unit of Measure <u>Procedures</u>	<u>2937</u>	<u>3172</u>
B. Revenue from Services to Patients		
1. Inpatient Services	<u>\$ 0</u>	<u>\$ 0</u>
2. Outpatient Services	<u>\$10,390,236</u>	<u>\$11,221,454</u>
3. Emergency Services	<u>0</u>	<u>0</u>
4. Other Operating Revenue (Specify) _____	<u>0</u>	<u>0</u>
Gross Operating Revenue	<u>\$10,390,236</u>	<u>\$11,221,454</u>
C. Deductions from Gross Operating Revenue		
1. Contractual Adjustments	<u>\$5,195,118</u>	<u>\$5,610,727</u>
2. Provision for Charity Care	<u>\$51,952</u>	<u>\$56,111</u>
3. Provisions for Bad Debt	<u>\$103,903.76</u>	<u>\$112,215</u>
Total Deductions	<u>\$ 5,350,973.76</u>	<u>\$5,779,053</u>
NET OPERATING REVENUE	<u>\$ 5,039,262.24</u>	<u>\$ 5,442,401</u>
D. Operating Expenses		
1. Salaries and Wages		
a. Direct Patient Care (fully loaded)	<u>907,080</u>	<u>934,292</u>
b. Non-Patient Care (fully loaded)	<u>352,753</u>	<u>363,336</u>
2. Physician's Salaries and Wages		
3. Supplies	<u>1,511,800</u>	<u>1,632,744</u>
4. Rent		
a. Paid to Affiliates	<u>120,000</u>	<u>120,000</u>
b. Paid to Non-Affiliates	<u> </u>	<u> </u>
5. Management Fees:		
a. Paid to Affiliates	<u>0</u>	<u> </u>
b. Paid to Non-Affiliates	<u>0</u>	<u> </u>
6. Other Operating Expenses (D6)	<u>\$1,259,883</u>	<u>\$1,335,476</u>
Total Operating Expenses	<u>\$ 4,151,516</u>	<u>\$ 4,385,848</u>
E. Earnings Before Interest, Taxes and Depreciation	<u>\$ 887,746.24</u>	<u>\$ 1,056,553</u>
F. Non-Operating Expenses		
1. Taxes	<u>\$25,197</u>	<u>\$21,144</u>
2. Depreciation	<u>78,571</u>	<u>78,571</u>
3. Interest	<u>67,005</u>	<u>65,893</u>
4. Other Non-Operating Expenses	<u> </u>	<u> </u>
Total Non-Operating Expenses	<u>\$ 170,773</u>	<u>\$165,608</u>
NET INCOME (LOSS)	<u>\$ 716,973.24</u>	<u>\$890,945</u>

Chart Continues Onto Next Page

REPLACEMENT PAGE 42R2

NET INCOME (LOSS)	<u>\$716,973.24</u>	<u>\$890,945</u>
G. Other Deductions		
1. Estimated Annual Principal Debt Repayment	\$ <u> </u>	\$ <u> </u>
2. Annual Capital Expenditure	<u>0</u>	<u>0</u>
Total Other Deductions	<u>\$ 0</u>	<u>\$ 0</u>
NET BALANCE	<u>\$716,973.24</u>	<u>\$890,945</u>
DEPRECIATION	<u>78,571</u>	<u>78,571</u>
FREE CASH FLOW (Net Balance + Depreciation)	<u>\$ 795,544.24</u>	<u>\$969,516</u>

 Project Facility Total Only**PROJECTED DATA CHART-OTHER EXPENSES**

<u>OTHER OPERATING EXPENSES CATEGORIES</u>	<u>Year 2022</u>	<u>Year 2023</u>
(D6)		
1. <u>Professional Services Contract</u>	<u>\$ 25,000</u>	<u>\$ 27,500</u>
2. <u>Maintenance Agreements (Equipment)</u>	<u>\$150,000</u>	<u>\$165,000</u>
3. <u>Imaging Interpretation Fees</u>	<u> </u>	<u> </u>
4. <u>Building Maintenance & Services</u>	<u>\$120,000</u>	<u>\$132,000</u>
5. <u>Utilities</u>	<u>\$60,000</u>	<u>\$70,000</u>
6. <u>Due, License, Subscriptions</u>	<u>\$8,000</u>	<u>\$8,000</u>
7. <u>General & Administrative</u>	<u>\$896,883</u>	<u>\$932,976</u>
8.		
*Total Other Expenses	<u>\$1,259,883</u>	<u>\$1,335,476</u>

*Total other expenses should equal Line D.6. In the Projected Data Chart

REPLACEMENT PAGE 43R2 5. A Please identify the project’s average gross charge, average deduction from operating revenue, and average net charge using information from the Projected Data Charts for Year 1 and Year 2 of the proposed project. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

	Previous Year to Most Recent Year _____	Most Recent Year _____	Year One Year <u>2022</u>	Year Two Year <u>2023</u>	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)	NA	NA	\$3,537.70	\$3,537.66	0%
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)	NA	NA	\$1,821.92	\$1,821.90	0%
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)	NA	NA	\$1,715.79	\$1,715.76	0%

Total Facility Chart NA

	Previous Year to Most Recent Year _____	Most Recent Year _____	Year One Year _____	Year Two Year _____	% Change (Current Year to Year 2)
Gross Charge (<i>Gross Operating Revenue/Utilization Data</i>)					
Deduction from Revenue (<i>Total Deductions/Utilization Data</i>)					
Average Net Charge (<i>Net Operating Revenue/Utilization Data</i>)					

B. Provide the proposed charges for the project and discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the project and the impact on existing patient charges. RESPONSE;

CPT	total for Gyn/Onco TOP 20	2020 Medicare Allowable FF+PF	1st Year Gross Charge
58571	PR LAPAROSCOPY W TOT HYSTERECTUTERUS <=250 GRAM W TUBE/OVARY [58571]	4173.26	8346.52
58662	PR LAP,FULGURATE/EXCISE LESIONS [58662]	2710.06	5420.12
58100	PR BIOPSY OF UTERUS LINING [58100]	108.67	217.34
57425	PR LAPAROSCOPY, SURG, COLPOPEXY [57425]	945.04	1890.08
58661	PR LAP,RMV ADNEXAL STRUCTURE [58661]	2652.03	5304.06

Roger Manning
March 23, 2021
Page 7

58573	PR LAPAROSCOPY TOT HYSTERECTOMY UTERUS >250 GRAM W TUBE/OVARY [58573]	4476.63	8953.26
57452	PR COLPOSCOPY,CERVIX W/ADJ VAGINA [57452]	144.62	289.24
49561	PR REPAIR INCISIONAL HERNIA,STRANG [49561]	2153.85	4307.70
49653	PR LAP, VENTRAL HERNIA REPAIR,INCARCERATED [49653]	2362.35	4724.70
57500	PR BIOPSY CERVIX, 1 OR MORE, OR EXCISION OF LESION [57500]	162.62	325.24

REPLACEMENT PAGE 45R2 6. A. Discuss how projected utilization rates will be sufficient to support financial performance.

1) Noting when the project’s financial breakeven is expected, and

RESPONSE: The ASTC will make a profit by the end of the 1st year as noted in the 1st year financial. Statement.

2) Demonstrating the availability of sufficient cash flow until financial viability is achieved.

Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For all projects, provide financial information for the corporation, partnership, or principal parties that will be a source of funding for the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as **Attachment Section B-Economic Feasibility-6A**

RESPONSE: Our ASTC Poplar Ridge Surgery Center is new and there are no historical financials for this facility at this time. Our bank funding letter is attached in Attachments B-Economic Feasibility – 1E that assures completion of project with cash reserves for operations in the first year. If there is a need for cash infusion into the ASTC, there will be a cash call from the three owners per Operating Agreement. There are also plans for future syndication of shares to new physicians.

B. Net Operating Margin Ratio: The Net Operating Margin Ratio demonstrates how much revenue is left over after all the variable or operating costs have been paid. The formula for this ratio is: (Earnings before interest, Taxes, and Depreciation/Net Operating Revenue).

Utilizing information from the Historical and Projected Data Charts please report the net operating margin ratio trends in the following tables. Complete Project Only Chart and Total Facility Chart, if applicable.

Project Only Chart

Year	2nd Previous Year to Most Recent Year Year <u>NA</u>	1st Previous Year to Most Recent Year Year <u>NA</u>	Most Recent Year Year <u>NA</u>	Projected Year 1 Year <u>2022</u>	Projected Year 2 Year <u>2023</u>
Net Operating Margin Ratio				17.6%	19.4%

Total Facility Chart NOT APPLICABLE

Year	2nd Previous Year to Most Recent Year Year _____	1st Previous Year to Most Recent Year Year _____	Most Recent Year Year _____	Projected Year 1 Year _____	Projected Year 2 Year _____

Roger Manning
March 23, 2021
Page 9

Net Operating Margin Ratio					
----------------------------------	--	--	--	--	--

AFFIDAVIT

ATTACHMENTS

AFFIDAVIT

STATE OF Missouri

COUNTY OF St. Charles

I, Roger Manning, being first duly sworn, says that he/she is the applicant named in this application or his/her/its lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Rules of the Health Services and Development Agency, and T.C.A. §68-11-1601, *et seq.*, and that the responses to this application or any other questions deemed appropriate by the Health Services and Development Agency are true and complete.

Roger Manning / consultant
SIGNATURE/TITLE

Sworn to and subscribed before me this 30th day of April, 2021 a Notary
(Month) (Year)

Public in and for the County/State of Missouri

Taylor Baker
NOTARY PUBLIC

My commission expires August 1, 2023
(Month/Day) (Year)

TAYLOR BAKER
Notary Public Notary Seal
State of Missouri
Commissioned for St Charles County
My Commission Expires. Aug. 01 2023
19817367



**State of Tennessee
Health Services and Development Agency**

Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243

www.tn.gov/hsda

Phone: 615-741-2364

Fax: 615-741-9884

LETTER OF INTENT

The Publication of Intent is to be published in the The Commerical Appeal which is a newspaper
(Name of Newspaper)
of general circulation in Shelby County, Tennessee, on or before March 5, 2021,
(County) (Month / day) (Year)
for one day.

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that:

Poplar Ridge Surgery Center, LLC ambulatory surgical treatment center
(Name of Applicant) (Facility Type-Existing)

owned by: Physicians: Kumar, Joshi and Salazar with an ownership type of Limited Liability Corporation
(LLC) and to be managed by: Physicians: Kumar, Joshi and Salazar intends to file an application for a

Certificate of Need for [PROJECT DESCRIPTION BEGINS HERE]:

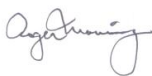
for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of ~~outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial~~ surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.

The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The contact person for this project is Roger Manning, Managing Partner/Consultant
(Contact Name) (Title)

who may be reached at: Excellentia Advisory Group, LLC, 1101 St. Peters Howell Road, Suite A
(Company Name) (Address)

Saint Peters Missouri 63376 314 / 399-2335
(City) (State) (Zip Code) (Area Code / Phone Number)

 March 3, 2021 roger@excellentiagroup.com
(Signature) (Date) (E-mail Address)

The Letter of Intent must be filed in triplicate and received between the first and the tenth day of the month. If the last day for filing is a Saturday, Sunday or State Holiday, filing must occur on the preceding business day. File this form at the following address:

**Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243**

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.



**State of Tennessee
Health Services and Development Agency**

Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, TN 37243

www.tn.gov/hsda

Phone: 615-741-2364

Fax: 615-741-9884

PUBLICATION OF INTENT

The following shall be published in the "Legal Notices" section of the newspaper in a space no smaller than two (2) columns by two (2) inches.

NOTIFICATION OF INTENT TO APPLY FOR A CERTIFICATE OF NEED

This is to provide official notice to the Health Services and Development Agency and all interested parties, in accordance with T.C.A. § 68-11-1601 *et seq.*, and the Rules of the Health Services and Development Agency, that:

that: Poplar Ridge Surgery Center, LLC ambulatory surgical treatment center
(Name of Applicant) (Facility Type-Existing)

owned by: Physicians: Kumar, Joshi and Salazar with an ownership type of limited liability corporation (LLC)

and to be managed by: Physicians: Kumar, Joshi and Salazar intends to file an application for a Certificate of Need

for [PROJECT DESCRIPTION BEGINS HERE]: _____

for the establishment of a multi-specialty ambulatory surgery treatment center (ASTC) in Shelby County for the performance of outpatient surgical procedures in the areas of gynecologic surgery, interventional radiology vascular access and oral & maxillofacial surgery. The ASTC will consist of three (3) Operating Rooms and zero (0) Procedure rooms. The ASTC is 4100 sq ft and will be located at 6584 Poplar Avenue Poplar Avenue in Memphis, TN 38138 on the first floor of a four (4) story building.
The project cost is estimated at \$2,012,000.00. The facility will not contain any major medical equipment requiring a CON.

The anticipated date of filing the application is: March 9, 2021

The contact person for this project is Roger Manning Consultant
(Contact Name) (Title)

who may be reached at: Excellentia Advisory Group, LLC 1101 St. Peters Howell Road, Suite A
(Company Name) (Address)

Saint Peters Missouri 63376 314 399-2335
(City) (State) (Zip Code) (Area Code / Phone Number)

Upon written request by interested parties, a local Fact-Finding public hearing shall be conducted. Written requests for hearing should be sent to:

**Health Services and Development Agency
Andrew Jackson Building, 9th Floor
502 Deaderick Street
Nashville, Tennessee 37243**

The published Letter of Intent must contain the following statement pursuant to T.C.A. § 68-11-1607(c)(1). (A) Any health care institution wishing to oppose a Certificate of Need application must file a written notice with the Health Services and Development Agency no later than fifteen (15) days before the regularly scheduled Health Services and Development Agency meeting at which the application is originally scheduled; and (B) Any other person wishing to oppose the application must file written objection with the Health Services and Development Agency at or prior to the consideration of the application by the Agency.

**RULES
OF
HEALTH SERVICES AND DEVELOPMENT AGENCY**

**CHAPTER 0720-11
CERTIFICATE OF NEED PROGRAM – GENERAL CRITERIA**

TABLE OF CONTENTS

0720-11-.01 General Criteria for Certificate of Need

0720-11-.01 GENERAL CRITERIA FOR CERTIFICATE OF NEED. The Agency will consider the following general criteria in determining whether an application for a certificate of need should be granted:

- (1) **Need.** The health care needed in the area to be served may be evaluated upon the following factors:
 - (a) The relationship of the proposal to any existing applicable plans;
 - (b) The population served by the proposal;
 - (c) The existing or certified services or institutions in the area;
 - (d) The reasonableness of the service area;
 - (e) The special needs of the service area population, including the accessibility to consumers, particularly women, racial and ethnic minorities, TennCare participants, and low-income groups;
 - (f) Comparison of utilization/occupancy trends and services offered by other area providers;
 - (g) The extent to which Medicare, Medicaid, TennCare, medically indigent, charity care patients and low income patients will be served by the project. In determining whether this criteria is met, the Agency shall consider how the applicant has assessed that providers of services which will operate in conjunction with the project will also meet these needs.

- (2) **Economic Factors.** The probability that the proposal can be economically accomplished and maintained may be evaluated upon the following factors:
 - (a) Whether adequate funds are available to the applicant to complete the project;
 - (b) The reasonableness of the proposed project costs;
 - (c) Anticipated revenue from the proposed project and the impact on existing patient charges;
 - (d) Participation in state/federal revenue programs;
 - (e) Alternatives considered; and
 - (f) The availability of less costly or more effective alternative methods of providing the benefits intended by the proposal.

(Rule 0720-11-.01, continued)

- (3) Quality. Whether the proposal will provide health care that meets appropriate quality standards may be evaluated upon the following factors:
 - (a) Whether the applicant commits to maintaining an actual payor mix that is comparable to the payor mix projected in its CON application, particularly as it relates to Medicare, TennCare/Medicaid, Charity Care, and the Medically Indigent;
 - (b) Whether the applicant commits to maintaining staffing comparable to the staffing chart presented in its CON application;
 - (c) Whether the applicant will obtain and maintain all applicable state licenses in good standing;
 - (d) Whether the applicant will obtain and maintain TennCare and Medicare certification(s), if participation in such programs was indicated in the application;
 - (e) Whether an existing healthcare institution applying for a CON has maintained substantial compliance with applicable federal and state regulation for the three years prior to the CON application. In the event of non-compliance, the nature of non-compliance and corrective action shall be considered;
 - (f) Whether an existing health care institution applying for a CON has been decertified within the prior three years. This provision shall not apply if a new, unrelated owner applies for a CON related to a previously decertified facility;
 - (g) Whether the applicant will participate, within 2 years of implementation of the project, in self-assessment and external peer assessment processes used by health care organizations to accurately assess their level of performance in relation to established standards and to implement ways to continuously improve.
 1. This may include accreditation by any organization approved by Centers for Medicare and Medicaid Services (CMS) and other nationally recognized programs. The Joint Commission or its successor, for example, would be acceptable if applicable. Other acceptable accrediting organizations may include, but are not limited to, the following:
 - (i) Those having the same accrediting standards as the licensed hospital of which it will be a department, for a Freestanding Emergency Department;
 - (ii) Accreditation Association for Ambulatory Health Care, and where applicable, American Association for Accreditation of Ambulatory Surgical Facilities, for Ambulatory Surgical Treatment Center projects;
 - (iii) Commission on Accreditation of Rehabilitation Facilities (CARF), for Comprehensive Inpatient Rehabilitation Services and Inpatient Psychiatric projects;
 - (iv) American Society of Therapeutic Radiation and Oncology (ASTRO), the American College of Radiology (ACR), the American College of Radiation Oncology (ACRO), National Cancer Institute (NCI), or a similar accrediting authority, for Megavoltage Radiation Therapy projects;
 - (v) American College of Radiology, for Positron Emission Tomography, Magnetic Resonance Imaging and Outpatient Diagnostic Center projects;

(Rule 0720-11-.01, continued)

- (vi) Community Health Accreditation Program, Inc., Accreditation Commission for Health Care, or another accrediting body with deeming authority for hospice services from CMS or state licensing survey, and/or other third party quality oversight organization, for Hospice projects;
 - (vii) Behavioral Health Care accreditation by the Joint Commission for Nonresidential Substitution Based Treatment Center, for Opiate Addiction projects;
 - (viii) American Society of Transplantation or Scientific Registry of Transplant Recipients, for Organ Transplant projects;
 - (ix) Joint Commission or another appropriate accrediting authority recognized by CMS, or other nationally recognized accrediting organization, for a Cardiac Catheterization project that is not required by law to be licensed by the Department of Health;
 - (x) Participation in the National Cardiovascular Data Registry, for any Cardiac Catheterization project;
 - (xi) Participation in the National Burn Repository, for Burn Unit projects;
 - (xii) Community Health Accreditation Program, Inc., Accreditation Commission for Health Care, and/or other accrediting body with deeming authority for home health services from CMS and participation in the Medicare Quality Initiatives, Outcome and Assessment Information Set, and Home Health Compare, or other nationally recognized accrediting organization, for Home Health projects; and
 - (xiii) Participation in the National Palliative Care Registry, for Hospice projects.
- (h) For Ambulatory Surgical Treatment Center projects, whether the applicant has estimated the number of physicians by specialty expected to utilize the facility, developed criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel, and documented the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.
- (i) For Cardiac Catheterization projects:
1. Whether the applicant has documented a plan to monitor the quality of its cardiac catheterization program, including but not limited to, program outcomes and efficiencies;
 2. Whether the applicant has agreed to cooperate with quality enhancement efforts sponsored or endorsed by the State of Tennessee, which may be developed per Policy Recommendation; and
 3. Whether the applicant will staff and maintain at least one cardiologist who has performed 75 cases annually averaged over the previous 5 years (for an adult program), and 50 cases annually averaged over the previous 5 years (for a pediatric program).
- (j) For Open Heart projects:

(Rule 0720-11-.01, continued)

1. Whether the applicant will staff with the number of cardiac surgeons who will perform the volume of cases consistent with the State Health Plan (annual average of the previous 2 years), and whether the applicant will maintain this volume in the future;
 2. Whether the applicant will staff and maintain at least one surgeon with 5 years of experience;
 3. Whether the applicant will participate in a data reporting, quality improvement, outcome monitoring, and peer review system that benchmarks outcomes based on national norms, with such a system providing for peer review among professionals practicing in facilities and programs other than the applicant hospital (demonstrated active participation in the STS National Database is expected and shall be considered evidence of meeting this standard);
- (k) For Comprehensive Inpatient Rehabilitation Services projects, whether the applicant will have a board-certified psychiatrist on staff (preferred);
- (l) For Home Health projects, whether the applicant has documented its existing or proposed plan for quality data reporting, quality improvement, and an outcome and process monitoring system;
- (m) For Hospice projects, whether the applicant has documented its existing or proposed plan for quality data reporting, quality improvement, and an outcome and process monitoring system;
- (n) For Megavoltage Radiation Therapy projects, whether the applicant has demonstrated that it will meet the staffing and quality assurance requirements of the American Society of Therapeutic Radiation and Oncology (ASTRO), the American College of Radiology (ACR), the American College of Radiation Oncology (ACRO), National Cancer Institute (NCI), or a similar accrediting authority;
- (o) For Neonatal Intensive Care Unit projects, whether the applicant has documented its existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring system; whether the applicant has documented the intention and ability to comply with the staffing guidelines and qualifications set forth by the Tennessee Perinatal Care System Guidelines for Regionalization, Hospital Care Levels, Staffing and Facilities; and whether the applicant will participate in the Tennessee Initiative for Perinatal Quality Care (TIPQC);
- (p) For Nursing Home projects, whether the applicant has documented its existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring systems, including in particular details on its Quality Assurance and Performance Improvement program. As an alternative to the provision of third party accreditation information, applicants may provide information on any other state, federal, or national quality improvement initiatives;
- (q) For Inpatient Psychiatric projects:
1. Whether the applicant has demonstrated appropriate accommodations for patients (e.g., for seclusion/restraint of patients who present management problems and children who need quiet space; proper sleeping and bathing arrangements for all patients), adequate staffing (i.e., that each unit will be staffed with at least two direct patient care staff, one of which shall be a nurse, at all

(Rule 0720-11-.01, continued)

- times), and how the proposed staffing plan will lead to quality care of the patient population served by the project;
 - 2. Whether the applicant has documented its existing or proposed plan for data reporting, quality improvement, and outcome and process monitoring system; and
 - 3. Whether an applicant that owns or administers other psychiatric facilities has provided information on satisfactory surveys and quality improvement programs at those facilities.
- (r) For Freestanding Emergency Department projects, whether the applicant has demonstrated that it will satisfy and maintain compliance with standards in the State Health Plan;
- (s) For Organ Transplant projects, whether the applicant has demonstrated that it will satisfy and maintain compliance with standards in the State Health Plan; and
- (t) For Relocation and/or Replacement of Health Care Institution projects:
- 1. For hospital projects, Acute Care Bed Need Services measures are applicable; and
 - 2. For all other healthcare institutions, applicable facility and/or service specific measures are applicable.
- (u) For every CON issued on or after the effective date of this rule, reporting shall be made to the Health Services and Development Agency each year on the anniversary date of implementation of the CON, on forms prescribed by the Agency. Such reporting shall include an assessment of each applicable volume and quality standard and shall include results of any surveys or disciplinary actions by state licensing agencies, payors, CMS, and any self-assessment and external peer assessment processes in which the applicant participates or participated within the year, which are relevant to the health care institution or service authorized by the certificate of need. The existence and results of any remedial action, including any plan of correction, shall also be provided.
- (v) HSDA will notify the applicant and any applicable licensing agency if any volume or quality measure has not been met.
- (w) Within one month of notification the applicant must submit a corrective action plan and must report on the progress of the plan within one year of that submission.
- (4) Contribution to the Orderly Development of Adequate and Effective Healthcare Facilities and/or Services. The contribution which the proposed project will make to the orderly development of an adequate and effective health care system may be evaluated upon the following factors:
- (a) The relationship of the proposal to the existing health care system (for example: transfer agreements, contractual agreements for health services, the applicant's proposed TennCare participation, affiliation of the project with health professional schools);
 - (b) The positive or negative effects attributed to duplication or competition; and

(Rule 0720-11-.01, continued)

- (c) The availability and accessibility of human resources required by the proposal, including consumers and related providers.
- (5) Applications for Change of Site. When considering a certificate of need application which is limited to a request for a change of site for a proposed new health care institution, The Agency may consider, in addition to the foregoing factors, the following factors:
- (a) Need. The applicant should show the proposed new site will serve the health care needs in the area to be served at least as well as the original site. The applicant should show that there is some significant legal, financial, or practical need to change to the proposed new site.
 - (b) Economic factors. The applicant should show that the proposed new site would be at least as economically beneficial to the population to be served as the original site.
 - (c) Quality of Health Care to be provided. The applicant should show the quality of health care to be provided will be served at least as well as the original site.
 - (d) Contribution to the orderly development of health care facilities and/or services. The applicant should address any potential delays that would be caused by the proposed change of site, and show that any such delays are outweighed by the benefit that will be gained from the change of site by the population to be served.
- (6) Certificate of need conditions. In accordance with T.C.A. § 68-11-1609, The Agency, in its discretion, may place such conditions upon a certificate of need it deems appropriate and enforceable to meet the applicable criteria as defined in statute and in these rules.

Authority: T.C.A. §§ 4-5-202, 4-5-208, 68-11-1605, 68-11-1609, and 2016 Tenn. Pub. Acts Ch. 1043.

Administrative History: Original rule filed August 31, 2005; effective November 14, 2005. Emergency rule filed May 31, 2017; effective through November 27, 2017.

**CERTIFICATE OF NEED
REVIEWED BY THE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING
615-741-1954**

DATE: June 30, 2021

APPLICANT: Poplar Ridge Surgery Center, LLC.
6584 Poplar Avenue, Suite 102
Memphis, Tennessee 38138

CON#: CN2103-008

CONTACT PERSON: Roger Manning
Excellentia Advisory Group, LLC.
1101 St. Peters Howell Rd.
Saint Peters, MO 63376

COST: \$2,012,000

In accordance with Section 68-11-1608(a) of the Tennessee Health Services and Planning Act of 2002, the Tennessee Department of Health, Division of Health Planning, reviewed this certificate of need application for financial impact, TennCare participation, compliance with *Tennessee's State Health Plan*, and verified certain data. Additional clarification or comment relative to the application is provided, as applicable, under the heading "Note to Agency Members."

SUMMARY:

The applicant, Poplar Ridge Surgery Center, seeks Certificate of Need (CON) approval to establish a new ASTC consisting of three operating rooms and zero procedure rooms. The facility will focus on gynecological surgery, interventional radiologic vascular access, and oral and maxillofacial cases. The ASTC will initially be owned and operated by three physician partners, Dr. Sanjeev Kumar, Dr. Salil Joshi, and Dr. Jorge Salazar. The applicant has identified its service area as consisting of Shelby, Fayette, Hardeman, Haywood, Tipton, and Lauderdale counties. The applicant states that there are only three ASTCs in the service area that provide gynecology procedures, East Memphis Surgery Center, Memphis Surgery Center, and Methodist Surgery Center and, there are no ASTCs in the service area that provide this service as Vascular Access Centers went out of business in 2020. The projected cost of the ASTC is estimated to be \$2,012,000, which will be financed through a bank loan. The applicant expects this project to realize a positive financial margin by the end of its first year of operations. The applicant states that the new ASTC will provide jobs for ten to fifteen full time employees and five or more part-time employees.

GENERAL CRITERIA FOR CERTIFICATE OF NEED

The applicant responded to all of the general criteria for Certificate of Need as set forth in the document *Tennessee's State Health Plan*.

NEED:

The applicant, Poplar Ridge Surgery Center, seeks Certificate of Need (CON) approval to establish a new ASTC consisting of three operating rooms and zero procedure rooms dedicated to gynecological surgery, interventional radiologic vascular access, and oral and maxillofacial cases. The primary service area will consist of Shelby, Fayette, Hardeman, Haywood, Tipton, and Lauderdale counties. The population trends for the primary service area are reflected in the chart below:

County	2021 Population	2025 Population	% of Increase/ (Decrease)
Shelby	942,127	949,181	0.7%
Fayette	42,074	43,941	4.4%
Hardeman	25,048	24,761	-1.1%

Haywood	17,003	16,567	-2.6%
Tipton	62,606	63,763	1.8%
Lauderdale	25,823	25,760	-0.2%
Total	1,114,681	1,123,973	0.83%

Tennessee Population Projections 2021 UTCBER, Tennessee Department of Health

The applicant feels that this project is needed in the service area for a number of reasons. First, recently Vascular Access Centers, the only ASTC in the service area where interventional radiologic vascular access procedures were performed, closed. The applicant states that this closure has created a six-month waiting period for kidney patients to get fistula insertion procedures in the service area. The applicant states that there are only three ASTCs in the service area that provide gynecology procedures. In 2019, East Memphis Surgery Center performed 803 gyn procedures, Memphis Surgery Center performed 27 gyn procedures, and Methodist Surgery Center performed 245 gyn procedures.

The applicant feels that this project will help to reduce that wait time and provide quicker and more convenient access for patients. Also, the applicant states that due to contractual restrictions, the interventional radiologists cannot practice in the hospitals or the hospital owned ASTCs unless they are employed by the main radiology groups contracted by the hospitals, which the applicant feels restricts the choice of patients served by the radiology physicians working with the Poplar Avenue Clinic. The applicant feels that this project will help to fulfill the need of patients of the practice and will not affect any other existing hospital or ASTC. The physicians of Poplar Avenue Clinic will be able to accommodate the surgical volume in the ASTC located in the same building. The applicant feels that this would help to reduce travel times, improve patient comfort, and reduce cost and complications.

Furthermore, the applicant believes that this project will help to reduce wait times for life and limb saving procedures. The physicians associated with this project perform lifesaving procedures such as gynecologic cancer treatment and dialysis care, as well as limb saving procedures for diseases such as limb ischemia and peripheral artery disease. The vast majority of the patients served by this group are morbidly obese and are at a greater risk for these types of complications.

The following chart illustrates the outpatient surgical utilization in the service area:

**Service Area Hospital Outpatient Surgical Utilization
2017-2019**

Hospital	County	2017 OP Cases	2018 OP Cases	2019 OP Cases	% Change 2017-2019
Baptist Memorial Hospital	Shelby	3945	4123	12218	+309.7%
Baptist Collierville	Shelby	1803	1716	3111	+172.5%
Baptist Memorial for Women	Shelby	2328	2736	5481	+235.4%
Methodist Germantown	Shelby	6258	5986	11590	+185.2%
Methodist H.C. Memphis	Shelby	7343	6537	14558	+198.3%
Methodist Hospital North	Shelby	1066	911	3207	+300.8%
Methodist Hospital South	Shelby	849	782	1712	+201.6%
Regional One Health	Shelby	2371	2329	8754	+369.21%
St. Francis Hospital Shelby	Shelby	5339	4854	10207	+191.18%
St. Francis Bartlett	Shelby	2102	2483	4204	+200.00%
Lauderdale Community	Lauderdale	130	415	189	+145.38%
Baptist Memorial Tipton	Tipton	617	545	609	98.7%
Total		34,151	33,417	75,840	+222.07%

The following chart shows the 2020 utilization of all ASTCs in the service area:

Service Area ASTC Utilization 2020

Facility	Specialty	County	# OR Rooms	Cases	% of 1,263 Full Capacity	# PR Rooms	Cases	% of 2,667 Full Capacity
Multi-Specialty								
East Memphis Surgery Center	Multi	Shelby	6	3,605	47.57%	3	782	9.77%
LeBonheur East Surgery Center	Multi	Shelby	4	2,727	53.98%	0	0	0%
Memphis Surgery Center	Multi	Shelby	4	3,416	67.62%	1	112	4.20%
Methodist Germantown	Multi	Shelby	4	3,771	74.64%	1	528	19.80%
Campbell Clinic Surgery Center Midtown	Multi	Shelby	4	2,727	53.98%	0	0	0%
Baptist – Germantown Surgery Center	Multi	Shelby	6	3,226	42.57%	1	3,083	115.6%
Campbell Clinic Surgery Center	Multi	Shelby	8	4,019	39.78%	2	3,535	66.27%
Semmes – Murphy Clinic	Multi	Shelby	3	1,246	32.88%	2	5,995	112.39%
Surgery Center at Saint Francis	Multi	Shelby	4	2,818	55.78%	2	1,493	27.99%
Grand Total			43	27,555		12	15,528	
Cases per OR/PR				640.81	50.74%		1,294	48.52%
Single Specialty								
University Clinical Health Vascular Access ASC	Vascular	Shelby	1	999	79.10%	1	911	34.16%
Memphis Eye and Cataract ASTC	Ophthalmology	Shelby	3	898	23.70%	0	0	0%
Planned Parenthood	Other	Shelby	0	0	0%	2	1,767	33.13%
Shea Clinic	Otolaryngology	Shelby	2	2,091	82.78%	0	0	0%
Ridge Lake ASTC	Ophthalmology	Shelby	4	4,902	97.03%	2	854	16.01%
GI Diagnostic and Therapeutic Center	Endoscopy	Shelby	0	0	0%	6	11,012	68.82%
Germantown ASTC	Cosmetic	Shelby	1	130	10.29%	0	0	0%
Mays and Snapp Pain Clinic	Pain Mgmt.	Shelby	2	5,019	198.7%	0	0	0%
Radiosurgical Center of Memphis	Other	Shelby	0	0	0%	1	163	6.11%
GI Diagnostic and Therapeutic Center	Endoscopy	Shelby	0	0	0%	6	13,037	81.4%
Bowden Gastro Associates	Endoscopy	Shelby	1	6	0.48%	2	4,453	83.48%
Urocenter	Urology	Shelby	3	3,374	89.05%	0	0	0%
Wolf River Surgery Center	Rad. Onc.	Shelby	4	3,414	67.58%	2	2,553	47.86%
Eye Care Surgery Center	Ophthalmology	Shelby	4	195	3.86%	2	885	16.59%
Hamilton Eye Institute Surgery Center	Ophthalmology	Shelby	3	2,866	75.64%	2	234	4.39%
Midsouth Interventional Pain Institute	Pain Mgmt.	Shelby	0	0	0%	2	7,457	139.80%
Grand Total			28	23,894		28	43,326	
Cases per OR/PR				853.36	67.57%		1,547	58.02%

Source: Joint Annual Report of Ambulatory Surgical Treatment Centers 2021 Final, Tennessee Department of Health, Division of Policy, Planning, and Assessment-Office of Health Statistics.

The following chart shows the 2020 utilization of ASTCs that perform similar services offered by the applicant:

Service Area ASTC Utilization 2020

Facility	Specialty	County	# OR Rooms	Cases	% of 1,263 Full Capacity	# PR Rooms	Cases	% of 2,667 Full Capacity
Multi-Specialty								
East Memphis Surgery Center	Multi	Shelby	6	3,605	47.57%	3	782	9.77%
LeBonheur East Surgery Center	Multi	Shelby	4	2,727	53.98%	0	0	0%
Memphis Surgery Center	Multi	Shelby	4	3,416	67.62%	1	112	4.20%
Methodist Germantown	Multi	Shelby	4	3,771	74.64%	1	528	19.80%
Grand Total			18	13,519		5	1,422	
Cases per OR/PR				751	59.47%		284	10.66%

Single Specialty								
University Clinical Health Vascular Access ASC	Vascular	Shelby	1	999	79.10%	1	911	34.16%
Grand Total			1	999		1	911	
Cases per OR/PR				999	79.10%		911	34.16%

Source: *Joint Annual Report of Ambulatory Surgical Treatment Centers 2021 Final*, Tennessee Department of Health, Division of Policy, Planning, and Assessment-Office of Health Statistics.

The applicant is projecting 2,937 cases in the first year of operations and 3,172 in the second year of operations.

TENNCARE/MEDICARE ACCESS:

The applicant states the facility will seek both Medicare and TennCare/Medicaid certification.

ECONOMIC FACTORS/FINANCIAL FEASIBILITY:

The Department of Health, Division of Health Planning, have reviewed the Project Costs Chart, the Historical Data Chart, and the Projected Data Chart to determine if they are mathematically accurate and if the projections are based on the applicant's anticipated level of utilization. The location of these charts may be found in the following specific locations in the Certificate of Need Application or the Supplemental material:

Project Costs Chart: The Project Costs Chart is located on page 36 of the application. The total estimated project is \$2,012,000. This will include \$950,00 for the total construction costs, \$270,000 for moveable equipment, \$516,000 for the building, \$80,000 for fixed equipment, \$50,000 for a contingency fund, \$50,000 for one year's debt service, \$38,000 for legal and administrative fees, and \$25,000 for architectural and engineering fees, \$18,000 for interim financing, and \$15,000 for the CON filing fee.

Historical Data Chart: There is no historical data chart as this is an application for a new ASTC.

Projected Data Chart: The Projected Data Chart is on page 41. The applicant expects 2,937 cases with a net income of \$716,973.24 in the first year of operations. The applicant expects 3,172 cases with a net income of \$891,945 in the second year of operations.

Proposed Charge Schedule

	Previous Year	Current Year	Year One	Year Two	% Change
Gross Charge	N/A	N/A	\$3,537.70	\$3,537.66	0%
Average Deduction	N/A	N/A	\$1,821.92	\$1,821.90	0%
Average Net Charge	N/A	N/A	\$1,715.79	\$1,715.76	0%

The following chart illustrates the projected payor mix for the first year of the project:

Projected Payor Mix, Year One

Payor Source	Projected Gross Operating Revenue	% of Total
Medicare/Medicare Managed Care	\$3,527,483	70%
TennCare/Medicaid	\$503,926	10%
Commercial/Other Managed Care	\$907,067	18%
Self-Pay	\$100,785	2%
Other	---	---
Total	\$5,039,262	100%
Charity Care	\$50,393	

CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTHCARE:

The applicant feels that this project will have a positive effect on the service area because it will help to greatly reduce the patient wait times for diabetic renal failure patients. Also, the applicant feels that this project will provide female patients who require gynecological procedures an alternative to going to hospitals in the service area, as ASTCs are generally more cost effective. Furthermore, the applicant believes that the ASTC will serve as a better option for patients than a typical hospital because it would offer a more convenient experience, high customer service skills, and quick in and out times. The applicant does not feel that this project will have any negative effects on providers in the service area. The applicant believes that any patients that may come from other providers in the service area will be minimal and free up those hospitals to concentrate on other surgical specialties with higher acuity. The applicant states that the new ASTC will provide jobs for ten to fifteen full time employees and five or more part-time employees. The applicant states that while it does not have any contracts with home health, physical therapy, and rehab facilities, it will seek to develop referral relationships after obtaining state licensure.

QUALITY MEASURES:

The applicant will seek licensure from the Tennessee Department of Health. The applicant states that the facility will be Medicare certified and AAAHC accredited and will follow its 10-step Quality Assurance Performance. The applicant states that the facility will develop quality policies and procedures to be managed by a consultant, Cathy Montgomery, RN, a former accreditation surveyor. The applicant will participate in self-assessment and external assessment against nationally available benchmark data to measure its performance. The applicant is committed to maintaining the appropriate staffing. The applicant will also report annually using the Agency prescribed forms.

AMBULATORY SURGICAL TREATMENT CENTERS

Determination of Need

1. **Need.** The minimum numbers of 884 Cases per Operating Room and 1,867 Cases per Procedure Room are to be considered as baseline numbers for purposes of determining Need. An applicant should demonstrate the ability to perform a minimum of 884 Cases per Operating Room and/or 1,867 Cases per Procedure Room per year, except that an applicant may provide information on its projected case types and its assumptions of estimated average time and clean up and preparation time per Case if this information differs significantly from the above-stated assumptions. It is recognized that an ASTC may provide a variety of services/Cases and that as a result the estimated average time and clean up and preparation time for such services/Cases may not meet the minimum numbers set forth herein. It is also recognized that an applicant applying for an ASTC Operating Room(s) may apply for a Procedure Room, although the anticipated utilization of that Procedure Room may not meet the base guidelines contained here. Specific reasoning and explanation for the inclusion in a CON application of such a Procedure Room must be provided. An applicant that desires to limit its Cases to specific type or types should apply for a Specialty ASTC.

The applicant states that the operating rooms in the ASTC will be available 250 days per year and eight hours a day. The estimated average time per case in the operating room will be between 40 and 65 minutes for gynecological cases and 30 minutes for vascular access cases, with the average time for clean-up and preparation between cases being about 30 minutes. The applicant is projecting to see 2,937 cases per year.

2. **Need and Economic Efficiencies.** An applicant must estimate the projected surgical hours to be utilized per year for two years based on the types of surgeries to be performed, including the preparation time between surgeries. Detailed support for estimates must be provided.

The applicant has attached the following illustration to answer this question:

3 Operating Rooms	# Cases	Mins / Case	Total Mins Used	Turnaround Time	Turnaround Used	Available Minutes	% of Time Used
DOC #1	1321	65	85,865	30	39,630	120,000	104.5%
DOC #2	808	65	52,520	30	24,240	120,000	64%
DOC #3	808	65	52,500	30	24,240	120,000	64%
Total Surg Cases	2937	65	190,905	30	88,110	360,000	77.5%

Year one 2022 case projections

- 3. Need; Economic Efficiencies; Access.** To determine current utilization and need, an applicant should take into account both the availability and utilization of either: all existing outpatient Operating Rooms and Procedure Rooms in a Service Area, including physician office based surgery rooms (when those data are officially reported and available) OR, all existing comparable outpatient Operating Rooms and Procedure Rooms based on the type of Cases to be performed. Additionally, applications should provide similar information on the availability of nearby out-of-state existing outpatient Operating Rooms and Procedure Rooms, if that data are available, and provide the source of that data. Unstaffed dedicated outpatient Operating Rooms and unstaffed dedicated outpatient Procedure Rooms are considered available for ambulatory surgery and are to be included in the inventory and in the measure of capacity.

The applicant states that there are only three ASTCs in the service area that provide gynecology procedures, East Memphis Surgery Center, Memphis Surgery Center, and Methodist Surgery Center. The doctor who would be performing these cases, Dr. Kumar, is on staff at Baptist Memorial Hospital and Methodist Germantown and would potentially be reducing the number of gynecology cases that would not require 24 hours overnight stay. Dr. Kumar feels that his case log would be less than 1% of these hospitals' gyn cases. In regard to vascular access surgical procedures, there are no ASTCs in the service area that provide this service as Vascular Access Centers went out of business in 2020.

4. Need and Economic Efficiencies.

An applicant must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON application to establish an ASTC or to expand existing services of an ASTC should not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed, if those services are known and relevant, within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above.

"Full Capacity" shall mean:

For a dedicated outpatient Operating Room: 1,263 Cases per year

For a dedicated outpatient Procedure Room: 2,667 Cases per year

Service Area ASTC Utilization 2020

Facility	Specialty	County	# OR Rooms	Cases	% of 1,263 Full Capacity	# PR Rooms	Cases	% of 2,667 Full Capacity
Multi-Specialty								
East Memphis Surgery Center	Multi	Shelby	6	3,605	47.57%	3	782	9.77%
LeBonheur East Surgery Center	Multi	Shelby	4	2,727	53.98%	0	0	0%
Memphis Surgery Center	Multi	Shelby	4	3,416	67.62%	1	112	4.20%
Methodist Germantown	Multi	Shelby	4	3,771	74.64%	1	528	19.80%
Grand Total			18	13,519		5	1,422	
Cases per OR/PR				751	59.47%		284	10.66%

Single Specialty								
University Clinical Health Vascular Access ASC	Vascular	Shelby	1	999	79.10%	1	911	34.16%
Grand Total			1	999		1	911	
Cases per OR/PR				999	79.10%		911	34.16%

Source: *Joint Annual Report of Ambulatory Surgical Treatment Centers 2021 Final*, Tennessee Department of Health, Division of Policy, Planning, and Assessment-Office of Health Statistics.

The Single-specialty ASTC Operating Rooms in the service area are operating at 79.1% of full capacity.

The Single-specialty ASTC Procedure Rooms in the service area are operating at 34.16% of full capacity.

The Multi-specialty ASTC Operating Rooms in the service area are operating at 59.47% of full capacity.

The Multi-specialty ASTC Procedure Rooms in the service area are operating at 10.66% of full capacity.

5. Need

An application for a Specialty ASTC should present its projections for the total number of cases based on its own calculations for the projected length of time per type of case, and shall provide any local, regional, or national data in support of its methodology. An applicant for a Specialty ASTC should provide its own definitions of the surgeries and/or procedures that will be performed and whether the Surgical Cases will be performed in an Operating Room or a Procedure Room. An applicant for a Specialty ASTC must document the potential impact that the proposed new ASTC would have upon the existing service providers and their referral patterns. A CON proposal to establish a Specialty ASTC or to expand existing services of a Specialty ASTC shall not be approved unless the existing ambulatory surgical services that provide comparable services regarding the types of Cases performed within the applicant's proposed Service Area or within the applicant's facility are demonstrated to be currently utilized at 70% or above. An applicant that is granted a CON for a Specialty ASTC shall have the specialty or limitation placed on the CON.

Not applicable as the applicant is applying as a multi-specialty.

Other Standards and Criteria

6. Access to ASTCs.

The majority of the population in a Service Area should reside within 60 minutes average driving time to the facility.

The applicant states that the majority of the population in the service area resides within 60 minutes.

7. Access to ASTCs.

An applicant should provide information regarding the relationship of an existing or proposed ASTC site to public transportation routes if that information is available.

The applicant states that it expects approximately 72% of patients to reside in Shelby County and the next largest influx of patients to come from Northern Mississippi.

8. Access to ASTCs.

An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project the origin of potential patients by percentage and county of residence and, if such data are readily available, by zip code, and must note where they are currently being served. Demographics of the

Service Area should be included, including the anticipated provision of services to out-of-state patients, as well as the identity of other service providers both in and out of state and the source of out-of-state data. Applicants shall document all other provider alternatives available in the Service Area. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

Service Area Counties	Projected Utilization- County Residents- Year 1 (YEAR = 2022)	Projected Utilization- County Residents- Year 2 (YEAR = 2023)	% of Total by County
Shelby	2056	2220	70%
Fayette	117	127	4%
Hardemann	30	32	1%
Tipton	147	159	5%
Haywood	15	16	.5%
Lauderdale	15	16	.5%
E Arkansas	117	127	4%
N Mississippi	440	475	15%
Total	2937	3172	100%

9. Access and Economic Efficiencies.

An application to establish an ambulatory surgical treatment center or to expand existing services of an ambulatory surgical treatment center must project patient utilization for each of the first eight quarters following completion of the project. All assumptions, including the specific methodology by which utilization is projected, must be clearly stated.

Physicians	Year One: 2022	Year Two: 2023
Sanjeev Kumar, MD	1321	1427
Salil Joshi, MD	808	872
Jorge Salazar, MD	808	872

10. Patient Safety and Quality of Care; Health Care Workforce.

a. An applicant should be or agree to become accredited by any accrediting organization approved by the Centers for Medicare and Medicaid Services, such as the Joint Commission, the Accreditation Association of Ambulatory Health Care, the American Association for Accreditation of Ambulatory Surgical Facilities, or other nationally recognized accrediting organization.

The applicant agrees to both Medicare certification and accreditation through the AAAHC.

b. An applicant should estimate the number of physicians by specialty that are expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel. An applicant should provide documentation on the availability of appropriate and qualified staff that will provide ancillary support services, whether on- or off-site.

The ASTC will initially be owned and operated by three physician partners, Dr. Sanjeev Kumar, Dr. Salil Joshi, and Dr. Jorge Salazar.

11. Access to ASTCs.

In light of Rule 0720-11.01, this lists the factors concerning need on which an application may be evaluated, and Principle No. 2 in the State Health Plan, "Every citizen should have reasonable access to health care," the HSDA may decide to give special consideration to an applicant:

a. Who is offering the service in a medically underserved area as designated by the United States Health Resources and Services Administration?

The applicant is committed to enrolling and accepting patients from Medicaid and TennCare. The applicant states that it sees large amounts of economically challenged and obese patients with many comorbidities.

b. Who is a "safety net hospital" or a "children's hospital" as defined by the Bureau of TennCare Essential Access Hospital payment program;

Not applicable.

c. Who provides a written commitment of intention to contract with at least one TennCare MCO and, if providing adult services, to participate in the Medicare program; or

The applicant will contract with all TennCare providers and will participate in the Medicare Program.

d. Who is proposing to use the ASTC for patients that typically require longer preparation and scanning times? The applicant shall provide in its application information supporting the additional time required per Case and the impact on the need standard.

The applicant believes that most of the procedures performed at the facility will take no longer than 65 minutes.