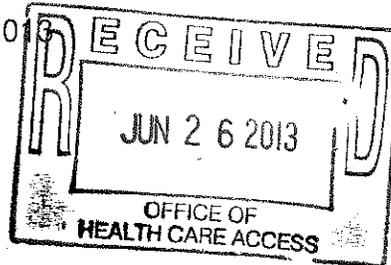


H. KENNEDY HUDNER  
860.240.6029 DIRECT TELEPHONE  
KHUDNER@MURTHALAW.COM

STEPHANIE SPRAGUE SOBKOWIAK  
203.772.7782 DIRECT TELEPHONE  
SSOBKOWIAK@MURTHALAW.COM

June 26, 2013



VIA HAND DELIVERY

Ms. Kimberly Martone  
Director of Operations  
State of Connecticut  
Department of Public Health,  
Office of Health Care Access  
410 Capitol Avenue, MS #13HCA  
Hartford, Connecticut 06134

Re: Change of Ownership, Eastern Connecticut Endoscopy Center, LLC  
("ECEC")

Dear Ms. Martone:

Enclosed you will find the original and four (4) copies of a Certificate of Need application filed by ECEC and AmSurg Holdings, Inc., regarding a change of ownership of ECEC. A CD containing a scanned copy of the complete application, as well as a MS Word version of the text of the application form, and a check for the \$500 filing fee are also enclosed.

If you have any questions, please feel free to contact either of us. Thank you very much for your consideration of the enclosed application.

Sincerely,

Handwritten signature of H. Kennedy Hudner in black ink.

H. Kennedy Hudner

Handwritten signature of Stephanie Sprague Sobkowiak in black ink.

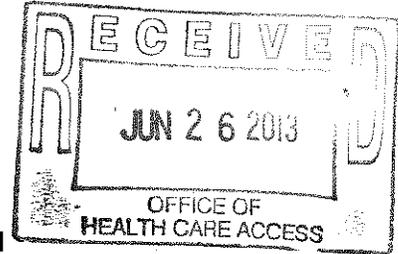
Stephanie Sprague Sobkowiak

Enclosures

4648787v1

Murtha Cullina LLP | Attorneys at Law

## Application Checklist



### Instructions:

1. Please check each box below, as appropriate; and
2. The completed checklist *must* be submitted as the first page of the CON application.

- Attached is the CON application filing fee in the form of a certified, cashier or business check made out to the "Treasurer State of Connecticut" in the amount of \$500.

### For OHCA Use Only:

Docket No.: 31848 Check No.: 51258  
OHCA Verified by: JK Date: 6/26/13

- Attached is evidence demonstrating that public notice has been published in a suitable newspaper that relates to the location of the proposal, 3 days in a row, at least 20 days prior to the submission of the CON application to OHCA. (OHCA requests that the Applicant fax a courtesy copy to OHCA (860) 418-7053, at the time of the publication)
- Attached is a paginated hard copy of the CON application including a completed affidavit, signed and notarized by the appropriate individuals.
- Attached are completed Financial Attachments I and II.
- Submission includes one (1) original and four (4) hard copies with each set placed in 3-ring binders.

**Note:** A CON application may be filed with OHCA electronically through email, if the total number of pages submitted is 50 pages or less. In this case, the CON Application must be emailed to [ohca@ct.gov](mailto:ohca@ct.gov).

**Important:** For CON applications (less than 50 pages) filed electronically through email, the signed affidavit and the check in the amount of \$500 must be delivered to OHCA in hardcopy.

- The following have been submitted on a CD
1. A scanned copy of each submission in its entirety, including all attachments in Adobe (.pdf) format.
  2. An electronic copy of the documents in MS Word and MS Excel as appropriate.

**MURTHA CULLINA LLP**

CITYPLACE I  
 185 ASYLUM STREET  
 HARTFORD, CT 06103-3469  
 WEBSTER BANK HARTFORD OPERATING ACCOUNT

WEBSTER BANK  
 Waterbury, CT 06702

**51258**

**CHECK DATE**

**06/24/13**

PAY: Five Hundred and 00/100 Dollars

**\$500.00**

CHECK AMOUNT

TO THE ORDER OF **Treasurer, State of Connecticut**

2 SIGNATURES REQUIRED \$5,000 OR OVER

*Ronald W. B. Waddy*



**MURTHA CULLINA LLP**

DATE **06-24-13** PAYEE: **Treasurer, State of Connecticut**

WEBSTER BANK HARTFORD OPERATING ACCOUNT

VENDOR #: **TSC**

CHECK #: **51258**

GL/MATTER #	INVOICE NO.	INV. DATE	DESCRIPTION	AMOUNT
120200101 001337-0001	6-24-2013	06/24/13	Cert. of Need Application-	500.00
TOTAL				500.00

# PUBLISHER'S CERTIFICATE

State of Connecticut,

ss. Norwich

County of New London,

On this **11th** day of **April** **2013**

personally appeared before the undersigned, a Notary Public, within and for said County and State

**Cindie Facyson, Proof of Publication**

of the "THE BULLETIN" a daily newspaper published at Norwich, County of New London, State of Connecticut, who, being duly sworn, states on oath that

**PUBLIC NOTICE**

**EASTERN CONNECTICUT ENDOSCOPY CENTER**

**AMSURG HOLDINGS, INC.**

**THE OFFICE OF HEALTH CARE ACCESS**

a true copy of which is hereto annexed, was published in said newspaper in its issue of the

**27TH** day of **March** **2013**

**28th** day of **March** **2013**

**29th** day of **March** **2013**

Subscribed and sworn to before me this 11th day

of April A.D. 2013

*Baerleen Ross*

Notary Public

My Commission Expires 11/30/2017

**Public Notice**

Eastern Connecticut Endoscopy Center, LLC (ECEC) and AmSurg Holdings, Inc. (AmSurg) are jointly applying to the Office of Health Care Access division of the State of Connecticut's Department of Public Health for a Certificate of Need pursuant to Connecticut General Statutes § 19a-638(a)(2). The application seeks approval for the transfer of majority ownership of ECEC, located at 79 Wavewick St., Suite 107, Norwich, CT 06360, to AmSurg. There is no capital expenditure associated with this project.

# AFFIDAVIT

Applicant: Eastern Connecticut Endoscopy Center, LLC

Project Title: Change of Ownership, Eastern Connecticut Endoscopy Center, LLC

I, Robert G. McCullough, Jr., Vice President of Eastern Connecticut Endoscopy Center, LLC being duly sworn, depose and state that Eastern Connecticut Endoscopy Center, LLC's information submitted in this Certificate of Need Application is accurate and correct to the best of my knowledge.

Robert G. McCullough, Jr.  
Signature

6-20-13  
Date

Subscribed and sworn to before me on June 20, 2013

Jennifer A. Davis  
Notary Public/Commissioner of Superior Court

My commission expires: 1/16/15



# AFFIDAVIT

Applicant: AmSurg Corp., through its wholly owned subsidiary, AmSurg Holdings, Inc.

Project Title: Change of Ownership, Eastern Connecticut Endoscopy Center, LLC

I, Christopher R. Kelly, Vice President, of AmSurg Holdings, Inc. being duly sworn, depose and state that AmSurg Holdings, Inc.'s information submitted in this Certificate of Need Application is accurate and correct to the best of my knowledge.

Christopher R. Kelly  
Signature

6/21/13  
Date

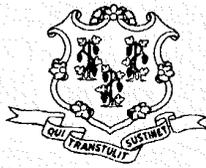
Subscribed and sworn to before me on 6/21/13

Jennifer A. Davis

Notary Public/Commissioner of Superior Court

My commission expires: 1/6/15





## State of Connecticut Office of Health Care Access Certificate of Need Application

**Instructions:** Please complete all sections of the Certificate of Need (“CON”) application. If any section or question is not relevant to your project, a response of “Not Applicable” may be deemed an acceptable answer. If there is more than one applicant, identify the name and all contact information for each applicant. OHCA will assign a Docket Number to the CON application once the application is received by OHCA.

<b>Docket Number:</b>	TBD	
<b>Applicants:</b>	Eastern Connecticut Endoscopy Center, LLC	AmSurg Corp., through its wholly owned subsidiary, AmSurg Holdings, Inc.
<b>Contact Person:</b>	Robert McCullough	Robert McCullough
<b>Contact Person’s Title:</b>	Vice President	Vice President
<b>Contact Person’s Address:</b>	20 Burton Hills Blvd. Suite 500 Nashville, TN 37215-6105	20 Burton Hills Blvd. Suite 500 Nashville, TN 37215-6105
<b>Contact Person’s Phone:</b>	(615) 665-1238	(615) 665-1238
<b>Contact Person’s Fax Number:</b>	(615) 665-0755	(615) 665-0755
<b>Contact Person’s Email Address:</b>	RMcCullough@amsurg.com	RMcCullough@amsurg.com
<b>Project Town:</b>	Norwich	
<b>Project Name:</b>	Change of Ownership – Eastern Connecticut Endoscopy Center, LLC	
<b>Statute Reference:</b>	Conn. Gen. Stat. § 19a-638(a)(2)	
<b>Estimated Total Capital Expenditure:</b>	\$0 (see Section 3.e)	

## 1. Project Description and Need: Change of Ownership or Control

### a. Please provide a narrative detailing the proposal.

**RESPONSE:** This proposal involves AmSurg Holdings, Inc.'s ("AmSurg") purchase an additional of 11% of the membership interest in Eastern Connecticut Endoscopy Center, LLC ("ECEC"), an outpatient endoscopy center located at 79 Wawecus Street, Suite 107 in Norwich, Connecticut (the "Center"). AmSurg currently owns 40% of the membership interest in ECEC, which it purchased from four (4) current physician owners in 2012. Thus, after the closing of this transaction (the "Closing"), AmSurg will own 51% of the membership interest. Following the Closing, ECEC will merge with and into, as permitted by Connecticut law, a Tennessee limited liability company. The Tennessee company, also called Eastern Connecticut Endoscopy Center, LLC, will be the surviving entity.

The membership interests are being sold to AmSurg by the same four (4) physician owners mentioned above, each of whom will remain an owner of ECEC following the Closing (the "Physician Owners"). The four (4) physician owners all perform endoscopy and colonoscopy procedures at the Center. A table showing the ownership interest before and after the Closing is provided under item 1(g) below.

The Center is approximately 7,000 square feet and provides a patient-friendly outpatient surgery atmosphere. Physicians use the Center to perform endoscopic procedures which are diagnostic and medically necessary. The Center is open from 7:00 a.m. until 3:00 p.m. Monday through Friday and has twelve (12) regular employees (full and part-time) as well as four (4) per diem employees who provide services when needed. Collectively, physicians perform between 4,000 and 5,000 procedures at the Center each year. The Center has been AAAHC-accredited since 2000 and Medicare certified since 2000.

The Center provides valuable and necessary services to the residents of New London County, a county with a population of approximately 274,000.<sup>1</sup> This area is home to the Foxwoods and Mohegan Sun Casinos, Electric Boat, Pfizer and Phelps Dodge, among others. Given its location, it provides a very convenient and cost-effective alternative to outpatient hospital services.

AmSurg operates ambulatory surgery centers in 35 states in the United States and is a leader in the development, management and operation of these centers. Its centers provide high quality, low cost surgical services with superior patient satisfaction. AmSurg believes in empowering its physician partners to achieve their professional and personal goals by providing innovative operational, clinical and strategic services.

---

<sup>1</sup> U.S. Census Bureau 2012 estimate available at <http://quickfacts.census.gov/qfd/states/09/09011.html>.

The change of ownership will not result in a change in the services provided at the Center or a change in the licensure category of the Center. ECEC will continue to bill for facility fees.

- b. Explain how each Applicant determined need for the proposal and discuss the benefits of this proposal for each Applicant (discuss each Applicant separately in separate paragraphs).**

**RESPONSE:**

**ECEC:** ECEC's decision to partner with AmSurg was based on three (3) main factors: (i) AmSurg's contracting capabilities and access to group purchasing; (ii) AmSurg's ability to improve management; and (iii) the increasingly difficult regulatory environment.

First, ECEC will benefit from, and is benefitting from, AmSurg's contracting expertise with payers, purchasing and leasing. AmSurg's brand recognition and market presence facilitates centers' procurement of contracts. If a center can obtain additional payer contracts, it improves access for patients by allowing more patients to take advantage of the lower cost services that freestanding outpatient surgery centers provide. AmSurg also assists with the coordination of purchases and leases through its contract review team and its utilization analysis expertise. AmSurg's established vendor relationships will also benefit ECEC. Together with administrative/management efficiencies, AmSurg's administration of new and renegotiated payer contracts and assistance with other contract-related issues will enhance the physicians' ability to utilize the Center and will ultimately achieve savings for patients.

Second, AmSurg has significant experience in centralizing support services and administration in ways that reduce costs. By streamlining administrative processes, ECEC's physicians are able to focus on what they do best – providing high quality patient care. AmSurg provides its affiliates with a wide range of management and operational services including, but not limited to, managed care contracting, information systems development, human resources, regulatory compliance, license maintenance, billing and revenue collection, expense management, survey readiness, emergency preparedness, financial negotiations and budget preparation. As the cost of health care is increasing due to the importance of improving quality and patient satisfaction, technological advances and healthcare reform, AmSurg's efficiencies are critical to ECEC remaining a viable center.

Finally, health care is a highly regulated environment that is becoming even more regulated at a rapid pace. As is mentioned briefly above, AmSurg has significant experience helping centers ensure regulatory compliance in a cost-effective manner. Again, by drawing on the expertise that AmSurg has already developed,

the physicians are able to learn from AmSurg in an efficient manner and spend a greater portion of their time focusing on patient care.

**AmSurg:** AmSurg provides a wide range of management and support services for established and newly-developed surgical centers. It has particular expertise in managed care contracting, information systems development, administrative services, human resources, marketing and purchasing, financials and accounting. AmSurg was founded in 1992 as a Tennessee corporation and became a public company in 1997. AmSurg currently operates over 250 centers in 35 states.

AmSurg's interests are furthered by partnering with ECEC. AmSurg works collaboratively with local physicians in select joint ventures. This transaction allows AmSurg to integrate its services with a freestanding endoscopy center in a desirable community. AmSurg will benefit by increasing its business in Connecticut and will use its expertise to assist ECEC with its goal of providing patients with high-quality, cost-effective care.

As is mentioned above, AmSurg already owns 40% of the membership interest of ECEC and now desires to purchase an additional 11% of the membership interest. Time delays in 2012 forced an initial purchase of 40% of the membership interest. The parties now wish for AmSurg to acquire a majority interest.

Joint ventures such as AmSurg's venture with ECEC are clinically and economically beneficial in a time when physicians desire to own and participate in the operation of facilities but often lack access to capital, leverage with payers and the significant management expertise necessary to continually operate a high-quality, cost-efficient outpatient facility. ECEC's commitment to high-quality care is enhanced by the combined effort of its physicians working together with an experienced manager. It is for these reasons that the proposed sale of membership interests to AmSurg should be approved.

- c. Provide a history and timeline of the proposal (e.g., When did discussions begin between the Applicants? What have the Applicants accomplished so far?).**

**RESPONSE:** The parties began discussions in March of 2012. Discussions were held regarding a possible acquisition by AmSurg, and the parties executed a letter of intent on July 25, 2012.

On October 24, 2012, ECEC submitted a CON Determination requesting confirmation that CON approval was not needed for AmSurg to purchase a 40% ownership interest in ECEC. On November 21, 2012, OHCA issued a favorable CON Determination (Docket No. 12-31800-DTR). Following this Determination, on December 5, 2012, AmSurg purchased such 40% interest.

The Membership Interest Purchase Agreement executed in this transaction (attached hereto as Exhibit 1) gives AmSurg the option to purchase an additional 11% of ECEC ownership interest if it notifies the physician owners of its intent to make the additional purchase within 12 months of the December 5, 2012 closing and the parties subsequently obtain CON approval for the additional purchase.

AmSurg gave the physician owners notice of its intent to make the above-described additional purchase. It is for this reason that the parties are now filing this CON Application. The Applicants intend to close the transaction as soon as possible following approval from OHCA.

- d. List any changes to the clinical services offered by the Applicants that result from this proposal, and provide an explanation.**

**RESPONSE:** The service area of the Center will remain the same, and it will continue to operate in its current space. There will be no change in the Center's services or patient population as a result of this transaction.

Neither AmSurg nor the Center will influence the Medical Director of the Center or the physicians utilizing the Center with respect to their independent medical judgment in providing direct care to patients of the Center. The current Amended and Restated Operating Agreement of ECEC provides, and the operating agreement of ECEC will continue to provide, that nothing contained in the operating agreement of ECEC shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the provision of patient care. A copy of the current Amended and Restated Operating Agreement is attached hereto as Exhibit 2.

- e. Describe the existing population served by the facility changing ownership or control, and how the proposal will impact these populations. Include demographic information as appropriate.**

The Center currently serves the community of Norwich and adjacent communities. It is not anticipated that the transaction will have any effect on the population served by the Center.

- f. Describe the transition plan and how the Applicants will ensure continuity of services. Provide a copy of a transition plan, if available.**

There is no formal transition plan. The continuity of services at the Center will not be affected, and the current employees of the Center will continue to operate the Center following the Closing in partnership with AmSurg. There will be no disruption to patient care, operations or payer contracts as a result of the transaction. AmSurg has acquired or developed over 250 surgery centers, and there will be no disruption to the Center's services as a result of the transaction.

**g. For each Applicant (and any new entities to be created as a result of the proposal), provide the following prior to and after this proposal:**

**i. Legal chart of corporate or entity structure including all affiliates.**

**RESPONSE:** Please see Exhibit 3.

**ii. List of owners and the % ownership and shares of each.**

**RESPONSE:** Please see Exhibit 4.

**h. Provide copies of all signed written agreements or memorandum of understanding, including all exhibits/attachments, between the Applicants related to the proposal. Note: If a final version is not available, provide a draft with an estimated date by which the final agreement will be available.**

**RESPONSE:** Please see the Membership Interest Purchase Agreement attached hereto as Exhibit 1.

## **2. Quality Measures**

**a. Submit a list of all key professional, administrative, clinical, and direct service personnel related to the proposal. Attach a copy of their Curriculum Vitae.**

**RESPONSE:** A listing of the key professionals, administrative, clerical and direct service personnel and their Curriculum Vitae are attached as Exhibit 5.

**b. Explain how the proposal contributes to the quality of health care delivery in the region.**

**RESPONSE:** ECEC provides high quality endoscopy services. The Operating Agreement between the parties will ensure clinical oversight and quality control. AmSurg's management services focus on the provision of quality health care delivery and indicate AmSurg's dedication to providing high quality health care services. AmSurg's facility management initiatives aim to ensure quality services by forming emergency management and preparedness policies. AmSurg facilities have consistently high patient satisfaction survey scores. Additionally, AmSurg's clinical and administrative resources and initiatives, quality improvement expertise, information technology capabilities and best practices information contribute to the quality and value of the services provided.

## **3. Organizational and Financial Information**

**a. Identify the Applicant's ownership type(s) (e.g. Corporation, PC, LLC, etc.).**

**RESPONSE:** ECEC is a Connecticut limited liability company. AmSurg is a Tennessee corporation. Following the Closing, ECEC will merge with and into, as permitted by Connecticut law, a Tennessee limited liability company.

**b. Does the Applicant have non-profit status?**

**RESPONSE:**

AmSurg:  Yes (Provide documentation)  No

ECEC:  Yes (Provide documentation)  No

**c. Provide a copy of the State of Connecticut, Department of Public Health license(s) currently held by the Applicant and indicate any additional licensure categories being sought in relation to the proposal.**

**RESPONSE:** Please see ECEC's Department of Public Health license attached hereto as Exhibit 6. The parties do not seek any change to the Center's licensure category.

**d. Financial Statements**

- i. If the Applicant is a Connecticut hospital: Pursuant to Section 19a-644, C.G.S., each hospital licensed by the Department of Public Health is required to file with OHCA copies of the hospital's audited financial statements. If the hospital has filed its most recently completed fiscal year audited financial statements, the hospital may reference that filing for this proposal.

**RESPONSE:** Not applicable.

- ii. If the Applicant is not a Connecticut hospital (other health care facilities): Audited financial statements for the most recently completed fiscal year. If audited financial statements do not exist, in lieu of audited financial statements, provide other financial documentation (e.g. unaudited balance sheet, statement of operations, tax return, or other set of books.)

**RESPONSE:** Please see Exhibit 7 for ECEC's and AmSurg's financial statements. Note that the full text of AmSurg's Annual Report is available at: <http://www.sec.gov/Archives/edgar/data/895930/000089593013000010/amsg-10k-2012-12-31.htm>.

- e. Submit a final version of all capital expenditures/costs as follows:

**Table 2: Proposed Capital Expenditures/Costs**

Medical Equipment Purchase	\$0
Imaging Equipment Purchase	
Non-Medical Equipment Purchase	
Land/Building Purchase *	
Construction/Renovation **	
Other Non-Construction (Specify)	
<b>Total Capital Expenditure (TCE)</b>	<b>\$0</b>
Medical Equipment Lease (Fair Market Value) ***	\$
Imaging Equipment Lease (Fair Market Value) ***	
Non-Medical Equipment Lease (Fair Market Value) ***	
Fair Market Value of Space ***	
<b>Total Capital Cost (TCC)</b>	<b>\$0</b>
<b>Total Project Cost (TCE + TCC)</b>	<b>\$0</b>
Capitalized Financing Costs (Informational Purpose Only)	
Total Capital Expenditure with Cap. Fin. Costs	\$0

\* If the proposal involves a land/building purchase, attach a real estate property appraisal including the amount; the useful life of the building; and a schedule of depreciation.

\*\* If the proposal involves construction/renovations, attach a description of the proposed building work, including the gross square feet; existing and proposed floor plans; commencement date for the construction/ renovation; completion date of the construction/renovation; and commencement of operations date.

\*\*\* If the proposal involves a capital or operating equipment lease and/or purchase, attach a vendor quote or invoice; schedule of depreciation; useful life of the equipment; and anticipated residual value at the end of the lease or loan term.

**ADDITIONAL RESPONSE:** Please note that while this transaction does not involve any capital expenditure, AmSurg will be purchasing the additional 11% of the membership interest in ECEC for a total of \$1,058,054.

- f. List all funding or financing sources for the proposal and the dollar amount of each. Provide applicable details such as interest rate; term; monthly payment; pledges and funds received to date; letter of interest or approval from a lending institution.

**RESPONSE:** AmSurg will use existing working capital to fund the purchase price.

- g. Demonstrate how this proposal will affect the financial strength of the state's health care system.

**RESPONSE:** The proposal will improve the financial strength of the state's health care system by (i) leveraging existing payer contracts, increasing utilization of lower cost facilities and achieving operating cost reductions; (ii) improving patient satisfaction with increased efficiency in administrative support and upgrades in information system development; and (iii) enabling patients greater access to outpatient services through the obtainment of contracts with additional health insurance providers. AmSurg's financial management will also have a

positive impact on ECEC's financial performance which will in turn improve the financial strength of the state's health care system.

#### 4. Patient Population Mix: Current and Projected

- a. Provide the current and projected patient population mix (based on the number of patients, not based on revenue) with the CON proposal for the proposed program.

**Table 3: Patient Population Mix -**

	<b>Current FY 2012</b>	<b>Year 1 FY 2013</b>	<b>Year 2 FY 2014</b>	<b>Year 3 FY 2015</b>
Medicare*	1,281	1,294	1,306	1,320
Medicaid*	142	144	145	147
CHAMPUS & TriCare	102	103	104	105
<b>Total Government</b>	<b>1,525</b>	<b>1,541</b>	<b>1,555</b>	<b>1,572</b>
Commercial Insurers*	2,957	2,986	3,016	3,046
Uninsured	7	7	7	7
Workers Compensation	0	0	0	0
<b>Total Non-Government</b>	<b>2,964</b>	<b>2,993</b>	<b>3,023</b>	<b>3,053</b>
<b>Total Payer Mix</b>	<b>4,489</b>	<b>4,534</b>	<b>4,578</b>	<b>4,625</b>

\* Includes managed care activity.

- b. Provide the basis for/assumptions used to project the patient population mix.

**RESPONSE:** These projections are based on the actual experience of ECEC and the projected increase in the aging population.

#### 5. Financial Attachments I & II

- a. Provide a summary of revenue, expense, and volume statistics, without the CON project, incremental to the CON project, and with the CON project. **Complete Financial Attachment I.** (Note that the actual results for the fiscal year reported in the first column must agree with the Applicant's audited financial statements.) The projections must include the first three full fiscal years of the project.
- b. Provide the assumptions utilized in developing **Financial Attachment I** (e.g., full-time equivalents, volume statistics, other expenses, revenue and expense % increases, project commencement of operation date, etc.).

**RESPONSE:** See Financial Attachment I.

- c. Identify the entity that will be billing for the proposed service(s).

**RESPONSE:** ECEC will bill for the facility fees. Individual physicians will bill for the professional components.

- d. As a result of the proposal, will there be any change to existing reimbursement contracts between the Applicants and payers (e.g. Medicare, Medicaid, commercial)? Explain.

**RESPONSE:** The parties do not anticipate any immediate changes to existing contracts. However, as is mentioned above, ECEC intends to increase its payer base by contracting with additional payers.

- e. Provide the minimum number of units required to show an incremental gain from operations for each fiscal year.

**RESPONSE:** Not applicable. There are no incremental losses from the proposal.

- f. Explain any projected incremental losses from operations contained in the financial projections that result from the implementation and operation of the CON proposal.

**RESPONSE:** Not applicable. There are no incremental losses from the proposal.

- g. Describe how this proposal is cost effective.

**RESPONSE:** The costs of health care provided in freestanding outpatient centers are generally less than such costs in hospital settings. As is discussed above, efficiencies in operation and administration, economies of scale with vendors and other cost savings will be realized. These savings will be reflected in reduced operating expenses of ECEC.

## **LIST OF EXHIBITS**

- Exhibit 1      Membership Interest Purchase Agreement**
- Exhibit 2      Amended and Restated Operating Agreement**
- Exhibit 3      Organizational Charts**
- Exhibit 4      Chart of Ownership Before and After Transaction**
- Exhibit 5      Curriculum Vitae**
- Exhibit 6      ECEC's Connecticut Department of Public Health License**
- Exhibit 7      Financial Statements**

### **Financial Attachment I**

# Exhibit 1

# MEMBERSHIP INTEREST PURCHASE AGREEMENT

This Membership Interest Purchase Agreement (the "Agreement"), dated as of December [ ], 2012, is by and among AmSurg Holdings, Inc., a Tennessee corporation ("AmSurg"), and the members of Eastern Connecticut Endoscopy Center, LLC, a Connecticut limited liability company ("ECEC"), set forth on the signature pages attached hereto (individually "Owner" and collectively, the "Owners").

WHEREAS, ECEC owns and operates an ambulatory surgery center located in Norwich, Connecticut (the "Center");

WHEREAS, each Owner currently owns the membership interests in ECEC set forth on Exhibit A, representing a total of 100% of the membership interests of ECEC;

WHEREAS, AmSurg desires to purchase from the Owners, and the Owners desire to sell to AmSurg, upon and subject to the terms and conditions contained in this Agreement, the membership interests in ECEC so designated on Exhibit B-1 (the "Initial Purchased Interests"), resulting in AmSurg owning a 40% membership interest in ECEC, and the Owners owning a collective 60% membership interest in ECEC (the "Initial Closing");

WHEREAS, subject to and upon the approval of the State of Connecticut Department of Public Health ("DPH") of a Transfer of Ownership Certificate of Need regarding the transfer of an additional 11% membership interest in ECEC by the Owners to AmSurg, which would constitute a transfer of majority ownership control in ECEC, and the subsequent reorganization of ECEC as described in the next paragraph (collectively, the "CON"), Owners desire to grant to AmSurg the right to purchase from the Owners, upon and subject to the terms and conditions contained in this Agreement, the membership interests in ECEC so designated on Exhibit B-2 (the "Additional Purchased Interests" and collectively with the Initial Purchased Interest, the "Purchased Interests"), which would result in AmSurg owning a total 51% membership interest in ECEC, and the Owners owning a collective 49% membership interest in ECEC (the "Additional Closing" and collectively, with the Initial Closing, the "Closings"); and

WHEREAS, immediately following the Additional Closing, if any, AmSurg and the Owners would effect the merger of ECEC with and into Eastern Connecticut Endoscopy Center, LLC, a Tennessee limited liability company (the "LLC"), in connection

with which the LLC shall be the surviving entity (the "Merger").

NOW, THEREFORE, in consideration of the premises and the mutual representations, warranties and covenants of the parties hereinafter set forth, the parties agree as follows:

## 1. PURCHASE AND SALE OF MEMBERSHIP INTEREST

### 1.1 Purchase and Sale of Membership Interest by AmSurg From the Owners.

(a) Subject to the terms and conditions of this Agreement, at the Initial Closing, the Owners shall sell, transfer, convey, assign and deliver to AmSurg and AmSurg shall purchase, acquire and accept from the Owners, the Initial Purchased Interests as set forth on Exhibit B-1. The Initial Purchased Interests shall be transferred to AmSurg free and clear of any and all mortgages, pledges, liens, security interests, charges, claims, encumbrances and rights of third parties whatsoever.

(b) If, within 12 months following the Initial Closing, AmSurg notifies the Owners that it desires to purchase the Additional Purchased Interests, subject to the terms and conditions of this Agreement, as soon as reasonably practicable following receipt of DPH approval of the CON (and in any event within fifteen (15) days of receipt of such approval) AmSurg shall purchase the Additional Purchased Interests from the Owners. The Owners shall sell, transfer, convey, assign and deliver to AmSurg and AmSurg shall purchase, acquire and accept from the Owners, the Additional Purchased Interests as set forth on Exhibit B-2. The Additional Purchased Interests shall be transferred to AmSurg free and clear of any and all mortgages, pledges, liens, security interests, charges, claims, encumbrances and rights of third parties whatsoever.

1.2 **Liabilities of ECEC.** The Owners will ensure that sufficient cash remains in the Center's operating accounts on the Initial Closing Date to pay: (i) the full amount of all outstanding, unpaid checks of ECEC as of the Initial Closing Effective Date (the "Outstanding Checks"); (ii) amounts due to vendors that bill ECEC less often than quarterly and relate to liabilities incurred during periods prior to the Initial Closing Effective Date (the "Vendor Payments"); (iii) accrued payroll amounts due to the personnel working at the Center and relating to periods prior to and through the Initial Closing

Effective Date, including tax, pension and bonus payments ("Accrued Liabilities"), and (iv) the accounts payable of ECEC as of the Initial Closing Effective Date (the "A/P") with a due date prior to the Initial Closing Effective Date or, in the absence of a definitive due date, with an invoice date greater than or equal to 31 days prior to the Initial Closing Effective Date. In the absence of a definitive invoice date for any of the A/P, the common carrier's bill of lading or the date of completion of services rendered will substitute as the invoice date. The Outstanding Checks, Vendor Payments, Accrued Liabilities and A/P are each set forth on Schedule 1.2 attached hereto. Any cash in excess of the amount required to be retained by the Center pursuant to this Section 1.2 shall be distributed to the Owners as soon as reasonably practicable following the Initial Closing Date.

## 2. PURCHASE PRICE

The purchase price (the "Purchase Price") shall be paid in cash as follows (i) at the Initial Closing, AmSurg shall deliver to the Owners in consideration of the transfer of the Initial Purchased Interests as described on Exhibit B-1 an amount in cash equal to the difference between (a) \$3,921,569 and (b) 40% of the outstanding principal obligations, together with accrued interest, of ECEC for borrowed money and capitalized leases as of the Initial Closing Effective Date (\$185,246) (the "Initial Purchase Price"), and (ii) at the Additional Closing, if any, AmSurg shall deliver to the Owners in consideration of the transfer of the Additional Purchased Interests as described on Exhibit B-2 an amount in cash equal to the difference between (a) \$1,078,431 and (b) 11% of the outstanding principal obligations, together with accrued interest, of ECEC for borrowed money and capitalized leases as of the Initial Closing Effective Date (\$185,246) (the "Additional Purchase Price").

## 3. CLOSING

3.1. **Initial Closing.** The Initial Closing of the sale and purchase of the Initial Purchased Interests shall take place at the offices of Bass, Berry & Sims PLC on the date hereof (the "Initial Closing Date"). The Initial Closing shall be effective as of 12:01 a.m., Eastern time, on December 1, 2012 (the "Initial Closing Effective Date").

3.2. **Additional Closing.** The Additional Closing shall take place at the offices of Bass, Berry & Sims PLC as soon as reasonably practicable following receipt of DPH approval of the CON (and in any event within fifteen (15) days of receipt of such approval) (the "Additional Closing Date"). The Closing shall be

effective as of 12:01 a.m., Eastern time, on the Additional Closing Date (the "Additional Closing Effective Date").

### 3.3. Obligations of the Parties at the Initial Closing.

(a) At the Initial Closing, AmSurg shall deliver to the Owners:

(i) By wire transfer of immediately available funds, each such Owner's respective portion of the Initial Purchase Price as specified on Exhibit B-1;

(ii) a certificate of the Secretary of AmSurg, certifying that the Board of Directors has authorized the execution, delivery and performance of this Agreement and the other documents referred to herein to be executed by AmSurg, and the consummation of the transactions contemplated hereby;

(iii) a certificate of AmSurg certifying as to the accuracy of the representations and warranties of AmSurg at and as of the Initial Closing and that AmSurg has performed or complied with all of the covenants, agreements, terms, provisions and conditions to be performed or complied with by AmSurg at or before the Initial Closing;

(iv) the Amended and Restated Operating Agreement of ECEC (the "ECEC Operating Agreement"), duly executed by AmSurg;

(v) a resolution of the members of ECEC appointing the directors of ECEC duly executed by AmSurg (the "Member Consent");

(vi) a resolution of the directors of ECEC appointing the officers of ECEC and consenting to the proposed transfer of up to an aggregate 7% membership interest in ECEC by Drs. Sridhar and/or Sang duly executed by the directors designated by AmSurg (the "Director Consent"); and

(vii) such other certificates and documents as Owners or their counsel may reasonably request.

(b) At the Initial Closing, the Owners will deliver to AmSurg:

(i) a certificate of the Owners, certifying that the Owners have authorized the execution, delivery and performance of this

Agreement and the other documents referred to herein to be executed by ECEC and the Owners, and the consummation of the transactions contemplated hereby;

(ii) such endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form and substance reasonably satisfactory to AmSurg, as shall be effective to vest in AmSurg all of the Owners title to and interest in the Initial Purchased Interests and simultaneously with such delivery, will take such steps as may be necessary to put AmSurg in actual possession and control of the Initial Purchased Interests;

(iii) a certificate of each of the Owners certifying as to the accuracy of Owners representations and warranties at and as of the Initial Closing and that the Owners have performed or complied with all of the covenants, agreements, terms, provisions and conditions to be performed or complied with by each of them at or before the Initial Closing;

(iv) the ECEC Operating Agreement, duly executed by the Owners;

(v) the First Amendment to Indenture of Lease, duly executed by Wawecus Medical Associates, L.L.C., as Landlord, and ECEC;

(vi) the Member Consent duly executed by each Owner;

(vii) the Director Consent duly executed by the directors designated by the Owners;

(viii) a claims history showing, at a minimum, open, closed and reserved incidents and claims involving the Center during the previous five (5) years prior to the Initial Closing Date or since the date of opening of the Center, if sooner; and

(ix) such other certificates and documents as the Owners or their counsel may reasonably request.

#### 3.4. **Obligations of the Parties With Respect to the Additional Closing.**

If, within 12 months following the Initial Closing, AmSurg notifies the Owners that it desires to purchase the Additional Purchased Interests, AmSurg and the Owners shall cooperate with one another and

use their, and shall cause ECEC to use its, commercially reasonable efforts to obtain DPH approval of the CON. Concurrent with the Additional Closing and the reorganization of ECEC as a Tennessee limited liability company, the LLC shall apply for a new outpatient surgery center license (the "License") with the DPH based on the change of ownership of ECEC and its reorganization. The parties will cooperate with one another and will use commercially reasonable efforts to obtain such License from the DPH.

#### 3.5. **Additional Closing.**

(a) At the Additional Closing, if any, AmSurg shall deliver to the Owners:

(i) by wire transfer of immediately available funds, each such Owner's respective portion of the Additional Purchase Price as specified on Exhibit B-2;

(ii) a certificate of AmSurg certifying as to the accuracy of the representations and warranties of AmSurg at the Initial Closing and as of the Additional Closing and that AmSurg has performed or complied with all of the covenants, agreements, terms, provisions and conditions to be performed or complied with by AmSurg at or before the Additional Closing;

(iii) an executed copy of the Articles of Organization of the LLC, issued by the Secretary of State of the State of Tennessee;

(iv) the Operating Agreement of the LLC in the form attached hereto as Exhibit C (the "LLC Operating Agreement"), duly executed by AmSurg; and

(v) such other certificates and documents as the Owners or their counsel may reasonably request.

(b) At the Additional Closing, if any, Owners will deliver to AmSurg:

(i) such endorsements, assignments and other good and sufficient instruments of conveyance and transfer, in form and substance reasonably satisfactory to AmSurg, as shall be effective to vest in AmSurg all of Owners' title to and interest in the Additional Purchased Interests and simultaneously with such delivery, will take such steps as may be necessary to put AmSurg in actual possession and control of the Additional Purchased Interests;

(ii) a certificate of each of the Owners certifying as to the accuracy of such Owners' representations and warranties at the Initial Closing and as of the Additional Closing and that such Owners have performed or complied with all of the covenants, agreements, terms, provisions and conditions to be performed or complied with by each of them at or before the Additional Closing;

(iii) the LLC Operating Agreement, duly executed by each of the Owners;

(iv) such other certificates and documents as AmSurg or its counsel may reasonably request.

3.6. **Merger of ECEC.** Immediately following the Additional Closing, AmSurg and Owners shall use their commercially reasonable best efforts to cause a Certificate of Merger to be filed by ECEC and the LLC with the Secretary of State of the State of Connecticut and Articles of Merger to be filed by ECEC and the LLC with the Secretary of State of the State of Tennessee, thereby causing ECEC to merge with and into the LLC. Each of AmSurg and the Owners hereby authorizes the Officers of the LLC to execute and file the Certificate of Merger with the Secretary of State of the State of Connecticut and the Articles of Merger with the Secretary of State of the State of Tennessee and to take all actions they deem reasonably necessary to consummate the merger.

#### 4. REPRESENTATIONS AND WARRANTIES BY THE OWNERS

The Owners, jointly and severally, represent and warrant as follows:

4.1. **Organization.** ECEC is a limited liability company duly formed and validly existing under the laws of the State of Connecticut, with full power and authority to conduct its business as now conducted and to own, lease or operate its properties and assets as now owned, leased or operated.

4.2. **No Violation.** Except as set forth on Schedule 4.2, the execution and delivery of this Agreement by Owners does not, and the consummation of the transactions contemplated hereby will not, (a) violate any provision of, or result in the creation of any lien or security interest under, any agreement, indenture, instrument, lease, security agreement, mortgage or lien to which ECEC is a party or by which any of ECEC's assets or properties are bound, which violation or lien would have a material adverse effect on the business or operations of ECEC; (b) violate any

provision of the articles of organization or operating agreement of ECEC; (c) violate any order, arbitration award, judgment, writ, injunction, decree, statute, rule or regulation applicable to ECEC, which violation would have a material adverse effect on the business or operations of ECEC; or (d) violate any other contractual or legal obligation or restriction to which ECEC is subject, which violation would have a material adverse effect on the business or operations of ECEC.

4.3. **Expenses of Operating the Center.** Schedule 4.3 sets forth all of the current expenses of ECEC, including the expenses of operating the Center, and also reflects the manner in which the parties intend to allocate the operating expenses of the Center following the Closing.

4.4. **Financial Information.** Owners have delivered to AmSurg: (a) statements of charges and cash receipts for ECEC by month for the year ended December 31, 2011 and the seven months ended July 31, 2012 (b) unaudited statements of income for ECEC for the year ended December 31, 2011 and the seven months ended July 31, 2012, (c) an unaudited balance sheet of ECEC at July 31, 2012, and (d) details of outstanding patient accounts receivable for ECEC as of July 31, 2012 (hereinafter collectively referred to as "Financial Information"), all of which are attached as Schedule 4.4. The Financial Information fairly presents the assets, liabilities, financial condition and results of operation of ECEC as at the respective dates thereof and for the periods therein referred to in accordance with generally accepted accounting principles, and accurately reflects in all material respects the revenues and expenses of ECEC for the periods covered thereby. The Financial Information reflects the consistent application of accounting principles throughout the periods involved.

4.5. **Ownership of Center Assets.** Except as set forth on Schedule 4.5, ECEC owns or has a valid leasehold interest in all of the assets comprising the business operations of the Center, tangible or intangible, recorded or unrecorded, of whatsoever type, kind, description or nature (the "Center Assets"), free and clear of all mortgages, pledges, liens, security interests, conditional sale agreements, charges, encumbrances and rights of third parties, and no conditions exist which could give rise to any such mortgage, pledge, lien, security interest, defect, charge, encumbrance on, or right of any such third party to, the Center Assets.

Schedule 4.5 contains an accurate and complete description of ECEC's tangible property, which includes, but is not limited to, furniture, fixtures and equipment owned by ECEC, and excludes supplies and inventory, and which is all of the tangible property,

excluding supplies and inventory, which is in any way necessary to the continued operation of the Center as it is now being conducted. All of the Center Assets are in good working condition and repair, normal wear and tear excepted, and are adequate for the uses for which they are intended. Schedule 4.5 also sets forth the current book value of all equipment included in the Center Assets.

**4.6. No Liabilities or Adverse Conditions.** Except as and to the extent of the amounts specifically reflected in the Financial Information and for obligations incurred in the ordinary course of business since July 31, 2012, ECEC does not have any liabilities or obligations of any nature, whether absolute, accrued, contingent or otherwise and whether due or to become due (including without limitation liabilities for taxes and interest, penalties and other charges payable with respect thereto).

Furthermore, ECEC does not know or have reason to know of any basis for the assertion against ECEC of any such liability or obligation of any nature not fully reflected in the Financial Information. To the knowledge of the Owners, there are no conditions existing with respect to any of ECEC's facilities, properties, assets or personnel, which might materially and adversely affect any of ECEC's properties or business.

**4.7. Absence of Certain Changes.** Except as set forth on Schedule 4.7, since July 31, 2012, ECEC has not:

(a) suffered any material adverse change in its financial condition, assets, liabilities or business, or suffered any material casualty loss (whether or not insured);

(b) made any change in its business or operations or in the manner of conducting its business, other than changes in the ordinary course of business;

(c) incurred any obligations or liabilities (whether absolute, accrued, contingent or otherwise and whether due or to become due), except items incurred in the ordinary course of business and consistent with past practice, or made any change in any assumptions or methods of calculating any bad debt, contingency or other reserve;

(d) paid, discharged or satisfied any claim, lien, encumbrance or liability (whether absolute, accrued, contingent or otherwise and whether due or to become due), other than claims, liens, encumbrances or liabilities:

(i) which are reflected in the Financial Information and which were paid,

discharged or satisfied since the date thereof in the ordinary course of business consistent with past practice, or

(ii) which were incurred and paid, discharged or satisfied since July 31, 2012 in the ordinary course of business consistent with past practice;

(e) written off as uncollectible any notes or accounts receivable or any portion thereof, except for immaterial write-offs made in the ordinary course of business consistent with past practice;

(f) canceled any other debts or claims, or waived any rights, outside of the ordinary course of business;

(g) sold, transferred or conveyed any of its properties or assets, except in the ordinary course of business consistent with past practice;

(h) made any capital expenditures or commitments in excess of \$10,000 in the aggregate for replacements or additions to property, plant, equipment or intangible capital assets;

(i) declared, paid or made or set aside for payment of, any distribution in respect of its outstanding equity interests other than distributions made in the ordinary course of business consistent with past practice, or directly or indirectly redeemed, purchased or otherwise acquired any of its equity interests;

(j) made any change in any method of accounting or accounting practice;

(k) granted any increase in the compensation of any officer, employee or agent of ECEC, (including without limitation any increase pursuant to any bonus, pension, profit sharing or other plan or commitment), other than increases in the ordinary course of business consistent with past practice, or adopted any such plan or other arrangement; and no such increase or the adoption of any such plan or arrangement, is planned or required; and

(l) agreed, whether in writing or otherwise, to take any action described in this Section 4.7.

**4.8. Taxes.** ECEC has filed all federal, state and local tax returns required to be filed by ECEC through the date hereof (or has obtained a valid extension) and has paid all taxes and assessments (including without limitation income, excise, unemployment, social security, occupation, franchise, property, sales and use taxes, services taxes, import duties or charges, and all penalties and interest with respect thereto) due and

payable therefrom. ECEC has not signed any extension agreement with any taxing authority or know of any open or questionable matters for any prior periods. All taxes and assessments relating to or affecting ECEC which are due through the Initial Closing Effective Date have been paid.

**4.9. Litigation.** There is no claim, litigation, investigation or proceeding pending or, to ECEC's or Owners' knowledge, threatened at law or in equity against ECEC or before any court, legislative or administrative tribunal or governmental agency which questions the validity of this Agreement or which, if adversely determined or publicly disclosed, would have a material adverse effect on the business or operations of ECEC. Schedule 4.9 sets forth a true and accurate description of all claims, actions, investigations or proceedings initiated against ECEC since January 1, 2009.

**4.10. Compliance with Laws and Other Regulations.** ECEC is in compliance in all material respects with all requirements of applicable laws, rules, regulations, orders, ordinances, judgments and decrees of all governmental bodies or agencies (federal, state or local) (collectively, "Laws") relating to or affecting ECEC and the operations of the Center. ECEC has not received any notice of, or notice of any investigation of, a possible violation of any applicable Laws, or any other Law or requirement relating to or affecting ECEC and the operations of the Center.

ECEC has all required licenses, permits, certificates, authorizations and agreements needed for the ownership and operation of the Center, all of which are listed on Schedule 4.10. ECEC knows of no act or omission occurring on or before the date hereof which would subject ECEC or the Center to the reasonable likelihood of any fine or suspension of any license, permit, certificate, authorization or agreement. Schedule 4.10 contains the most recent survey report with respect to the Center.

**4.11. Contracts; Significant Payors.** Schedule 4.11 is a complete and accurate list of all individual payors, or group of affiliated payors, that accounted for more than five percent (5%) of ECEC's revenues in any two of the previous three (3) calendar years or is expected to account for more than five percent (5%) of ECEC's revenues in the current calendar year or the next calendar year ("Significant Payors").

All contracts, agreements and instruments, including, but not limited to, third party provider agreements and agreements with Significant Payors, to which ECEC is a party and which are necessary for the ownership and operation of the Center as currently operated, are in full force and effect; there have been no

overtly threatened cancellations thereof nor outstanding disputes thereunder, and ECEC has not and, to ECEC's and Owners' knowledge, no other party thereto has, breached any provision of, nor does there exist any default by ECEC or, to ECEC's and Owners' knowledge, any other party thereto, in any material respect under, or event (including the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby) which is, or with the giving of notice or the passage of time or both would become, a breach or default under the terms of any such contract, instrument or agreement. Neither ECEC nor the Owners have any knowledge that any Significant Payor intends to terminate any such contract, instrument or agreement or intends to withhold its consent, if required, to a change in control of ECEC as contemplated by this Agreement.

**4.12. Accounts Receivable.** All accounts and notes receivable of ECEC, whether reflected in the Financial Information or otherwise, represent services actually provided in the ordinary course of business; all such receivables are current and collectible in accordance with their respective terms; and none of such receivables is subject to any counterclaim or set-off, other than normal discounts, allowances and bad debts consistent with past practice.

**4.13. Reports and Returns.** All reports and returns heretofore required by federal, state or municipal authorities to be filed by ECEC, including those with respect to the operations of the Center, have been filed and all sums heretofore due with respect to such reports and returns have been paid.

**4.14. Defaults.** ECEC is not in default under, and no event has occurred which, with the giving of notice or the passage of time, or both, would result in a default under, any outstanding indenture, mortgage, contract, agreement or other instrument to which ECEC is a party.

**4.15. Employees; Independent Contractors.**

(a) Schedule 4.15(a) sets forth the names and titles of all employees of ECEC and the annual rate of compensation (including bonuses) being paid to each such employee as of the most recent practicable date. The employees listed on Schedule 4.15(a) constitute all of the employees who are reasonably necessary to the continued operation of the Center as it is now being conducted.

(b) Schedule 4.15(b) hereto contains a list of each employment, bonus, deferred compensation, pension, stock option, stock appreciation right, profit sharing or retirement plan, arrangement or practice and each other agreement or fringe benefit plan,

arrangement or practice of ECEC, whether formal or informal, whether legally binding or not and whether affecting one or more of its employees. Copies of each such agreement or plan have heretofore been delivered to AmSurg. ECEC has no commitment, whether formal or informal, and whether legally binding or not (i) to create any additional such agreement, plan, arrangement or practice; (ii) to modify or change any such agreement, arrangement, plan or practice; or (iii) to maintain for any period of time any such agreement, arrangement, plan or practice, except as described on Schedule 4.15(b).

(c) Schedule 4.15(c) hereto contains a list of all services provided to ECEC for which ECEC contracts with third parties. Copies of each such agreement previously have been provided to AmSurg. Schedule 4.15(c) contains a description of each such oral agreement.

4.16. **Consents and Approvals.** Except as set forth on Schedule 4.16, ECEC has obtained all consents, licenses, permits, approvals, authorizations, orders and agreements from all third parties, including federal, state and local governmental units or any other entity, and by applicable Medicare and state Medicaid agencies, necessary for the authorization, execution and performance of this Agreement, or for the continued operation of the Center and governmental reimbursement of the Center following the consummation of the transactions contemplated hereby.

4.17. **Full Disclosure.** Neither this Agreement, nor any Schedule, exhibit, list, certificate or other instrument or document delivered to AmSurg pursuant to this Agreement by or on behalf of Owners or ECEC contains any untrue statement of a material fact or omits to state any material fact required to be stated herein or therein or necessary to make the statements, representations or warranties and information contained herein or therein not misleading. Owners and ECEC have not withheld from AmSurg disclosure of any event, condition or fact which Owners or ECEC know, or have reasonable grounds to know, may materially adversely affect the Purchased Interests, ECEC or the operations of the Center.

4.18. **No Broker's Fees.** Neither the Owners nor ECEC has done anything to cause or incur any liability or obligation for investment banking, brokerage, finder's, agent's or other fees, commissions, expenses or charges in connection with the negotiation, preparation, execution or performance of this Agreement or the consummation of the transactions contemplated hereby, and neither the Owners nor ECEC know of any claim by anyone for such a fee, commission, expense or charge.

4.19. **Owners of ECEC.** Owners constitute all of the members of ECEC.

## 5. REPRESENTATIONS AND WARRANTIES OF INDIVIDUAL OWNERS

Each of the Owners, severally and not jointly, represents and warrants as follows:

5.1. **Authority.** Such Owner has full authority to enter into and carry out the provisions of this Agreement, and this Agreement, when executed, will constitute a valid and binding legal obligation enforceable against it or him in accordance with its terms.

5.2. **No Violation.** The execution and delivery of this Agreement and the other agreements executed in connection herewith by Owners does not, and the consummation of the transactions contemplated hereby will not (a) violate any provision of, or result in the creation of any lien or security interest under, any agreement, indenture, instrument, lease, security agreement, mortgage or lien to which such Owner is a party or by which any of such Owner's assets or properties are bound; (b) violate any order, arbitration award, judgment, writ, injunction, decree, statute, rule or regulation applicable to such Owner; or (c) violate any other contractual or legal obligation or restriction to which such Owner is subject.

5.3. **Licenses and Health Care Matters.** Such Owner maintains a current license to practice medicine in the State of Connecticut, has not been excluded from participation in the Medicare program or any other governmental health care program for any reason, has not been convicted of any crime in violation of any state or Federal law related to health care matters, and has no knowledge of any circumstances or conditions that could have a material adverse impact on the operations of the Center or the medical practices of Owners (other than conditions which might have a material adverse effect on the health care industry in general).

5.4. **Title to Purchased Interests.** Each Owner has good and valid title to the Purchased Interests being sold by it or him to AmSurg under this Agreement, free and clear of all mortgages, pledges, liens, security interests, charges, claims, encumbrances and rights of third parties, and no conditions exist which could give rise to any such mortgage, pledge, lien, security interest, defect, charge, encumbrance on, or right of any such third party to, such Purchased Interests.

6. **REPRESENTATIONS AND WARRANTIES OF AMSURG**

AmSurg represents and warrants as follows:

6.1. **Organization.** AmSurg is a corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee. AmSurg has full power and authority to carry on its business as now conducted and to own, lease or operate its properties and assets as now owned, leased or operated.

6.2. **Authorization.** AmSurg has full power and authority to enter into this Agreement and perform its obligations hereunder and carry out the transactions contemplated hereby. The execution, delivery and performance by AmSurg of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized and approved by all necessary corporate action. This Agreement, when executed, will constitute a legal, valid and binding obligation of AmSurg enforceable against it in accordance with its terms.

6.3. **No Violation.** The execution and delivery of this Agreement by AmSurg does not, and the consummation of the transactions contemplated hereby will not, (a) violate any provision of, or result in the creation of any lien or security interest under, any agreement, indenture, instrument, lease, security agreement, mortgage or lien to which AmSurg is a party or by which any of AmSurg's assets or properties are bound, which violation or lien would have a material adverse effect on the business or operations of AmSurg; (b) violate any provision of the Charter or Bylaws of AmSurg; (c) violate any order, arbitration award, judgment, writ, injunction, decree, statute, rule or regulation applicable to AmSurg which violation would have a material adverse effect on the business or operations of AmSurg; or (d) violate any other contractual or legal obligation or restriction to which AmSurg is subject, which violation would have a material adverse effect on the business or operations of AmSurg.

6.4. **Litigation.** There is no claim, litigation, investigation or proceeding pending or, to AmSurg's knowledge, threatened against AmSurg at law or in equity or before any court, legislative or administrative tribunal or governmental agency which questions the validity of this Agreement or which, if adversely determined or publicly disclosed, would have a material adverse effect on the business or operations of AmSurg.

6.5. **AmSurg SEC Filings.** The information contained in AmSurg's Annual Report on Form 10-K for the fiscal year ended December 31, 2011 and Quarterly Report on Form 10-Q for the quarter ended

September 30, 2012, as of the date of such information, was true and correct in all material respects, except as would not be reasonably be expected to have a material adverse effect on ECEC or the Center.

6.6. **Consents.** AmSurg is not required to obtain any consents or approvals pursuant to any agreement to which AmSurg is a party in connection with the execution of this Agreement by AmSurg.

6.7. **Full Disclosure.** Neither this Agreement, nor any Schedule, exhibit, list, certificate or other instrument or document delivered to Owners pursuant to this Agreement by or on behalf of AmSurg contains any untrue statement of a material fact or omits to state any material fact required to be stated herein or therein in order to make the statements, representations or warranties contained herein or therein not misleading.

6.8. **No Broker's Fees.** AmSurg has not done anything to cause or incur any liability or obligation for investment banking, brokerage, finder's, agent's or other fees, commissions, expenses or charges in connection with the negotiation, preparation, execution or performance of this Agreement or the consummation of the transactions contemplated hereby, and AmSurg does not know of any claim by anyone for such a fee, commission, expense or charge.

7. **COVENANTS AND AGREEMENTS OF OWNERS**

Owners further covenant and agree that they will fulfill the following covenants and agreements unless otherwise consented to by AmSurg in writing:

7.1. **Access; Further Assurances.**

(a) Owners will accord to AmSurg, its counsel, accountants and other representatives access to all of the properties, books, contracts, commitments, financial information and records in their possession relating to ECEC and the Center, and will furnish AmSurg with all such information concerning the business and operations of ECEC and the Center as AmSurg reasonably may request. At any time and from time to time after the Initial Closing Date, at AmSurg's request and without further consideration, Owners agree to execute and deliver such certificates and documents as may be reasonably and lawfully required in connection with any audit of ECEC, the Center or its operations.

(b) At AmSurg's reasonable request and without further consideration, Owners will execute and deliver such other instruments of sale, transfer, conveyance, assignment and delivery and confirmation and take such action as AmSurg may reasonably deem

necessary or desirable in order more effectively to transfer, convey and assign to AmSurg and to place AmSurg in possession and control of and to confirm AmSurg's title to, the Purchased Interests.

(c) At AmSurg's reasonable request and without further consideration, Owners will execute and deliver such instruments and take such action as AmSurg may reasonably deem necessary or desirable in order to effectuate the merger of ECEC with and into the LLC.

**7.2. Confidentiality.** Except as otherwise required by law, Owners will not disclose at any time to any other person (other than their respective legal or financial advisors) not an employee of AmSurg, AmSurg Corp., ECEC or the LLC (or a person otherwise involved in the carrying out of the transactions contemplated by this Agreement), nor make any public announcement of, the transactions or terms of the transactions contemplated by this Agreement.

**7.3. Consents Under Significant Payor Agreements.** The Owners will take all action reasonably necessary to assist the LLC in obtaining consents required under agreements with Significant Payors as a result of the consummation of the transactions contemplated hereby.

**7.4. Ownership and Investment Restrictions.** No Owner nor any individual or other person directly or indirectly controlling, controlled by or under common control with any Owner (an "Affiliate") shall:

(a) have any direct or indirect ownership interest in, or manage, lease, develop or otherwise have any financial interest in any business or entity competing or planning to compete with the LLC (including, but not limited to, any ambulatory surgery center or any physician office in which surgical procedures are performed and for which facility fees or other site of service or similar fees in addition to standard professional fees are charged for surgical procedures) within a twenty-five (25) mile radius of the Center (the "Market Area"), or

(b) become an employee of a hospital or an Affiliate of a hospital that is located within the Market Area, or enter into any contract or other arrangement (whether as a result of his or her employment or otherwise) that requires or incentivizes him or her to perform procedures at any hospital or facility affiliated with a hospital in the Market Area,

in each case described in Sections 7.4(a) and 7.4(b) until the later of (i) five (5) years from the date of this Agreement, or (ii) two (2) years after such Owner ceases to be a member of ECEC or the LLC, as applicable.

The foregoing shall not prohibit any Owner from (i) owning shares of capital stock constituting less than one percent (1%) of the outstanding capital stock of any corporation whose common stock is traded on a national securities exchange, (ii) practicing medicine or performing surgical procedures at any facility, or (iii) receiving a reasonable fee in exchange for providing medical director services or call coverage to a tertiary hospital. The parties acknowledge and agree that this Section 7.4 does not require Owners who are physicians to perform surgical procedures at the Center or to refer patients to the Center, and imposes no restrictions on where such procedures are performed or where referrals are made.

Each Owner who is a physician acknowledges and agrees that the enforcement of the provisions of this Section 7.4 against him would not prevent him from engaging in his profession, the practice of medicine.

Owners recognize and acknowledge that the ascertainment of damages in the event of a breach of this Section 7.4 would be difficult, and agree that AmSurg, in addition to all other remedies it may have, shall have the right to injunctive relief if there is such a breach. Notwithstanding the foregoing, in the event an Owner or an Affiliate of an Owner breaches the provisions of Section 7.4(b), such person shall pay to ECEC or the LLC, as applicable, as liquidated damages, an amount equal to (a) five (5) times the LLC Profit (as defined in the ECEC Operating Agreement or the Operating Agreement, as applicable) plus ECEC's or the LLC's, as applicable, interest expense for the preceding twelve (12) calendar months, minus (b) ECEC's or the LLC's, as applicable, outstanding Principal Indebtedness (as defined in the ECEC Operating Agreement or the Operating Agreement, as applicable), with this amount multiplied by such person's pro rata percentage ownership interest in ECEC or the LLC, as applicable (or such Owner's ownership interest in ECEC or the LLC, as applicable, immediately prior to the termination of his or her membership in ECEC or the LLC, as applicable), it being acknowledged by the parties that the damages to ECEC or the LLC, as applicable, in such event would be difficult to ascertain.

**7.5. Section 754 Election.** Owners agree that the LLC will make an election under § 754 of the Internal Revenue Code effective for the taxable period ending on the Initial Closing Effective Date.

## **8. CONDITIONS TO ADDITIONAL CLOSING.**

**8.1. Conditions to AmSurg's Obligations.** AmSurg shall not be obligated to consummate the transactions contemplated by the Additional Closing,

unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by AmSurg) prior to or at the Additional Closing:

(a) **Representations and Warranties.** The representations and warranties made by the Owners in this Agreement and the statements contained in the Schedules attached hereto or in any instrument, list, certificate or writing delivered by shall be true and correct in all material respects as of the date of this Agreement and as of the Additional Closing Effective Date, provided, that any representation or warranty that is qualified with respect to materiality shall be true and correct in all respects at the Additional Closing.

(b) **Performance by the Owners.** The Owners shall have performed and complied with all covenants, agreements, obligations and conditions required by this Agreement to be so complied with or performed by each of them.

(c) **Delivery of Documents.** The Owners shall have delivered to AmSurg the certificates, instruments and other documents required to be delivered by them pursuant to Section 3.5(b).

(d) **CON Approval.** ECEC shall have received approval by the DPH of the CON for the change of ownership and reorganization of the Center from ECEC to the LLC, as owned 51% by AmSurg.

(e) **Material Adverse Effect.** Since the date of this Agreement, there shall not have occurred any event or condition of any character which has resulted in a material adverse effect, or may reasonably be expected to result in a material adverse effect, on the business, operations, financial condition or prospects of ECEC or the Center.

**8.2. Conditions to Owners Obligations.** Owners shall not be obligated to consummate the transactions contemplated by the Additional Closing, unless each of the following conditions is fulfilled or performed (unless expressly waived in writing by the Owners) prior to or at the Additional Closing:

(a) **Delivery of Documents.** AmSurg shall have delivered to Owners the certificates, instruments and other documents required to be delivered by it pursuant to Section 3.5(a).

(b) **CON Approval.** ECEC shall have received approval by the DPH of the CON for the change of ownership and reorganization of the Center from ECEC to the LLC, as owned 51% by AmSurg.

## 9. INDEMNIFICATION

**9.1. Indemnification by Owners.** Owners, jointly and severally (except with respect to any breach or violation of the representations and warranties contained in Section 5 and the covenants contained in Section 7.4, for which the Owners shall be severally liable for their own breach or violation), hereby agree to defend, indemnify and hold harmless AmSurg and shall reimburse AmSurg for, from and against each claim, loss, liability, cost and expense (including without limitation interest, penalties, costs of preparation and investigation, and the reasonable fees, disbursements and expenses of attorneys, accountants and other professional advisors) (collectively, "Losses"), directly or indirectly relating to, resulting from or arising out of:

(a) The business and operations of ECEC and the Center through and including the Initial Closing Effective Date.

(b) Any untrue representation, misrepresentation, breach of warranty or non-fulfillment of any covenant, agreement or other obligation by or of any Owner contained herein, any Schedule hereto or in any certificate, document or instrument delivered to AmSurg pursuant hereto.

(c) Any tax liability of ECEC not previously paid, which may at any time be asserted or assessed against ECEC or the LLC for any event or period prior to the Initial Closing Effective Date (regardless of whether the possibility of the assertion or assessment of any such tax liability shall have been disclosed to AmSurg at or prior to the Initial Closing).

(d) Liability for any amounts owed by ECEC or the LLC to any patients or governmental third party or private payors because of overpayments to ECEC or the LLC for services rendered to patients prior to the Initial Closing Effective Date, which liability is due to a recomputation of rates, field audit adjustments, overpayments or otherwise.

(e) Any other Loss incidental to any of the foregoing.

**9.2. Indemnification by AmSurg.** AmSurg hereby agrees to defend, indemnify and hold harmless the Owners, and shall reimburse the Owners for, from and against Losses directly or indirectly relating to, resulting from or arising out of:

(a) Any untrue representation, misrepresentation, breach of warranty or non-fulfillment of any covenant, agreement or other obligation by AmSurg, contained herein or in any certificate, document or instrument delivered to the Owners pursuant hereto.

(b) Any other Loss incidental to the foregoing.

**9.3. Procedure.**

(a) The indemnified party shall promptly notify the indemnifying party of any claim, demand, action or proceeding for which indemnification will be sought under Sections 9.1 or 9.2 of this Agreement, and, if such claim, demand, action or proceeding is a third party claim, demand, action or proceeding, the indemnifying party will have the right at its expense to assume the defense thereof using counsel reasonably acceptable to the indemnified party. The indemnified party shall have the right to participate, at its own expense, with respect to any such third party claim, demand, action or proceeding. In connection with any such third party claim, demand, action or proceeding, AmSurg, CBSC, the LLC and Owners shall cooperate with each other and provide each other with access to relevant books and records in their possession. No such third party claim, demand, action or proceeding shall be settled without the prior written consent of the indemnified party. If a firm written offer is made to settle any such third party claim, demand, action or proceeding and the indemnifying party proposes to accept such settlement and the indemnified party refuses to consent to such settlement, then: (i) the indemnifying party shall be excused from, and the indemnified party shall be solely responsible for, all further defense of such third party claim, demand, action or proceeding; and (ii) the maximum liability of the indemnifying party relating to such third party claim, demand, action or proceeding shall be the amount of the proposed settlement if the amount thereafter recovered from the indemnified party on such third party claim, demand, action or proceeding is greater than the amount of the proposed settlement.

(b) Notwithstanding the foregoing, no Owner shall be required to indemnify AmSurg for any amount in excess of its or his pro rata portion of the Purchase Price.

(c) Notwithstanding the foregoing, (i) Owners shall not be obligated to make any indemnification under Section 9.1 unless the aggregate amount of Losses exceeds \$25,000 (the "Basket"), and such indemnification with respect to such Losses shall be made by Owners only to the extent of such excess over the Basket, and (ii) AmSurg shall not be obligated to make any indemnification under Section 9.2 unless the aggregate amount of Losses exceeds the Basket, and such indemnification with respect to such Losses shall be made by AmSurg only to the extent of such excess over the Basket.

**10. SURVIVAL OF REPRESENTATIONS AND WARRANTIES**

**10.1. Survival of Representations and Warranties.** The representations and warranties contained herein shall survive the Initial Closing Date and any investigation made by or on behalf of any party hereto, and shall survive until the later of: (a) eighteen (18) months after the Initial Closing Date and (b) twelve (12) months following the Additional Closing Effective Date, except for any Losses described in Section 9.1(c) or 9.1(d), which shall survive for the applicable statute of limitations, including any waivers thereof, and any breach of the representations and warranties contained in Sections 4.6 and 4.9 with respect to professional malpractice claims arising before the Initial Closing Date, which shall not terminate.

**10.2. Exclusive Remedy.** Except in the case of fraud, intentional misrepresentation or willful breach, the indemnification provided in Article 9 shall be the sole and exclusive remedy and recourse of the parties for any matters arising out of any breach of the representations and warranties contained in Articles 4, 5 and 6.

**11. MISCELLANEOUS**

**11.1. Expenses.** All fees and expenses incurred by ECEC and Owners, including without limitation legal fees and expenses, in connection with this Agreement will be borne by the Owners and all fees and expenses incurred by AmSurg, including without limitation legal fees and expenses, in connection with this Agreement will be borne by AmSurg, except that: (a) the Owners shall pay the first twenty thousand dollars (\$20,000.00) in legal fees and expenses incurred in obtaining CON determinations from the DPH for the Initial Closing and the Additional Closing; (b) AmSurg shall pay the next twenty thousand dollars (\$20,000.00) in legal fees and expenses incurred in obtaining said CON determinations; and (c) the parties shall share any additional legal fees and expenses equally.

**11.2. Assignability; Parties in Interest.**

The parties may not assign, transfer or otherwise dispose of any of their respective rights hereunder without the prior written consent of AmSurg or a majority in interest of the Owners, as applicable. All the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the respective heirs, successors, assigns and legal or personal representatives of the parties hereto.

**11.3. Entire Agreement; Amendments; Waiver.** This Agreement, including the exhibits, Schedules, lists

and other documents and writings referred to herein or delivered pursuant hereto, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior agreements and understandings between the parties with respect to its subject matter. This Agreement may be amended only by a written instrument duly executed by all parties or their respective heirs, successors, assigns or legal personal representatives. Any condition to a party's obligations hereunder may be waived but only by a written instrument signed by the party entitled to the benefits thereof. The failure or delay of any party at any time or times to require performance of any provision or to exercise its rights with respect to any provision hereof, shall in no manner operate as a waiver or affect such party's right at a later time to enforce the same.

11.4. **Severability.** The invalidity of any term or terms of this Agreement shall not affect any other term of this Agreement, which shall remain in full force and effect.

11.5. **Notices.** All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered or mailed (registered or certified mail, postage prepaid, return receipt requested, by overnight courier service or by facsimile) as follows:

If to the Owners:

Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street  
Norwich, CT 06360  
Attn: Kolala Sridhar, M.D.  
Fax: \_\_\_\_\_

With a copy to:

Tobin, Carberry, O'Malley, Riley &  
Selinger, P.C.  
43 Broad Street  
New London, CT 05320  
Attn: Glenn T. Carberry  
Fax: (860) 442-3469

If to AmSurg:

AmSurg Holdings, Inc.  
20 Burton Hills Boulevard  
Nashville, TN 37215  
Attn: Christopher Kelly  
Fax: (615) 665-0755

With a copy to:

Bass, Berry & Sims PLC  
150 Third Avenue South, Suite 2800  
Nashville, TN 37201  
Attn: J. James Jenkins, Jr.  
Fax: (615) 742-2736

or to such other address as any party may have furnished to the others in writing in accordance herewith, except that notices of change of address shall only be effective upon receipt.

11.6. **Section and Other Headings.** The section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

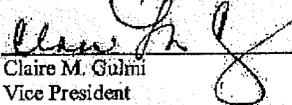
11.7. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; provided, however, that the several executed counterparts shall together have been signed by AmSurg and each of the Owners. All of such executed counterparts shall constitute one and the same instrument.

11.8. **Parties in Interest.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns. There is no intention by the Owners or AmSurg to make any representations to third parties or to establish any other party as a third party beneficiary to this Agreement. The parties acknowledge that they have independently negotiated the provisions of this Agreement, that they have relied upon their own counsel as to matters of law and application and that neither party has relied on the other party with regard to such matters. The parties expressly agree that there shall be no presumption created as a result of either party having prepared in whole or in part any provisions of this Agreement.

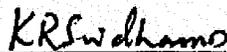
11.9. **Applicable Law.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee, without regard to its conflict of laws rules.

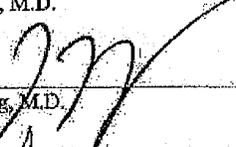
IN WITNESS WHEREOF, the parties have  
duly executed this Agreement as of the date first above  
written.

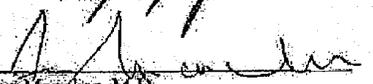
AMSURG HOLDINGS, INC.

By:   
Name: Claire M. Gulmi  
Title: Vice President

OWNERS:

  
Kolala Sridhar, M.D.

  
You Sung Sang, M.D.

  
Ashar Manohar, M.D.

  
Abera H. Abay, M.D.

**EXHIBIT A**

<u>Owner</u>	<u>Percentage Membership Interest Owned</u>
Kolala Sridhar, M.D.	32.2%
You Sung Sang, M.D.	32.2%
Ashan Manohar, M.D.	17.8%
Abera H. Abay, M.D.	17.8%
Total	<u>100.00%</u>

---

*Membership Interest Purchase Agreement / Exhibit A*

**EXHIBIT B-1**

<u>Owner</u>	<u>Membership Interests to be Sold</u>	<u>Purchase Price Payable to Owners</u>
Kolala Sridhar, M.D.	12.88%	\$1,238,885
You Sung Sang, M.D.	12.88%	\$1,238,885
Ashan Manohar, M.D.	7.12%	\$684,850
Abera H. Abay, M.D.	7.12%	\$684,850
	<u>40.0%</u>	

---

*Membership Interest Purchase Agreement / Exhibit B-1*

**EXHIBIT B-2**

<u>Owner</u>	<u>Membership Interests to be Sold</u>	<u>Purchase Price Payable to Owners</u>
Kolala Sridhar, M.D.	3.52%	\$338,577
You Sung Sang, M.D.	3.52%	\$338,577
Ashan Manohar, M.D.	1.98%	\$190,450
Abera H. Abay, M.D.	1.98%	\$190,450
Total	<u>11.00%</u>	

11279502.4

**EXHIBIT C**

LLC Operating Agreement

---

*Membership Interest Purchase Agreement / Exhibit C*

**AMENDED AND RESTATED OPERATING AGREEMENT OF  
EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC**

---

## TABLE OF CONTENTS

---

1.	DEFINITIONS.....	1
2.	ORGANIZATION .....	3
3.	PURPOSE AND POWERS.....	3
4.	CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS.....	3
5.	EXPENSES OF THE LLC .....	4
6.	ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS.....	4
7.	BOARD OF DIRECTORS .....	5
8.	MEMBERS .....	6
9.	OFFICERS.....	10
10.	INDEMNIFICATION .....	13
11.	FISCAL MATTERS.....	13
12.	ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS .....	14
13.	DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE.....	18
14.	GENERAL PROVISIONS .....	19

THIS AMENDED AND RESTATED OPERATING AGREEMENT (the "Agreement") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 201\_\_\_, by and between AmSurg Holdings, Inc., a Tennessee corporation ("AmSurg"), and each of the other persons listed on the signature page to this Agreement ("Owners") (each of AmSurg and Owners, together with the other persons who may become members under the terms of this Agreement, a "Member" and collectively, the "Members").

**WITNESSETH:**

WHEREAS, the Members have formed a limited liability company under and pursuant to the Act (as defined below) to conduct certain business as a limited liability company and desire to set forth their mutual rights and obligations in this Agreement; and

WHEREAS, Owners have sold to AmSurg a portion of their membership interests in the LLC pursuant to a Membership Interest Purchase Agreement, dated as of the date hereof.

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

**1. DEFINITIONS**

When used in this Agreement, the following terms shall have the meanings set forth below:

1.1. "Act" means the Tennessee Revised Limited Liability Company Act, being Sections 48-249-101 *et seq.* of the Tennessee Code Annotated, as amended from time to time, and any corresponding provisions of any successor legislation.

1.2. "Affiliate," with respect to any individual or Entity, means any individual or other Entity directly or indirectly controlling, controlled by or under common control with such individual or Entity.

1.3. "Affiliated Physician" means any individual physician who directly or indirectly through another entity has an ownership interest in the LLC, is an Immediate Family Member of any individual who directly or indirectly through another entity has an ownership interest in the LLC, or is a grantor, trustee or beneficiary of any trust that is a Member.

1.4. "Agent" means any agent of the LLC, including any officer, director, employee, independent contractor, or agent of a Member acting on behalf of the LLC.

1.5. "Agreement" means this Amended and Restated Operating Agreement, as amended from time to time.

1.6. "AmSurg" has the meaning set forth in the introductory paragraph hereof.

1.7. "AmSurg Corp." means AmSurg Corp., a Tennessee corporation and the sole shareholder of AmSurg.

1.8. "Articles of Organization" means the Articles of Organization of the LLC filed with the Secretary of State of the State of Tennessee, as amended from time to time.

1.9. "Available Cash Flow" means all cash funds of the LLC on hand at the end of each month, less (a) provision for payment of all outstanding and unpaid current cash obligations of the LLC at the end of such month (including those which are in dispute) and (b) provisions for reserves reasonably determined by the Board for anticipated operating expenses, capital expenditures and other contingencies (which may include debt service on LLC indebtedness and fees payable to Affiliates); provided, however, that proceeds from the disposition of all or substantially all of the LLC's capital assets shall not be included in Available Cash Flow.

1.10. "Board" means the Board of Directors of the LLC.

1.11. "Book Capital Account" has the meaning given to such term in Section 4.3 hereof.

1.12. "Capital Contribution" in respect of any Member means the amount of all cash and other property, tangible or intangible, contributed by such Member to the capital of the LLC. The initial capital account balance for each Member shall be as set forth on Exhibit A.

1.13. "Cause" means (i) any conviction of, or a plea of guilty or no contest to, any charge of embezzlement, theft or fraud or any felony or (ii) any breach of fiduciary duty, in each case that the Owners holding a majority of the Membership Interests held by all Owners (other than the Owner being removed for Cause) acting in good faith determine has had or would reasonably be expected to have a material adverse effect upon the business, operations or financial condition of the LLC.

1.14. "Center" means the ambulatory surgery center operated by the LLC and located in Norwich, Connecticut, including the real property, or leasehold improvements, furniture, fixtures, the Equipment, books, records, supplies, accounts receivable, goodwill, other intangibles and other assets used in its operation.

1.15. "Code" means the Internal Revenue Code of 1986, as amended from time to time, any corresponding

provisions of any successor legislation, and the regulations adopted thereunder.

1.16. "Director" means, individually, any natural person serving on the Board.

1.17. "Dissolution Event" has the meaning given to such term in Section 13.2 hereof.

1.18. "Entity" means any corporation, partnership, trust, limited liability company or other entity.

1.19. "Equipment" means the equipment used in connection with the operation of the Center.

1.20. "Financial Rights" means a Member's rights as a member of the LLC (i) to share in the profits and losses of the LLC to the extent provided in this Agreement and (ii) to share in distributions to the extent provided in this Agreement.

1.21. "Fundamental Regulatory Change" means any change in federal or state law or regulation that results in (a) the referral of Medicare or any other patients to the Center by Owners, or the submission of claims to Medicare for services performed by or at the direction of Owners, becoming illegal, (b) the existence of a substantial likelihood that the receipt of cash distributions from the LLC to Owners is or will be found to be in violation of federal or state law, or (c) the ownership by Owners of Membership Interests in the LLC becoming illegal.

1.22. "Governance Rights" means all of a Member's rights as a member of the LLC other than Financial Rights and the right to assign Financial Rights.

1.23. "Information" has the meaning given to such term in Section 8.10 hereof.

1.24. "LLC" means Eastern Connecticut Endoscopy Center, LLC, a Tennessee limited liability company.

1.25. "LLC Profit" means net income of the LLC for the applicable period determined on an accrual basis in accordance with generally accepted accounting principles.

1.26. "Market Area" has the meaning given to such term in Section 8.2 hereof.

1.27. "Material Contract" means a new or renewed contract or obligation of the LLC (including a loan obligation) which will require the expenditure of \$100,000 in any one year or more than \$200,000 in the aggregate.

1.28. "Medical Director" means the person appointed by Owners and approved by the Board pursuant to Section 8.3.1 to provide medical supervision and to coordinate professional and clinical activities at the Center.

1.29. "Members" has the meaning set forth in the introductory paragraph hereof.

1.30. "Membership Interest" means a Member's interest in the LLC, which when expressed as a percentage of all Membership Interests in the LLC shall be equal to such Member's Membership Percentage. The Membership Interest shall consist of (a) the Member's Financial Rights, (b) the Member's right to assign Financial Rights to the extent permitted under this Agreement, and (c) the Member's Governance Rights.

1.31. "Membership Percentage" means the percentage interest of a Member as shown on Exhibit A, as amended from time to time as provided in Section 4.8 or 12.9 hereof or as otherwise required by this Agreement or the Code.

1.32. "New Member" has the meaning given such term in Section 12.7 hereof.

1.33. "Officers" means the President, Vice Presidents, Treasurer, Secretary, and any other person appointed to be an officer by the Board of the LLC.

1.34. "Owners" has the meaning set forth in the introductory paragraph hereof.

1.35. "Performance Improvement Chairman" means the person appointed by Owners and approved by the Board to provide oversight and coordinate the development and operation of the Center's performance improvement program.

1.36. "Permanent Disability" shall mean a mental or physical condition which renders an individual unable or incompetent to practice medicine on a full-time basis consistent with past practice, which condition shall have existed for a period of 90 or more consecutive days or 180 days during any consecutive 12-month period. If any controversy should arise as to whether a Permanent Disability exists, either the subject individual or the LLC may require that the subject individual be examined by a physician and in such case the decision of such physician shall be conclusive and binding on all parties. The examining physician shall be mutually satisfactory to the subject individual and the LLC; provided, however, that if they are unable to agree, then the subject individual and the LLC shall each designate a physician and the final examining physician shall be a physician mutually acceptable to each of such designees.

1.37. "Prime Rate" means that rate of interest equal to the prime rate as published from time to time by SunTrust Bank in Nashville, Tennessee, or any successor thereto.

1.38. "Principal Indebtedness" means the principal amount of the LLC's indebtedness for borrowed money plus indebtedness for capitalized leases.

1.39. "Responsible Person" has the meaning given to such term in Section 48-249-115(a)(6) of the Act.

1.40. "Successor" means a Member's executor, administrator, guardian, conservator, other legal representative or successor in interest.

1.41. "Tax Capital Account" has the meaning given to such term in Section 4.4 hereof.

1.42. "Tax Matters Member" has the meaning given to such term in Section 11.6 hereof and shall also mean the "tax matters partner" as that term is used in the Code.

1.43. "Treasury Regulations" includes proposed, temporary and final regulations promulgated under the Code.

1.44. "Triggering Event" has the meaning given to such term in Section 8.11 hereof.

1.45. "Triggering Event Date" means the last day of the calendar month immediately preceding the month during which a Triggering Event occurs.

## 2. ORGANIZATION

2.1. **Effective Date.** This Agreement shall become effective upon execution by the Members as of the date first above written.

2.2. **Adoption of Agreement.** The Members hereby adopt this Agreement as the operating agreement of the LLC, as the term "operating agreement" is used in the Act, to set forth the rules, regulations and provisions regarding the management of the business of the LLC, the governance of the LLC, the conduct of its business and the rights and privileges of its members. The operating agreement of the LLC shall be in writing, and the terms of the operating agreement shall be as set forth in this Agreement. This Agreement supersedes and replaces all prior operating Agreements of the LLC, which prior agreements shall be of no further force or effect.

2.3. **Name.** The name of the LLC shall be Eastern Connecticut Endoscopy Center, LLC. The LLC may adopt and conduct its business under such assumed or trade names as the Members may from time to time determine. The LLC shall file any registrations or assumed or fictitious name certificates as may be required to conduct business in any state.

2.4. **Registered Agent.** The initial registered agent of the LLC shall be Claire M. Gulmi. The initial registered office and the principal executive office of the LLC shall be 20 Burton Hills Boulevard, Davidson County, Nashville, Tennessee 37215.

## 3. PURPOSES AND POWERS

3.1. **Purposes.** The purposes of the LLC shall be to own and operate the Center and to carry on any and all activities necessary, proper, convenient or advisable in connection therewith.

3.2. **Powers.** The LLC may exercise all powers necessary or convenient to carry out its business and affairs and to effectuate the purposes set forth in Section 3.1 hereof which may be legally exercised by limited liability companies under the Act.

3.3. **Independent Medical Judgment.** No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care. Further, nothing contained herein requires any practicing physician with staff privileges at the Center to use or recommend the use of facilities or services owned, operated or provided by the LLC.

## 4. CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS

4.1. **Capital Contribution.** Each Member shall be credited with a Capital Account in the amount set forth opposite such Member's name on Exhibit A hereto.

4.2. **Additional Contributions.** Members shall make additional Capital Contributions as may be determined from time to time by the Board in an amount proportional to their Membership Percentages. The timing, amount and terms of such additional Capital Contributions shall be determined by the Board. The Capital Contributions of each Member shall be made on the same terms and conditions.

4.3. **Book Capital Accounts.** Each Member shall have a capital account to which the fair market value of such Member's Capital Contribution shall be credited (the "Book Capital Account"). Each Member's share of the income, including tax-exempt income, expenses, gain or loss of the LLC shall be charged or credited to such Member's Book Capital Account. All distributions to a Member shall be charged to such Member's Book Capital Account.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Book Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Book Capital Accounts.

4.4. **Tax Capital Accounts.** The capital accounts for the Members for federal income tax purposes (the "Tax Capital Accounts") shall be maintained and adjusted in accordance with the principles set forth in Treasury Regulation Section 1.704-1(b)(2)(iv), and the items of income, profit, gain, expenditures, deductions,

losses, distributions and contributions which increase or decrease such Tax Capital Accounts shall be those items which, pursuant to such provision, affect the balance of capital accounts.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Tax Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Tax Capital Accounts.

4.5. **LLC Loans.** Subject to the provisions of Section 7.3.6 requiring the consent of the Board for certain agreements, AmSurg or an Affiliate thereof may, from time to time and as it deems necessary, lend, or arrange for the LLC to borrow, additional working capital sufficient to enable the LLC to carry on its business as contemplated by Article 3 hereof.

Any loan by AmSurg or an Affiliate thereof to the LLC made for working capital purposes shall be evidenced by a promissory note which shall bear interest at a rate equal to one-half percentage point over the Prime Rate and which shall contain other terms substantially similar to those which might be agreed to with a non-affiliated lender. Any required monthly payments (including any past due amounts) under any such loan by the LLC or any other party shall be made before any distributions of Available Cash Flow are made to the Members pursuant to Section 6.3 hereof.

4.6. **Withdrawal of a Member or Reduction of Members' Capital Contributions.** No Member shall have the right to withdraw from the LLC. A Member shall not receive out of the LLC's property all or any part of such Member's Capital Contributions except as provided in Sections 6.3 and 13.3 hereof.

4.7. **Interest and Preferential Rights.** Except with respect to any loans made pursuant to Sections 4.3, 4.4 and 4.5 hereof, no interest shall accrue on any Capital Contributions and no Member shall have any preferential rights with respect to distributions or upon dissolution of the LLC.

4.8. **Membership Interests and Amendments to Exhibit A.** Each Member shall be credited with the Membership Interest (expressed as a percentage of all Membership Interests) and initial capital account balance set forth opposite such Member's name on Exhibit A. The amounts shown on Exhibit A with respect to capital account balances and Membership Interests shall be appropriately amended to reflect changes to such amounts as a result of any changes in the membership of the LLC or assignments of Membership Interests. Exhibit A shall also be amended from time to time to reflect any changes in the addresses of Members.

## 5. EXPENSES OF THE LLC

5.1. **Organizational Expenses.** Each Member shall bear its own expenses incurred in connection with the preparation, review, and negotiation of this Agreement, the Membership Interest Purchase Agreement and any other documents contemplated hereunder.

5.2. **Operating Expenses.** The LLC will reimburse the Members for reasonable travel expenses approved by the Board and incurred in connection with performing their respective duties hereunder.

## 6. ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS

6.1. **Allocation of Net Taxable Income or Loss and Tax Credits.** Except as provided in Sections 6.2 and 6.5, all income and gain of the LLC includable for federal, state and local income tax purposes, all expenses and losses of the LLC deductible for federal, state and local income tax purposes, as applicable, and all federal income tax credits shall be allocated in proportion to the Membership Percentage of each Member.

6.2. **Allocations to Reflect Contributed Property.** If a Member contributes property to the LLC which has a difference between its tax basis and its fair market value on the date of its contribution, then all items of income, gain, loss and deduction with respect to such contributed property shall be shared for federal income tax purposes among the Members pursuant to Section 704(c) of the Code so as to take into account the variation between the basis of such property and its fair market value at the time of contribution.

Any elections or other decisions relating to such allocations shall be made by the Tax Matters Member in any manner that reasonably reflects the purpose and intention of this Agreement. Except as otherwise provided in such Section 1.704-3(d) of the Treasury Regulations, the Capital Accounts of the Members shall be adjusted in accordance with Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations for allocations to the Members of income, gain, loss and deduction (including depreciation, depletion, amortization or other cost recovery) as computed for book purposes, with respect to the property contributed; and the amount of book depreciation, depletion or amortization for a period with respect to an item of contributed property shall be the amount that bears the same relationship to the book value of such property as the depreciation (or cost recovery deduction), depletion or amortization computed for tax purposes with respect to such property for such period bears to the adjusted tax basis of such property. If such property has a zero adjusted tax basis, the book depreciation, depletion or amortization may be determined under any reasonable method selected by the Tax Matters Member.

References in this Section 6.2 to book and tax depreciation, depletion, amortization, and gain or loss with respect to property that has an adjusted tax basis that differs from its book value include, under analogous rules and principles, the unrealized income or deduction with respect to accounts receivable, accounts payable and other accrued but unpaid items.

6.3. **Distribution of Available Cash Flow.** Except as provided in Section 4.5, the LLC shall distribute Available Cash Flow. Such mandatory distributions shall be made in monthly installments within fifteen (15) days after the end of each month and shall be made to all Members pro rata in proportion to the respective Membership Percentages of the Members at the time of each distribution.

6.4. **Consequences of Distributions.** Upon the determination to distribute funds in any manner expressly provided in this Article 6, made in good faith, no Member shall incur liability on account of such distribution, even though such distribution may have resulted in the LLC retaining insufficient funds for the operation of its business, which insufficiency resulted in loss to the LLC or necessitated the borrowing of funds by the LLC.

6.5. **Distribution Upon Termination.** When the LLC is terminated, pursuant to Article 13 or otherwise, the final distribution to Members shall be according to the balance of their Book Capital Accounts, after allocation of income, gain, expense and loss in the fiscal year of termination (including the allocation for the deemed sale of assets distributed in kind required by Section 13.3).

## 7. BOARD OF DIRECTORS

7.1. **Number and Term.** The LLC shall have a Board consisting of two (2) AmSurg Directors and two (2) Owner Directors. Each AmSurg Director shall hold office for a period of one (1) year or until such AmSurg Director's earlier resignation, removal or death. Each Owner Director shall hold office for a period of one (1) year or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member; provided, that the initial Owner Directors shall hold office for a period of three (3) years or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member.

7.2. **Duties.** Except as otherwise specifically set forth in this Agreement, the Board shall have ultimate authority with respect to the LLC's operations, including, but not limited to, physician credentialing, granting of privileges and approval of operating policies and procedures of the Center.

7.3. **Acts Requiring Board Approval.** Notwithstanding anything contained herein to the

contrary, without obtaining the consent of the Board, no Member, Officer or Agent shall:

7.3.1. Sell, exchange, lease or otherwise transfer all or substantially all of the assets of the LLC;

7.3.2. Cause the LLC to commence any voluntary proceeding under any bankruptcy, reorganization, insolvency or similar laws;

7.3.3. Dissolve the LLC;

7.3.4. Merge or consolidate the LLC into another entity;

7.3.5. Change the name under which the Center does business or relocate the Center from its current location;

7.3.6. Enter into any Material Contract; provided, that the Officers shall have the power and authority to renew the lease for the Center premises so long as the renewal is on substantially the same terms as the lease then in effect;

7.3.7. Establish or change in any material respect the operating policies and procedures of the Center, except for policies and procedures relating to corporate governance and regulatory compliance, employment matters and financial reporting matters;

7.3.8. Vary or change in any material respect any portion of the professional liability coverage of the Center; or

7.3.9. Request or require a Capital Contribution to be made by any Member.

7.4. **Election.** The AmSurg Directors shall be elected by AmSurg. The initial AmSurg Directors shall be Frank Blair and Steve Marshall. The Owner Directors shall be elected by Owners holding a majority of the Membership Interests held by the Owners. The initial Owner Directors shall be Kolala Sridhar, M.D. and Ashan Manohar, M.D. Any vacancy occurring on the Board for any reason shall be filled by AmSurg if the vacancy is the result of the termination of service by an AmSurg Director, or the Owners if the vacancy is the result of the termination of service by an Owner Director. A Chairman of the Board shall be elected by a majority of the members of the Board at the first meeting of the Board held in each fiscal year.

7.5. **Quorum and Voting.** A quorum of the Board shall consist of a majority of the number of Directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present shall be the act of the Board, unless the Articles of Organization or this Agreement requires the vote of a greater number of Directors. Each Director shall have one vote on each matter considered by the Board.

7.6. **Regular Meetings of the Board.** Regular meetings of the Board shall be held quarterly at such places, within or without the State of Connecticut, on such dates and at such times as the Board may determine from time to time. Unless otherwise determined by the Board, regular meetings of the Board shall be held in Norwich, Connecticut.

7.7. **Meeting by Telephone.** Any or all Directors may participate in a regular or special meeting by conference telephone or any other means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

7.8. **Action on Unanimous Written Consent.** Action required or permitted to be taken at a meeting of the Board may be taken without a meeting if all of the Directors consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken.

7.9. **Notice of Meetings.** The President or a majority of the Directors may call a special meeting of the Board of Directors by giving 48 hours' prior notice to all Directors of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

## 8. MEMBERS

8.1. **Medical Malpractice Insurance.** Each Owner shall maintain at all times medical malpractice insurance complying with the Medical Staff Bylaws of the Center as approved by the Board.

8.2. **Ownership and Investment Restrictions.** No Owner or Affiliated Physician, nor any Affiliate of any Owner or Affiliated Physician shall:

8.2.1. have any direct or indirect ownership interest in, or manage, lease, develop or otherwise have any financial interest in any business or entity competing or planning to compete with the LLC (including, but not limited to, any ambulatory surgery center or any physician office in which surgical procedures are performed and for which facility fees, tray fees or other fees in addition to standard professional fees are charged) within a twenty-five (25) mile radius of the Center (the "Market Area"), or

8.2.2. become an employee of a hospital or an Affiliate of a hospital that is located within the Market Area, or enter into any contract or other arrangement with a hospital or an Affiliate of a hospital that is located within the Market Area (whether as a result of his or her employment or otherwise) that requires or

incentivizes him or her to perform procedures that could have been performed at the Center at any hospital or facility affiliated with a hospital in the Market Area,

in each case described in Sections 8.2.1 and 8.2.2 until the later of (i) five (5) years from the date of this Agreement, or (ii) two (2) years after such Owner (or with respect to an Affiliated Physician, the Owner with whom such Affiliated Physician is affiliated) ceases to be a Member of the LLC.

The foregoing shall not prohibit any Owner or Affiliated Physician, nor any Affiliate of an Owner or Affiliated Physician, from (i) owning shares of capital stock constituting less than 1% of the outstanding capital stock of any corporation whose common stock is traded on a national securities exchange, (ii) practicing medicine or performing surgical procedures at any facility, or (iii) receiving a reasonable fee in exchange for providing medical director or call coverage services to a tertiary hospital. The parties acknowledge and agree that this Section 8.2 does not require physician Owners or Affiliated Physicians to perform surgical procedures at the Center or to refer patients to the Center, and imposes no restrictions on where such procedures are performed or where referrals are made.

Each Owner who is a physician and each Affiliated Physician acknowledges and agrees that the enforcement of the provisions of this Section 8.2 against him or her would not prevent such person from engaging in his or her profession, the practice of medicine.

Each Owner and Affiliated Physician recognizes and acknowledges that the ascertainment of damages in the event of a breach of this Section 8.2 would be difficult, and agrees that the LLC, at the direction of AmSurg, in addition to all other remedies it may have, shall have the right to injunctive relief if there is such a breach. Notwithstanding the foregoing, in the event a physician Owner or Affiliated Physician, or any Affiliate of a physician Owner or Affiliated Physician violates the provisions of Section 8.2.2, such physician Owner or Affiliated Physician shall pay to the LLC, as liquidated damages, an amount equal to (a) five (5) times the LLC Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by such Owner's ownership interest in the LLC (or such Owner's ownership interest in the LLC immediately prior to the termination of his or her membership in the LLC), it being acknowledged by the parties that the damages to the LLC in such event would be difficult to ascertain.

8.3. **Services Provided by Owners.** As additional consideration for his or her Membership Interests and without further charge to the LLC other than the

expenses outlined in Section 5.2 hereof, Owners shall provide the Center with:

8.3.1. A Medical Director acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board, including, but not limited to:

8.3.1.1 Assisting in the selection of suitable treatment modality for all patients of the Center;

8.3.1.2 Devising clinical procedures which, when implemented by the Center, will assure adequate monitoring of patients and the treatment process;

8.3.1.3 Directing, coordinating and reporting to the Board on all medical aspects of the Center's operations;

8.3.1.4 Devising procedures which, when implemented by the Center, will assure (i) adequate training of nurses and other staff in appropriate treatment techniques, and (ii) the supervision of all non-physician staff at the Center;

8.3.1.5 Devising clinical procedures which, when implemented by the Center, will assure the availability of a patient care policy and procedures manual and other written materials that reflect current professional standards and assisting in the periodic review and revision thereof;

8.3.1.6 Developing and maintaining professional memberships and active visibility in the local community through the provision of consulting, educational and related services in a manner consistent with the role of Medical Director which promotes the positive visibility of the Center in the community;

8.3.1.7 Devising the medical policy statements of the Center, presenting the statements for the approval of the Board and upon securing Board approval, implementing and monitoring the policies;

8.3.1.8 Assisting the LLC in attracting qualified physicians to the medical staff of the Center and recommending to the Board that qualified physicians be granted clinical privileges at the Center;

8.3.1.9 Assisting the LLC in attracting qualified non-physician staff to work at the Center and assessing, in conjunction with other members of the medical staff, the performance of non-physician staff;

8.3.1.10 Using best efforts to assist the Board in assuring that the Center complies with all state and federal statutes, all standards of applicable accreditation bodies, and regulations and agency directives concerning the medical standards of patient care required at the Center, and reporting to the Board any known deficiencies therein;

8.3.1.11 Accepting appropriate and reasonable medical staff duties and assignments at the Center including (i) acting as the liaison between the medical staff and the Board, (ii) appointing physicians to serve as members and chairmen of medical staff committees, and (iii) serving on all committees of the Center; and

8.3.1.12 Participating in long and short range planning for the Center, reviewing the Center's operating budget, and, where appropriate, making recommendations on the budget.

The initial Medical Director shall be You Sung Sang, M.D.

8.3.2. A Performance Improvement Chairman acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board or its designee, including, but not limited to:

8.3.2.1 Overseeing the performance improvement program and all corresponding activities of the Center;

8.3.2.2 Assisting in the development and revision of indicators necessary to adequately evaluate care provided by the Center and that meet or exceed governmental requirements;

8.3.2.3 Directing the review of data summaries of all identified indicators, as well as information from other sources regarding the quality of care provided by the Center;

8.3.2.4 Directing the development of educational programs based on the needs identified through committee activities and supporting department-wide education on continuous process improvement principles;

8.3.2.5 Overseeing the credentialing and recredentialing process for the Center's medical staff;

8.3.2.6 Overseeing and administering the risk management program for the Center;

8.3.2.7 Overseeing and administering medical malpractice issues related to the Center;

8.3.2.8 Working with the Center's performance improvement committee and conducting quarterly performance improvement committee meetings; and

8.3.2.9 Reviewing the Center's performance improvement program on at least an annual basis.

The initial Performance Improvement Chairman shall be Abera Abay, M.D.

8.4. **Member Representations.** Each Owner hereby represents that he or she maintains a current license to practice medicine in the State of Connecticut, has not been excluded from participation in the Medicare program or any other governmental health care program for any reason, has not been convicted of any crime in violation of any state or Federal law related to health care matters, and has no knowledge of any circumstances or conditions that could have a material adverse impact on the operations of the Center or the medical practices of Owners (other than conditions which might have a material adverse effect on the health care industry in general).

8.5. **Meetings.** Meetings of the Members, for any purpose or purposes, may be called by the President, the Board of Directors or Members holding a majority of the Membership Interests by giving 48 hours' prior notice to all Members of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

8.6. **Action by Members Without a Meeting; Telephone Meetings.** Action required or permitted to be taken at a meeting of the Members may be taken without a meeting, if the number of Members required to approve any such action consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken. The LLC shall promptly distribute copies

of any such action to the Members, but the failure of the LLC to distribute copies of such action shall not void or otherwise affect the validity of such action in any manner. A meeting also may take place by telephone conference call or any other form of electronic communication through which the Members may simultaneously hear each other. A Member participating in a meeting by this means is deemed to be present in person at the meeting.

8.7. **Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 8.7, such determination shall apply to any adjournment thereof.

8.8. **Quorum.** Members holding 75% of the Membership Interests, represented in person, shall constitute a quorum at any meeting of Members.

8.9. **Required Vote; Manner of Acting.** Except as otherwise provided in Section 8.7 above, if a quorum is present, the affirmative vote of Members holding 75% of the Membership Interests present and entitled to vote on that item of business shall be the act of the Members.

8.10. **Confidentiality.** Except as required by law or legal process, each Member and Affiliated Physician shall maintain the confidentiality of all documents and information provided by the other Members or the Center in connection with the formation of, and the business to be conducted by, the LLC, including, but not limited to, pro forma financial information, outcome studies, information concerning the other Members or their Affiliates and any documents to be utilized in connection with the ownership and operation of the Center (the "Information"). No Member or Affiliated Physician will discuss or disclose any of the Information to any third party or take any action that could compromise the confidentiality of the Information without the prior written consent of the Member providing such Information. Each Member and Affiliated Physician shall, upon termination of his or her membership in the LLC, promptly return to the LLC all Information in his, her or its possession, including without limitation all policy, procedure and program manuals and related documents, and such person shall not make or retain any copies thereof. By their execution of this Agreement, each Member and Affiliated Physician acknowledges that the Information is proprietary and contains specialized knowledge and data that constitutes valuable intellectual property.

8.11. Triggering Events.

8.11.1. Each of the following events shall be deemed a "Triggering Event" for purposes of this Section 8.11 with respect to any Owner (and such Owner shall hereinafter be referred to as "Terminating Owner"):

8.11.1.1 the death of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.2 the Permanent Disability of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.3 the cessation of the practice of medicine by such Terminating Owner or the Affiliated Physician of such Terminating Owner on a full-time basis; provided, that the fact that an Owner or Affiliated Physician is working under an arrangement whereby he or she is not required to take a full call schedule or any call at a hospital shall not be deemed to be the cessation of the practice of medicine by that Owner or Affiliated Physician on a full-time basis;

8.11.1.4 the relocation of the practice of such Terminating Owner or the Affiliated Physician of such Terminating Owner outside of the Market Area;

8.11.1.5 such Terminating Owner or the Affiliated Physician of such Terminating Owner no longer maintaining a current license to practice medicine in the State of Connecticut (the foregoing not being applicable to a temporary suspension of a license to practice in Connecticut for a period of less than ninety (90) days);

8.11.1.6 such Terminating Owner or the Affiliated Physician of such Terminating Owner is involved in a divorce proceeding or matrimonial dissolution that becomes final and in which a transfer of any of such Terminating Owner's Membership Interest is ordered, in which case this subsection shall be applied solely to the ex-spouse of the Terminating Owner or the Affiliated Physician of such Terminating Owner; provided, however, that in the event the LLC

exercises its right to purchase any of the Terminating Owner's Membership Interest pursuant to this subsection, the Terminating Owner or the Affiliated Physician of such Terminating Owner shall have an option to repurchase such membership interest for the same purchase price paid by the LLC in accordance with Section 8.11.2.1;

8.11.1.7 a Transferring Owner (A) makes an assignment for the benefit of creditors or admits in writing his inability to pay debts generally as they become due, (B) applies to any tribunal for the appointment of a trustee or receiver of any substantial part of his assets, (C) commences any voluntary proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or other liquidation laws of any jurisdiction, (D) becomes the subject of any involuntary proceedings and such Transferring Owner indicates his approval, consent or acquiescence, or (E) becomes the subject of an order appointing a trustee or receiver, adjudicating him bankrupt or insolvent, or approving a petition in any involuntary proceeding, and such order remains in effect for ninety (90) days;

8.11.1.8 the Centers for Medicare and Medicaid Services or any other applicable governmental official or entity shall determine that such Terminating Owner or the Affiliated Physician of such Terminating Owner shall be excluded from participation in the Medicare, Medicaid or any other governmental health program pursuant to Section 1128 or 1156 of the Federal Social Security Act or other applicable provisions of Federal or state law;

8.11.1.9 the conviction of such Terminating Owner or the Affiliated Physician of such Terminating Owner of a felony in violation of any state or federal law related to healthcare matters;

8.11.1.10 the violation of the provisions of Section 8.2 by such Terminating Owner or the Affiliated

Physician of such Terminating Owner; and

8.11.1.11 the determination by AmSurg and the Owners holding a majority of the Membership Interests held by all Owners (other than the Terminating Owner) that the Terminating Owner's Membership Interest shall be repurchased by the LLC.

8.11.2. In the event of a Triggering Event, the remaining Owners shall have the obligation to repurchase their proportionate share of such Terminating Owner's Membership Interest equal to the Terminating Owner's Membership Interest multiplied by (i) (a) 100%, with respect to an individual Terminating Owner or (b) the percentage beneficial ownership of the Affiliated Physician or his or her Immediate Family Member in the Terminating Owner, with respect to a Terminating Owner who is not an individual (the "Subject Interest"). The Owners shall purchase the Subject Interest proportionately, based on a fraction, the numerator of which shall be the percentage Membership Interest held by each remaining Owner and the denominator of which shall be the aggregate percentage Membership Interests held by all remaining Owners. The aggregate purchase price for the Subject Interest pursuant to this Section 8.11.2 shall be payable in cash and determined as follows:

8.11.2.1 If the Triggering Event is one described in Sections 8.11.1.1 through 8.11.1.7 and Section 8.11.1.11, an amount equal to (i) three (3) times the LLC Profit for the twelve (12) calendar months immediately preceding the Triggering Event Date plus the LLC's interest expense for the twelve (12) calendar months immediately preceding the Triggering Event Date, minus (ii) the LLC's outstanding Principal Indebtedness as of the Triggering Event Date, with this amount multiplied by the selling Terminating Owner's pro rata percentage ownership interest in the LLC.

8.11.2.2 If the Triggering Event is one described in Sections 8.11.1.8 and 8.11.1.9, the purchase price shall be equal to 50% of the amount determined in accordance with Section 8.11.2.1.

8.11.2.3 If the Triggering Event is described in Section 8.11.1.10, the purchase price shall be One Dollar (\$1.00).

In the event the purchase of the Subject Interest is from a Terminating Owner who is not an individual, such purchase price shall be paid by the Terminating Owner to the Affiliated Physician or his or her Immediate Family Member in redemption of his or her full beneficial ownership interest in the Terminating Owner.

8.11.3. The Terminating Owner shall give the LLC and the other Owners prompt written notice of the occurrence of a Triggering Event, and such Terminating Owner's Membership Interest shall terminate as of the date of the Triggering Event. The purchase price for the Terminating Owner's Membership Interest as described in Section 8.11.2 shall be paid in a lump sum in cash to the Terminating Owner within sixty (60) days following the date of the Triggering Event.

8.11.4. In the event one or more of the Owners breaches this Agreement and does not purchase his, her or its pro rata portion of the Subject Interest, the remaining Owners or, at the direction of AmSurg, the LLC shall have the right, but not the obligation, to purchase the portion of the Subject Interest not purchased by the Owner[s].

8.11.5. By their execution of this Agreement, each Owner acknowledges and agrees that the LLC may purchase a Terminating Owner's ownership interest in LLC pursuant to Section 8.11.2 and may subsequently thereafter transfer such ownership interest to another physician in the Market Area without then obtaining any additional consent of any Owner. Any such physician shall be treated as an Owner on the same terms as the other Owners.

8.12. **Fiduciary Duty.** AmSurg, each Owner and Affiliated Physician, and each Affiliate of an Owner or Affiliated Physician shall have a fiduciary duty to act at all times in a manner such Person reasonably believes to be in the best interest of the LLC, in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

## 9. OFFICERS

9.1. **Appointment of Officers.** The Board shall appoint a President, one or more Vice Presidents, a Treasurer, a Secretary and such other officers as the Board shall elect from time to time, all of whom will be

Affiliates of AmSurg, to serve as the officers of the LLC.

9.2. **Term.** The Officers shall serve for an indefinite term until removed and replaced by the Board.

9.3. **President.**

9.3.1. **General.** Subject to the provisions of this Agreement, the management of the business affairs of the LLC shall rest with the President, who shall have all the authority which may be possessed by a president pursuant to the Act, and such additional authority as otherwise conferred by law or is necessary or advisable in the discharge of the duties of the President under this Agreement. The President shall perform his or her duties to the best of his or her ability and shall use his or her best efforts to carry out the business of the LLC.

9.3.2. **Powers.** Subject to the provisions of Section 7.3 and those powers reserved to the Members and the Board by this Agreement or the Articles of Organization, the President may, on behalf of and at the cost, expense and risk of the LLC and in accordance with the operating and capital budgets of the LLC:

9.3.2.1 On behalf of the LLC, spend the capital and net income of the LLC in the exercise of any rights or powers possessed by the President hereunder;

9.3.2.2 Make capital expenditures on behalf of the LLC;

9.3.2.3 Cause the LLC to lease, acquire, own, manage and operate the Center, and enter into agreements containing such terms, provisions and conditions as the President may deem advisable;

9.3.2.4 Cause the LLC to lease, acquire, own and operate any equipment, fixtures, supplies or other items necessary for the operation of the Center;

9.3.2.5 On behalf of and for the benefit of the LLC, enter into any contracts or arrangements necessary for the conduct of the business of the LLC;

9.3.2.6 Purchase from or through others contracts of liability, casualty and other insurance which the President deems advisable for the

protection of the LLC or for any purpose convenient or beneficial to the LLC;

9.3.2.7 On behalf of and for the benefit of the LLC, incur indebtedness;

9.3.2.8 Sell or otherwise dispose of, upon such terms and conditions as the President may deem advisable, appropriate or convenient, any of the assets of the LLC that do not constitute all or substantially all of the LLC's assets;

9.3.2.9 Establish bank accounts in the name and on behalf of the LLC and designate the signatories thereon;

9.3.2.10 Invest in short-term debt obligations of federal and state governments and their agencies, commercial paper and certificates of deposit of commercial banks, savings bank or savings and loan associations and "money market" mutual funds, such funds as are temporarily not required for the purposes of the LLC's operations; and

9.3.2.11 Appoint, employ or contract with any person (including Affiliates of the Members) to assist him or her in carrying out his or her duties hereunder and transacting the business of the LLC, which persons may, under the supervision of the President, act as consultants, accountants, attorneys, brokers, escrow agents, or in any other capacity deemed by the President necessary or desirable, and pay appropriate fees to any of such persons. Without limiting the foregoing, the President may delegate to AmSurg or its Affiliates the authority to negotiate and execute agreements with payors on behalf of the LLC.

9.4. **Duties.** As additional consideration for its Membership Interest and without further charge to the LLC other than the expenses outlined in Section 5.2 hereof, AmSurg, through the President, shall consult in and oversee the administrative operations of the Center and, subject to the terms of this Agreement and the general direction and control of the Board, coordinate all business and administrative activities pertaining to the Center, including, but not in any way limited to, the following:

9.4.1. Assist the Center in operating in an efficient and business like manner;

9.4.2. Coordinate the purchase or lease of equipment, supplies and pharmaceuticals (including purchases through national purchasing programs) necessary for the operation of the Center;

9.4.3. Coordinate all reasonable and necessary actions to maintain all licenses, permits and certificates required for the operation of the Center, and to ensure that all appropriate certification and accreditation available to the Center's operations are obtained;

9.4.4. Coordinate, with the support of the Medical Director and the Board, ongoing marketing programs to increase community and payor awareness of the Center;

9.4.5. Negotiate the amount and method of reimbursement that the Center will receive from all appropriate third party payors, both public and private;

9.4.6. Establish, maintain, revise and administer, with the support and approval of the Board, the overall charge structure of the Center and arrange for payment of such charges by others, when appropriate;

9.4.7. Arrange and negotiate financing for equipment and future capital needs of the Center;

9.4.8. Develop and revise, subject to approval by the Board, all necessary policies and operating procedures pertaining to each aspect of the Center's operations (except for policies and procedures relating to corporate and regulatory compliance, employment matters and financial reporting matters, which shall be approved by AmSurg and shall not be subject to Board approval);

9.4.9. Hire, supervise, discipline and discharge, in conjunction with the Medical Director, all persons working in the Center and providing direct patient care, as needed;

9.4.10. Train Center personnel with respect to all aspects of the Center's operations, including but not limited to administrative, clinical, financial and marketing matters;

9.4.11. Arrange for the purchase by the LLC of necessary insurance coverage for the Center;

9.4.12. Establish and administer accounting procedures and controls and systems for the development, preparation and keeping of

records and books of accounting related to the business and financial affairs of the Center;

9.4.13. Oversee the preparation of the annual report and tax information returns required to be filed by the LLC, and deliver a copy of same to the Members in a timely manner as needed;

9.4.14. Furnish the LLC in a timely fashion monthly operating reports and other reports reasonably requested by the Board or any Director;

9.4.15. Prepare for Board review all capital and annual operating budgets as needed; and

9.4.16. Perform all duties herein required of it in good faith and with reasonable diligence so as to maximize the Center's ability to efficiently provide appropriate quality health care to patients.

9.5. **Right to Rely Upon the Authority of the President.** No person dealing with the President shall be required to determine the President's authority to make any commitment or undertaking on behalf of the LLC, nor to determine any fact or circumstance bearing upon the existence of its authority. In addition, no purchaser of any property of the LLC shall be required to determine the sole and exclusive authority of the President to sign and deliver on behalf of the LLC any instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith, unless such purchasers shall have received written notice from the LLC affecting the same.

9.6. **Vice President.** The Vice President or Vice Presidents (if any) shall assist the President in the management of the LLC, and shall perform such other duties as the Board may from time to time prescribe.

9.7. **Secretary.** The Secretary shall be responsible for recording the minutes of all Board and Member meetings. The Secretary shall have the responsibility of authenticating records of the LLC and receiving notices required to be sent to the Secretary and shall perform such other duties as the Board may from time to time prescribe.

9.8. **Treasurer.** The Treasurer shall have custody of the LLC's funds and securities, shall keep or cause to be kept full and accurate account of receipts and disbursements in books of the LLC, shall disburse or cause to be disbursed the funds of the LLC as required in the ordinary course of business, and shall perform such other duties as may be incident to his or her office or as prescribed by the Board.

9.9. **Limitation on Liability.** An Officer shall not be liable for any action taken as an Officer, or any failure to take action as an Officer, except to the extent

that such Officer's conduct failed to comply with the standards set forth in Section 48-249-115 of the Act.

9.10. **Resignation.** Any Officer of the LLC may resign at any time by giving written notice to the Members. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.11. **Compensation and Reimbursement.** No Officer shall have any right to compensation for services performed on behalf of the LLC except as determined from time to time by the Board. Notwithstanding the foregoing, an Officer shall have the right to be reimbursed by the LLC for any out-of-pocket expenses incurred by such Officer in connection with any services performed by such Officer on behalf of the LLC.

9.12. **No Exclusive Duty.** Each Officer may have other business interests and may engage in other activities in addition to those relating to the LLC. Neither the LLC nor any Member shall have the right to share or participate in such other investments or activities of such Officer based on such Officer's status as an Officer of the LLC. No Officer shall incur any liability to any Member or the LLC as a result of engaging in any other business or venture.

## 10. INDEMNIFICATION

10.1. **Authority to Indemnify.** The LLC shall indemnify, and upon request shall advance expenses to, an individual made a party to a proceeding because such individual is or was a Responsible Person, to the full extent permitted by law, against liability incurred in the proceeding if the Responsible Person satisfies the following standard of conduct:

10.1.1. The Responsible Person's conduct was in good faith and the Responsible Person reasonably believed (a) in the case of conduct in the Responsible Person's official capacity with the LLC, that his or her conduct was in the best interest of the LLC and (b) in all other cases, that his or her conduct was at least not opposed to the LLC's best interest; and

10.1.2. In the case of any criminal proceeding, the Responsible Person had no reasonable cause to believe his or her conduct was unlawful.

10.2. **Limitations on Authority to Indemnify.** Except as required by applicable law, the LLC may not indemnify a Responsible Person (a) in connection with a proceeding by or in the right of the LLC in which the Responsible Person was adjudged liable to the LLC, and (b) in connection with any other proceeding charging improper personal benefit to such Responsible Person,

whether or not involving action in the Responsible Person's official capacity, in which the Responsible Person was adjudged liable on the basis that personal benefit was improperly received by such Responsible Person.

The indemnification and advancement of expenses granted pursuant to this Article 10 shall not be deemed exclusive of any other rights to which a Responsible Person seeking indemnification or advancement of expenses may be entitled, whether contained in this Article 10, the Articles of Organization, the Act, a resolution of the Board, or an agreement providing for such indemnification; provided, however, that no indemnification may be made to or on behalf of any Responsible Person if a judgment or other final adjudication adverse to the Responsible Person establishes his or her liability:

10.2.1. For any breach of duty of loyalty to the LLC or its Members;

10.2.2. For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

10.2.3. For any liability for unlawful distributions incurred under Section 48-249-307 of the Act.

10.3. **Advances for Expenses.** To the full extent permitted by law, the indemnification and advances provided for herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement. If the LLC advances expenses to a Responsible Person pursuant to this Article 10 and it is subsequently determined that the Responsible Person is not entitled to indemnification, the Responsible Person will repay such advances within fifteen (15) days of such determination.

10.4. **Indemnification of Officers, Employees and Agents.** An Officer, employee, independent contractor or Agent of the LLC who is not a Responsible Person is entitled to indemnification and advancement of expenses to the same extent as a Responsible Person. The LLC shall also indemnify and advance expenses to an Officer, employee, independent contractor or Agent who is not a Responsible Person to the extent required, consistent with public policy, by specific action of the Board or by contract.

## 11. FISCAL MATTERS

11.1. **Books and Records.** The LLC's books and records (including a current list of the names and addresses of all Members) and an executed copy of this Agreement, as currently in effect, shall be maintained at the principal executive office of the LLC, and each Member shall have access thereto at all reasonable times.

11.2. **Fiscal Year.** The fiscal year of the LLC shall be the calendar year.

11.3. **Tax Status; Elections.** Notwithstanding any provision hereof to the contrary, solely for purposes of the federal income tax laws, each of the Members hereby recognizes that the LLC will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of a U.S. Partnership Return of Income shall not be construed to extend the purposes of the LLC or expand the obligations or liabilities of the Members. Upon the transfer of an interest in the LLC or in the event of a distribution of the LLC's property, the Tax Matters Member may, but is not required to, elect pursuant to Section 754 of the Code to adjust the basis of the LLC's property as allowed by Sections 734(b) and 743(b) thereof.

11.4. **Reports to Members.** As soon as reasonably practicable after the end of each fiscal year, but not later than ninety (90) days after the end of each fiscal year, the LLC shall make available to each Member an unaudited balance sheet of the LLC at the end of the previous fiscal year and unaudited statements of income or loss of the LLC for such year. In addition, the LLC will deliver to each Member unaudited monthly summaries of its operations.

All such financial statements shall be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles consistently applied. The LLC shall also furnish to each Member not later than ninety (90) days after the end of each fiscal year whatever information may be necessary for Members to file their federal income tax returns. The LLC will also make available to each Member upon request a copy or summary of all state and/or local tax returns which are filed by the LLC.

11.5. **Banking.** All funds of the LLC shall be initially deposited in a separate bank account or accounts or in an account or accounts of a savings and loan association as shall be determined by the Board, but such funds may be invested as provided in Section 9.3.2.10 hereof.

11.6. **Tax Matters Member.** AmSurg shall be the Tax Matters Member within the meaning of the Code.

## 12. ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS

12.1. **Assignment of Membership Interests.** No assignment of all or any part of a Membership Interest in the LLC (including any Financial Rights, Governance Rights or other rights pertaining to a Membership Interest) shall be made except as follows:

12.1.1. Subject to the provisions of Section 12.2 hereof, a Member may assign all or any part of such Member's Membership Interest to another Member, without the consent of any Member other than the assignee;

12.1.2. Subject to the provisions of Section 12.3 hereof, a Member may assign such Member's Membership Interest to any person who is not a Member who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

12.1.3. Notwithstanding any other provision of this Agreement to the contrary, a Member may assign all or any part of his Membership Interest to a physician who is not a Member who meets the credentialing requirements of the Center and who is a member of such Member's medical practice entity without the consent of any Member if: (a) the assignee accepts such assignment and executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c) the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned;

12.1.4. A Member may not assign all or any part of such Member's Financial Rights in the LLC except pursuant to a simultaneous assignment of the Governance Rights and other rights pertaining to the entire Membership Interest to which such Financial Rights relate pursuant to this Article 12;

12.1.5. Governance Rights may not be assigned to another person except pursuant to a simultaneous assignment of the Financial Rights and other rights pertaining to the entire Membership Interest to which such Governance Rights relate pursuant to this Article 12;

12.1.6. AmSurg may assign all or any part of its Membership Interest to an Affiliate of AmSurg, to another Member, or to a person who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

12.1.7. The LLC need not recognize any assignment of all or any part of a Membership Interest other than an assignment described in

Sections 12.1.1 through 12.1.6 hereof. Any other assignment or attempted assignment shall be void. No assignment shall be effective until written notice thereof has been provided to the LLC and any other applicable requirements set forth in this Agreement or the Articles of Organization have been satisfied.

**12.2. Assignment of Membership Interest to Another Member.** A Member may assign all or any portion of such Member's Membership Interest to another Member if: (a) the assignee accepts such assignment, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c) the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned.

**12.3. Assignment of Membership Interest with Consent of Other Members.** Except as provided in Section 12.1.3 above, if an Owner (the "Transferor") desires to transfer, assign or sell all or any portion of his or her Membership Interest (the "Offered Interests") to a third party who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center (the "Transferee"), the Transferor shall obtain from the Transferee a bona fide written offer to purchase the Offered Interests, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor (the "Offer"). The Transferor shall give notice to the LLC and the remaining Member(s) of his or her intention to sell, furnishing a copy of the entire Offer (the "Notice").

**12.3.1. Right of First Refusal.**

**12.3.1.1** Within thirty (30) days of the receipt of Notice (the "LLC Option Period"), the LLC may exercise an option to purchase all but not less than all of the Offered Interests proposed to be sold by the Transferor, upon the terms and conditions and for the same consideration stated in the Offer. The LLC, at the direction of the Board, shall exercise such option by giving written notice both to the Transferor and each other Member within the LLC Option Period. Should the LLC fail to give written notice within such LLC

Option Period, the LLC shall be deemed to have waived such option.

**12.3.1.2** If the LLC does not exercise its option to purchase all (but not less than all) of the Offered Interests, each Member other than the Transferor, within thirty (30) days beginning on the earlier of the expiration of the LLC Option Period or the date of the written notice from the LLC waiving such option (the "Member Option Period"), may exercise an option to purchase the Offered Interests upon the same terms and conditions and for the same consideration stated in the Offer, on a basis pro rata to their Membership Percentage (or on a basis pro rata to the interest of those remaining Member(s) exercising this second option to purchase.) The other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Member Option Period. Should a Member fail to give written notice within the Member Option Period, the Member shall be deemed to have waived such option.

**12.3.1.3** In the event any Member shall not have exercised his or her option to purchase the Offered Interests, each other Member who exercises in full its option pursuant to subsection (ii) above may, within ten (10) days after the expiration of the Member Option Period (the "Over-Allotment Period"), exercise an option to purchase the remaining Offered Interests upon the terms and conditions and for the same consideration

stated in the Offer. In the case of a single Member, his or her option shall be to purchase all of the remaining Offered Interests. In the case of two or more other Members, each such other Member's option shall be to purchase the amount all such other Members may determine by agreement among themselves, or if they cannot agree, by one or more successive allocations in the proportion that the Membership Interest owned by each of the eligible other Members bears to the total Membership Interests owned by all such eligible other Members. Such other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Over-Allotment Period. Should a Member fail to give written notice within the Over-Allotment Period, the Member shall be deemed to have waived such option.

12.3.1.4 The LLC and the other Members must, in the aggregate, exercise their options to purchase all of the Offered Interests; otherwise, their options shall be forfeited.

12.3.1.5 Notwithstanding anything contained herein to the contrary, the rights under this Section 12.3.1 may be waived with respect to any proposed transfer or assignment by an Owner provided that such transfer or assignment is approved by the Board and the Members elect to waive their rights under this Section 12.3.1.

12.3.2. If the right of first refusal options set forth above are forfeited or waived, then within ten (10) days after the expiration of the

last option period granted above, the Transferor may transfer the Offered Interests to the Transferee named in the Notice upon the terms specified therein, provided (i) such Transferor has provided the Notice set forth in subsection (a) above, (ii) such transfer, sale or assignment is in compliance with the Securities Act of 1933, as amended (the "Securities Act"), and all applicable state securities laws, and, if requested by the Board, such Transferor has delivered an opinion of such Transferor's counsel to the LLC, in form and substance reasonably satisfactory to the LLC, to the effect that such transfer is either exempt from the requirements of the Securities Act and the applicable securities laws of any state or that such registration requirements have been complied with, (iii) the Board approves such transfer, sale or assignment (iv) the proposed transfer, assignment or sale is made in compliance with subsection 12.2.3.1 above, and (v) the Transferee executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof. Upon the satisfaction of the conditions set forth in the preceding sentence and the making of the assignment, the LLC will cause Exhibit A hereto to be amended in accordance with Section 12.9 hereof and the assignee will become a Member holding the Membership Interest so assigned.

**12.4. Termination of a Membership Interest.**  
**Termination of a Membership Interest.** Notwithstanding any provisions to the contrary contained in the Act, a Member's Membership Interest shall be terminated only on the application of the LLC or another Member as described in Section 48-249-503(a)(6) of the Act. In the event a Member's Membership interest is terminated:

12.4.1. If the business and existence of the LLC are not continued, the Member whose Membership Interest is terminated is entitled to receive the Member's distribution pursuant to Article 13; and

12.4.2. If the business and existence of the LLC are continued, the Member whose Membership Interest is terminated is entitled to receive the lesser of:

12.4.2.1 The value of the Member's Membership Interest on a going concern basis as determined by the LLC within 90 days of the termination date, or

12.4.2.2 The value of the Member's Membership Interest on a liquidation basis as determined by the LLC

within 90 days of the termination date.

If a Member's Membership Interest is terminated in contravention of this Agreement or the Articles of Organization, the Member forfeits its Governance Rights and shall be liable to the other Members for damages incurred by the other Members and the LLC as a result of the wrongful termination. Such damages may be offset against any amount to be paid to the terminating Member. Any payment to a terminating Member shall be paid to the terminating Member within six months of the determination of the amount of the payment.

**12.5. Restrictions on Assignment.** No Member shall be permitted to assign such Member's Membership Interest, Financial Rights or Governance Rights if such assignment would result in the LLC being taxed for federal income tax purposes as an association taxable as a corporation or would constitute a violation of any applicable federal or state law. Each of the Members hereby agrees and acknowledges that the restrictions on assignment contained in this Article 12 are not unreasonable in view of the nature of the parties and their relationships to one another and the nature of the business of the LLC.

**12.6. Rights and Obligations of Former Members.** A Member who assigns all of the Governance Rights of such Member or whose Membership Interest is otherwise terminated shall cease to be a Member; provided, however, that such former Member or any Successor shall remain liable to the LLC for any obligations of such Member for unlawful distributions under Section 48-249-307 of the Act.

**12.7. Admission of New Members.** The admission of a new Member pursuant to the issuance of a new Membership Interest which is not acquired pursuant to any assignment by or from any existing or former Member (a "New Member") must be approved by the Board. The purchase price for any such Membership Interest issued to a New Member shall be equal to fair market value, as determined by the Board.

**12.8. Government Regulation.** If a Fundamental Regulatory Change should occur, AmSurg or its Affiliates or assigns may, at their option, purchase some or all of the Membership Interests of Owners for a purchase price equal to (a) three (3) times the LLC Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by the Membership Interest of Owners being purchased hereunder.

The determination that a Fundamental Regulatory Change has occurred shall be made by (a) counsel to AmSurg, with the concurrence of counsel to Owners, (b) counsel to Owners, with the concurrence of counsel to AmSurg or (c) if counsel to AmSurg and

Owners cannot concur, by a nationally recognized law firm with expertise in health care law jointly selected by AmSurg and Owners.

The Membership Interest that may be purchased by AmSurg pursuant to this Section will not exceed the minimum Membership Interest required to be purchased as a result of the Fundamental Regulatory Change.

In the event of a Fundamental Regulatory Change and the exercise by AmSurg of its option as described above, the purchase price of the Membership Interest purchased shall be determined and payable in the manner hereinafter set forth:

**12.8.1.** Owners shall be paid 20% of the purchase price (net after reduction for any obligations owed by any Owner to the LLC), in cash and 80% by AmSurg Corp.'s non-negotiable promissory note payable in four (4) approximately equal annual installments of principal, commencing twelve (12) months after the closing, together with interest at a rate equal to one-half percentage point over the Prime Rate.

The note shall contain provisions for (a) the acceleration of the entire unpaid balance of principal and accrued interest at the option of the holder in the event of default in payment of any principal or interest when due, (b) the payment of reasonable attorneys' fees in the event of default, and (c) prepayment, without penalty, of all or any part of the unpaid principal, any prepayment being first applied to then accrued interest.

**12.8.2.** If in dispute, all determinations of LLC Profit required under this Section 12.8 shall be made by an independent certified public accountant acceptable to both Owners and AmSurg and any such determination so made shall be binding on all parties.

**12.8.3.** If an Owner's Membership Interest is acquired pursuant to this Section 12.8, such Owner will be distributed a pro rata share of the Available Cash Flow allocated to that Membership Interest for the month in which AmSurg purchases the Membership Interest based upon the number of days during such month prior to such purchase in relation to the total number of days in such month. Such distribution shall be made within ninety (90) days after the end of such month.

**12.8.4.** No payment other than those specifically provided for herein shall be due or payable with respect to the Membership Interest of any Owner. Any debt due by the

LLC to any Owner shall be payable according to its terms.

12.8.5. Any closing of the purchase of an Owner's Membership Interest pursuant to this Section 12.8 shall be held at the principal office of the LLC within thirty (30) days following the exercise by AmSurg of its option to purchase such Membership Interest as described above.

At the closing, AmSurg shall pay, upon the terms specified hereinabove, the determined value of such Membership Interest to such Owner, after receiving appropriate releases and satisfactions.

12.8.6. AmSurg may transfer or assign any of its rights to purchase the Membership Interest of an Owner to AmSurg's Affiliates or assigns.

12.8.7. If AmSurg or its Affiliate purchases some or all of the Membership Interest of an Owner pursuant to this Section 12.8, AmSurg will use its best efforts to have such Owner released from the appropriate portion of Principal Indebtedness, if any, guaranteed by such Owner. In the event that an Owner is not so released, AmSurg and AmSurg Corp. will indemnify and hold harmless such Owner from liability resulting from that portion of such guaranty.

12.9. **Amendment to Exhibit A.** An appropriate amendment to the amounts shown for capital account balances and Membership Percentages on Exhibit A hereto shall be made upon: (a) any assignment or termination of a Membership Interest described in Sections 12.1.1 through 12.1.6 hereof, (b) the admission of any New Member under Section 12.7 hereof, or (c) any purchase of a Membership Interest pursuant to Section 12.8 hereof.

12.10. **Pledge of Membership Interest.** No pledge of an Owner's interest may be made without the approval of AmSurg. The pledge of or the granting of a security interest, lien or other encumbrance in or against any or all of a Member's Membership Interest shall not constitute an assignment or transfer of such Membership Interest for purposes of this Article 12 or cause such Member to cease to be a Member or to cease to have the power to exercise any of its rights or powers as a Member. Any such pledgee shall not be a Member and shall not be entitled to any rights of a Member, other than the right to receive profit and loss allocations and distributions to the extent permitted by applicable law, unless such pledgee becomes a Member pursuant to Section 12.3 hereof. In any event, the foreclosure of or exercise of other secured party remedies with respect to such pledge, security interest, lien or other encumbrance resulting in an Assignment of any such Membership

Interest shall nonetheless be an Assignment subject to the restrictions of Article 12. AmSurg shall have the right to pledge or grant a security interest, lien or other encumbrance in or against any or all of its Membership Interest.

### 13. DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE

13.1. **Term.** The term of the LLC shall continue until earlier terminated in accordance with the provisions of this Agreement. The Members intend for the term of the LLC, and their involvement in the operation thereof, to continue until the Members mutually agree otherwise. Neither Member shall take any action unilaterally to terminate the LLC or withdraw as a Member.

13.2. **Events Causing Dissolution and Winding Up.** The LLC shall be dissolved and its affairs wound up only upon the occurrence of the following events (individually, a "Dissolution Event"):

13.2.1. At any time with the prior approval of those Members holding 100% of the voting power and 100% of the Membership Interests in the LLC; or

13.2.2. Termination of this Agreement pursuant to Section 14.13 hereof.

13.3. **Winding Up Affairs on Dissolution.** Upon dissolution of the LLC, the Officers or other persons required or permitted by law to carry out the winding up of the affairs of the LLC shall promptly notify all Members of such dissolution; shall wind up the affairs of the LLC; shall prepare and file all instruments or documents required by law to be filed to reflect the dissolution of the LLC; and, after collecting the debts and obligations owed to the LLC and after paying or providing for the payment of all liabilities and obligations of the LLC, shall distribute the assets of the LLC in accordance with Section 6.5. In determining the final balance of the Book Capital Accounts, assets of the LLC which are distributed in kind to the Members, if any, shall be treated as if sold for their fair market value and allocations shall be made pursuant to Sections 6.1 and 6.2 hereof.

13.4. **Waiver of Right to Partition and Decree of Dissolution.** As a material inducement to each Member to execute this Agreement, each Member covenants and represents to each other Member that, during the period beginning on the date of this Agreement, no Member, nor such Member's heirs, representatives, successors, transferees or assigns, will attempt to make any partition whatever of the assets of the LLC or any interest therein whether now owned or hereafter acquired, and each Member waives all rights of partition provided by statute or principles of law or equity, including partition

in kind or partition by sale. The Members agree that irreparable damage would be done to the goodwill and reputation of the LLC if any Member should bring an action in a court to dissolve the LLC. The Members agree that this Agreement provides fair and just provisions for payment and liquidation of the interest of any Member in the LLC, and fair and just provisions to prevent a Member from selling or otherwise alienating its interest in the LLC. Accordingly, each Member hereby waives and renounces its right to such a court decree of dissolution or to seek the appointment by court of a liquidator or receiver for the LLC.

#### 14. GENERAL PROVISIONS

14.1. **Notices.** Except as otherwise provided in this Agreement, any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be duly given

14.1.1. if delivered in writing, personally to the person to whom it is authorized to be given; or

14.1.2. if sent by certified or registered mail, overnight courier service or facsimile to the address of the Member or Director reflected in the records of the LLC.

Any such notice shall be deemed to be given as of the date so delivered, if delivered personally, as of the date on which the same was deposited in the United States mail, postage prepaid, addressed and sent as aforesaid, or on the date received if sent by overnight courier services or electronic facsimile.

14.2. **Section Captions.** Section and other captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.3. **Applicable Law.** This Agreement and the rights of the Members shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee.

14.4. **Severability.** In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby. Without limiting the foregoing, the Members agree that in the event a court or arbitrator with appropriate jurisdiction determine that the geographic area and/or the time restrictions set forth in Section 8.2 hereof are unenforceable as a matter of law, then the court or arbitrator may modify the unenforceable provision in order to make it enforceable and such modification will

be deemed to be valid amendment to this Agreement to which each Owner and his or her Affiliates will be bound.

14.5. **Binding Effect.** Except as herein otherwise provided to the contrary, this Agreement shall be binding upon, and inure to the benefit of, the Members and their respective heirs, executors, administrators, successors, transferees and assigns.

14.6. **Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural, and vice versa.

14.7. **Amendment.** This Agreement may be amended in writing (a) with the consent of AmSurg and Owners holding a majority of the Membership Interest held by the Owners and (b) with respect to Exhibit A hereto, under the circumstances set forth in Sections 4.8 and 12.9 hereof. In the event that the parties hereto agree to admit a New Member pursuant to Section 12.7 hereof, the parties will amend this Agreement accordingly.

14.8. **Parties in Interest.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the Members hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

14.9. **Counterparts.** This Agreement may be executed in multiple counterparts and by way of facsimile or scanned email transfer, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Each party may rely upon machine copies of the signed Agreement to the same extent as a manually signed original copy hereof.

14.10. **Interpretation in Accordance with Requirements for Partnership Tax Treatment.** The LLC is intended to be treated as a partnership for federal income tax purposes, and this Agreement shall be interpreted in a manner consistent with such intended tax treatment.

14.11. **Arbitration.** All disputes with respect to interpretation of the provisions of this Agreement shall be resolved by binding arbitration pursuant to the rules of the American Health Lawyers Association Dispute Resolution Service ("AHLA") then pertaining. The arbitration proceedings shall be held in Philadelphia, Pennsylvania. The procedures for conducting discovery in connection with any such arbitration proceeding shall be determined by the mutual agreement of the Members party to the arbitration proceeding or, if the Members cannot agree, by the arbitrators. The arbitrators shall apply the substantive laws of the State of Tennessee and the United States.

The Members may, if they are able to do so, agree upon one arbitrator; otherwise, there shall be three arbitrators selected to resolve disputes pursuant to this Section 14.11, one named in writing by each Member party to the arbitration proceeding within thirty (30) days after notice of arbitration is served upon any Member by another Member and a third arbitrator selected by the two arbitrators selected by the Members within fifteen (15) days thereafter.

If the two arbitrators cannot select a third arbitrator within such fifteen (15) days, either Member may request that the AHLA select such third arbitrator. If one Member does not choose an arbitrator within thirty (30) days, the other Member shall request that the AHLA name such other arbitrator. No one shall serve as arbitrator who is in any way financially interested in this Agreement or in the affairs of any Member.

Each of the parties to the arbitration shall pay its own expenses of arbitration and one-half of the expenses of the arbitrators. If any position by any party to the arbitration, or any defense or objection thereto, is deemed by the arbitrators to have been unreasonable, the arbitrators shall assess, as part of their award against the unreasonable Member or reduce the award to the unreasonable Member, all or part of the arbitration expenses (including reasonable attorneys' fees) of the other Member and of the arbitrators.

**14.12. Access to Books and Records by Governmental Officials.** Upon written request of the Secretary of Health and Human Services or the Comptroller General or any other duly authorized representatives thereof, each Member shall make available to the Secretary those contracts, books, documents and records necessary to verify the nature and extent of the cost of providing its services to the Center. Such inspection shall be available up to four (4) years after such services are rendered. If either Member carries out any of the duties of this Agreement through subcontract with a value of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related individual or organization, such Member agrees to include this requirement in such subcontract. If a request from the Secretary or his representative is served on a Member, that Member will notify the LLC in writing prior to responding to the request.

**14.13. Limited Renegotiation.** This Agreement shall be construed to be in accordance with any and all federal and state laws, including laws relating to Medicare, Medicaid and other third party payors. In the event there is a change in such laws, whether by statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or otherwise that has any material effect on any term of this Agreement, then the applicable term(s) of the Agreement shall be subject to renegotiation and any Member may request renegotiation of the affected term or terms of this

Agreement, upon written notice to the other Member, to remedy such condition.

The Members expressly recognize that upon request for renegotiation, each Member has a duty and obligation to the others only to renegotiate the affected term(s) in good faith and, further, each Member expressly agrees that its consent to proposals submitted by the other Members during renegotiation efforts shall not be unreasonably withheld.

Should the Members be unable to renegotiate the term or terms so affected so as to bring it/them into compliance with the statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or other reason that rendered it/them unlawful or unenforceable within sixty (60) days of the date on which notice of a desired renegotiation is given, then the Members shall be entitled, after the expiration of said sixty (60) day period, to terminate this Agreement upon thirty (30) additional days written notice to the other Members.

**14.14. Integrated Agreement.** This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations or warranties among the Members other than those set forth herein or herein provided for.

The Members acknowledge that they have independently negotiated the provisions of this Agreement, that they have relied upon their own counsel as to matters of law and application and that no Member has relied on any other Member with regard to such matters. The Members expressly agree that there shall be no presumption created as a result of any Member having prepared in whole or in part any provision of this Agreement.

[Remainder of page intentionally left blank]

**CERTIFICATE**

IN WITNESS WHEREOF, the undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Operating Agreement of Eastern Connecticut Endoscopy Center, LLC adopted by the Members.

**AMSURG HOLDINGS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OWNERS:**

\_\_\_\_\_  
Kolala Sridhar, M.D.

\_\_\_\_\_  
You Sung Sang, M.D.

\_\_\_\_\_  
Ashan Monohar, M.D.

\_\_\_\_\_  
Abera H. Abay, M.D.

**EXHIBIT A**

<u>Member Name and Address</u>	<u>Membership Percentage</u>
AmSurg Holdings, Inc. 20 Burton Hills Boulevard Nashville, TN 37215 FEIN: 62-1595888	40.00%
Kolala Sridhar, M.D. 12 Royal Oaks Drive Norwich, CT 06360 SSN: 304-80-0720	19.32%
You Sung Sang, M.D. 27 Sandpiper Lane East Lyme, CT 06333 SSN: 059-64-7272	19.32%
Ashan Manohar, M.D. 3 Blue Bird Circle East Lyme, CT 06333 SSN: 053-82-7561	10.68%
Abera H. Abay, M.D. 44 Canterbury Turnpike Norwich, CT 06360 SSN: 085-84-9627	10.68%
<b>TOTAL:</b>	<b>100%</b>

11687027.1

# Exhibit 2

**AMENDED AND RESTATED OPERATING AGREEMENT OF  
EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC**

---

## TABLE OF CONTENTS

---

1.	DEFINITIONS .....	1
2.	ORGANIZATION .....	3
3.	PURPOSE AND POWERS .....	3
4.	CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS .....	4
5.	EXPENSES OF THE LLC.....	4
6.	ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS .....	5
7.	<del>BOARD OF DIRECTORS.....</del>	<del>5</del>
8.	MEMBERS.....	6
9.	OFFICERS.....	11
10.	INDEMNIFICATION .....	13
11.	FISCAL MATTERS .....	14
12.	ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS.....	14
13.	DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE .....	18
14.	GENERAL PROVISIONS .....	19

THIS AMENDED AND RESTATED OPERATING AGREEMENT (the "Agreement") is made and entered into as of the 1<sup>st</sup> day of December, 2012, by and between AmSurg Holdings, Inc., a Tennessee corporation ("AmSurg"), and each of the other persons listed on the signature page to this Agreement ("Owners") (each of AmSurg and Owners, together with the other persons who may become members under the terms of this Agreement, a "Member" and collectively, the "Members").

**WITNESSETH:**

WHEREAS, the Members have formed a limited liability company under and pursuant to the Act (as defined below) to conduct certain business as a limited liability company and desire to set forth their mutual rights and obligations in this Agreement; and

WHEREAS, Owners have sold to AmSurg a portion of their membership interests in the LLC pursuant to a Membership Interest Purchase Agreement, dated as of the date hereof.

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

**1. DEFINITIONS**

When used in this Agreement, the following terms shall have the meanings set forth below:

- 1.1. "Act" means the Connecticut Limited Liability Company Act, Chapter 613 of Title 3 of the Connecticut General Statutes, as amended from time to time, and any corresponding provisions of any successor legislation.
- 1.2. "Affiliate," with respect to any individual or Entity, means any individual or other Entity directly or indirectly controlling, controlled by or under common control with such individual or Entity.
- 1.3. "Affiliated Physician" means any individual physician who directly or indirectly through another entity has an ownership interest in the LLC, is an Immediate Family Member of any individual who directly or indirectly through another entity has an ownership interest in the LLC, or is a grantor, trustee or beneficiary of any trust that is a Member.
- 1.4. "Agent" means any agent of the LLC, including any officer, director, employee, independent contractor, or agent of a Member acting on behalf of the LLC.

1.5. "Agreement" means this Amended and Restated Operating Agreement, as amended from time to time.

1.6. "AmSurg" has the meaning set forth in the introductory paragraph hereof.

1.7. "AmSurg Corp." means AmSurg Corp., a Tennessee corporation and the sole shareholder of AmSurg.

1.8. "Articles of Organization" means the Articles of Organization of the LLC filed with the Secretary of State of the State of Connecticut, as amended from time to time.

1.9. "Available Cash Flow" means all cash funds of the LLC on hand at the end of each month, less (a) provision for payment of all outstanding and unpaid current cash obligations of the LLC at the end of such month (including those which are in dispute) and (b) provisions for reserves reasonably determined by the Board for anticipated operating expenses, capital expenditures and other contingencies (which may include debt service on LLC indebtedness and fees payable to Affiliates); provided, however, that proceeds from the disposition of all or substantially all of the LLC's capital assets shall not be included in Available Cash Flow.

1.10. "Board" means the Board of Directors of the LLC.

1.11. "Book Capital Account" has the meaning given to such term in Section 4.3 hereof.

1.12. "Capital Contribution" in respect of any Member means the amount of all cash and other property, tangible or intangible, contributed by such Member to the capital of the LLC. The initial capital account balance for each Member shall be as set forth on Exhibit A.

1.13. "Cause" means (i) any conviction of, or a plea of guilty or no contest to, any charge of embezzlement, theft or fraud or any felony or (ii) any breach of fiduciary duty, in each case that the Owners holding a majority of the Membership Interests held by all Owners (other than the Owner being removed for Cause) acting in good faith determine has had or would reasonably be expected to have a material adverse effect upon the business, operations or financial condition of the LLC.

1.14. "Center" means the ambulatory surgery center operated by the LLC and located in Norwich, Connecticut, including the real property, or leasehold improvements, furniture, fixtures, the Equipment, books, records, supplies, accounts receivable, goodwill, other intangibles and other assets used in its operation.

1.15. "Code" means the Internal Revenue Code of 1986, as amended from time to time, any corresponding

provisions of any successor legislation, and the regulations adopted thereunder.

1.16. **"Director"** means, individually, any natural person serving on the Board.

1.17. **"Dissolution Event"** has the meaning given to such term in Section 13.2 hereof.

1.18. **"Entity"** means any corporation, partnership, trust, limited liability company or other entity.

1.19. **"Equipment"** means the equipment used in connection with the operation of the Center.

1.20. **"Financial Rights"** means a Member's rights as a member of the LLC (i) to share in the profits and losses of the LLC to the extent provided in this Agreement and (ii) to share in distributions to the extent provided in this Agreement.

1.21. **"Fundamental Regulatory Change"** means any change in federal or state law or regulation that results in (a) the referral of Medicare or any other patients to the Center by Owners, or the submission of claims to Medicare for services performed by or at the direction of Owners, becoming illegal, (b) the existence of a substantial likelihood that the receipt of cash distributions from the LLC to Owners is or will be found to be in violation of federal or state law, or (c) the ownership by Owners of Membership Interests in the LLC becoming illegal.

1.22. **"Governance Rights"** means all of a Member's rights as a member of the LLC other than Financial Rights and the right to assign Financial Rights.

1.23. **"Information"** has the meaning given to such term in Section 8.10 hereof.

1.24. **"LLC"** means Eastern Connecticut Endoscopy Center, LLC, a Connecticut limited liability company.

1.25. **"LLC Profit"** means net income of the LLC for the applicable period determined on an accrual basis in accordance with generally accepted accounting principles.

1.26. **"Market Area"** has the meaning given to such term in Section 8.2 hereof.

1.27. **"Material Contract"** means a new or renewed contract or obligation of the LLC (including a loan obligation) which will require the expenditure of \$100,000 in any one year or more than \$200,000 in the aggregate.

1.28. **"Medical Director"** means the person appointed by Owners and approved by the Board pursuant to Section 8.3.1 to provide medical supervision and to coordinate professional and clinical activities at the Center.

1.29. **"Members"** has the meaning set forth in the introductory paragraph hereof.

1.30. **"Membership Interest"** means a Member's interest in the LLC, which when expressed as a percentage of all Membership Interests in the LLC shall be equal to such Member's Membership Percentage. The Membership Interest shall consist of (a) the Member's Financial Rights, (b) the Member's right to assign Financial Rights to the extent permitted under this Agreement, and (c) the Member's Governance Rights.

1.31. **"Membership Percentage"** means the percentage interest of a Member as shown on Exhibit A, as amended from time to time as provided in Section 4.8 or 12.9 hereof or as otherwise required by this Agreement or the Code.

1.32. **"New Member"** has the meaning given such term in Section 12.7 hereof.

1.33. **"Officers"** means the President, Vice Presidents, Treasurer, Secretary, and any other person appointed to be an officer by the Board of the LLC.

1.34. **"Owners"** has the meaning set forth in the introductory paragraph hereof.

1.35. **"Performance Improvement Chairman"** means the person appointed by Owners and approved by the Board to provide oversight and coordinate the development and operation of the Center's performance improvement program.

1.36. **"Permanent Disability"** shall mean a mental or physical condition which renders an individual unable or incompetent to practice medicine on a full-time basis consistent with past practice, which condition shall have existed for a period of 90 or more consecutive days or 180 days during any consecutive 12-month period. If any controversy should arise as to whether a Permanent Disability exists, either the subject individual or the LLC may require that the subject individual be examined by a physician and in such case the decision of such physician shall be conclusive and binding on all parties. The examining physician shall be mutually satisfactory to the subject individual and the LLC; provided, however, that if they are unable to agree, then the subject individual and the LLC shall each designate a physician and the final examining physician shall be a physician mutually acceptable to each of such designees.

1.37. **"Prime Rate"** means that rate of interest equal to the prime rate as published from time to time by SunTrust Bank in Nashville, Tennessee, or any successor thereto.

1.38. **"Principal Indebtedness"** means the principal amount of the LLC's indebtedness for borrowed money plus indebtedness for capitalized leases.

1.39. "Successor" means a Member's executor, administrator, guardian, conservator, other legal representative or successor in interest.

1.40. "Tax Capital Account" has the meaning given to such term in Section 4.4 hereof.

1.41. "Tax Matters Member" has the meaning given to such term in Section 11.6 hereof and shall also mean the "tax matters partner" as that term is used in the Code.

1.42. "Treasury Regulations" includes proposed, temporary and final regulations promulgated under the Code.

1.43. "Triggering Event" has the meaning given to such term in Section 8.11 hereof.

1.44. "Triggering Event Date" means the last day of the calendar month immediately preceding the month during which a Triggering Event occurs.

## 2. ORGANIZATION

2.1. **Effective Date.** This Agreement shall become effective upon execution by the Members as of the date first above written.

2.2. **Adoption of Agreement.** The Members hereby adopt this Agreement as the operating agreement of the LLC, as the term "operating agreement" is used in the Act, to set forth the rules, regulations and provisions regarding the management of the business of the LLC, the governance of the LLC, the conduct of its business and the rights and privileges of its members. The operating agreement of the LLC shall be in writing, and the terms of the operating agreement shall be as set forth in this Agreement. This Agreement supersedes and replaces all prior operating Agreements of the LLC, which prior agreements shall be of no further force or effect.

2.3. **Name.** The name of the LLC shall be Eastern Connecticut Endoscopy Center, LLC. The LLC may adopt and conduct its business under such assumed or trade names as the Members may from time to time determine. The LLC shall file any registrations or assumed or fictitious name certificates as may be required to conduct business in any state.

2.4. **Registered Agent.** Unless otherwise determined by the Board, the registered agent of the LLC shall be NRAI Services, Inc. and the registered office shall be 12 Old Boston Post Road, Old Saybrook, Connecticut 06475.

## 3. PURPOSES AND POWERS

3.1. **Purposes.** The purposes of the LLC shall be to own and operate the Center and to carry on any and all

activities necessary, proper, convenient or advisable in connection therewith.

3.2. **Powers.** The LLC may exercise all powers necessary or convenient to carry out its business and affairs and to effectuate the purposes set forth in Section 3.1 hereof which may be legally exercised by limited liability companies under the Act.

3.3. **Independent Medical Judgment.** No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care. Further, nothing contained herein requires any practicing physician with staff privileges at the Center to use or recommend the use of facilities or services owned, operated or provided by the LLC.

## 4. CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS

4.1. **Capital Contribution.** Each Member shall be credited with a Capital Account in the amount set forth opposite such Member's name on Exhibit A hereto.

4.2. **Additional Contributions.** Members shall make additional Capital Contributions as may be determined from time to time by the Board in an amount proportional to their Membership Percentages. The timing, amount and terms of such additional Capital Contributions shall be determined by the Board. The Capital Contributions of each Member shall be made on the same terms and conditions.

4.3. **Book Capital Accounts.** Each Member shall have a capital account to which the fair market value of such Member's Capital Contribution shall be credited (the "Book Capital Account"). Each Member's share of the income, including tax-exempt income, expenses, gain or loss of the LLC shall be charged or credited to such Member's Book Capital Account. All distributions to a Member shall be charged to such Member's Book Capital Account.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Book Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Book Capital Accounts.

4.4. **Tax Capital Accounts.** The capital accounts for the Members for federal income tax purposes (the "Tax Capital Accounts") shall be maintained and adjusted in accordance with the principles set forth in Treasury Regulation Section 1.704-1(b)(2)(iv), and the items of income, profit, gain, expenditures, deductions, losses, distributions and contributions which increase or decrease such Tax Capital Accounts shall be those items

which, pursuant to such provision, affect the balance of capital accounts.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Tax Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Tax Capital Accounts.

**4.5. LLC Loans.** Subject to the provisions of Section 7.3.6 requiring the consent of the Board for certain agreements, AmSurg or an Affiliate thereof may, from time to time and as it deems necessary, lend, or arrange for the LLC to borrow, additional working capital sufficient to enable the LLC to carry on its business as contemplated by Article 3 hereof.

Any loan by AmSurg or an Affiliate thereof to the LLC made for working capital purposes shall be evidenced by a promissory note which shall bear interest at a rate equal to one-half percentage point over the Prime Rate and which shall contain other terms substantially similar to those which might be agreed to with a non-affiliated lender. Any required monthly payments (including any past due amounts) under any such loan by the LLC or any other party shall be made before any distributions of Available Cash Flow are made to the Members pursuant to Section 6.3 hereof.

**4.6. Withdrawal of a Member or Reduction of Members' Capital Contributions.** No Member shall have the right to withdraw from the LLC. A Member shall not receive out of the LLC's property all or any part of such Member's Capital Contributions except as provided in Sections 6.3 and 13.3 hereof.

**4.7. Interest and Preferential Rights.** Except with respect to any loans made pursuant to Sections 4.3, 4.4 and 4.5 hereof, no interest shall accrue on any Capital Contributions and no Member shall have any preferential rights with respect to distributions or upon dissolution of the LLC.

**4.8. Membership Interests and Amendments to Exhibit A.** Each Member shall be credited with the Membership Interest (expressed as a percentage of all Membership Interests) and initial capital account balance set forth opposite such Member's name on Exhibit A. The amounts shown on Exhibit A with respect to capital account balances and Membership Interests shall be appropriately amended to reflect changes to such amounts as a result of any changes in the membership of the LLC or assignments of Membership Interests. Exhibit A shall also be amended from time to time to reflect any changes in the addresses of Members.

## 5. EXPENSES OF THE LLC

**5.1. Organizational Expenses.** Each Member shall bear its own expenses incurred in connection with the preparation, review, and negotiation of this Agreement, the Membership Interest Purchase Agreement and any other documents contemplated hereunder.

**5.2. Operating Expenses.** The LLC will reimburse the Members for reasonable travel expenses approved by the Board and incurred in connection with performing their respective duties hereunder.

## 6. ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS

**6.1. Allocation of Net Taxable Income or Loss and Tax Credits.** Except as provided in Sections 6.2 and 6.5, all income and gain of the LLC includable for federal, state and local income tax purposes, all expenses and losses of the LLC deductible for federal, state and local income tax purposes, as applicable, and all federal income tax credits shall be allocated in proportion to the Membership Percentage of each Member.

**6.2. Allocations to Reflect Contributed Property.** If a Member contributes property to the LLC which has a difference between its tax basis and its fair market value on the date of its contribution, then all items of income, gain, loss and deduction with respect to such contributed property shall be shared for federal income tax purposes among the Members pursuant to Section 704(c) of the Code so as to take into account the variation between the basis of such property and its fair market value at the time of contribution.

Any elections or other decisions relating to such allocations shall be made by the Tax Matters Member in any manner that reasonably reflects the purpose and intention of this Agreement. Except as otherwise provided in such Section 1.704-3(d) of the Treasury Regulations, the Capital Accounts of the Members shall be adjusted in accordance with Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations for allocations to the Members of income, gain, loss and deduction (including depreciation, depletion, amortization or other cost recovery) as computed for book purposes, with respect to the property contributed; and the amount of book depreciation, depletion or amortization for a period with respect to an item of contributed property shall be the amount that bears the same relationship to the book value of such property as the depreciation (or cost recovery deduction), depletion or amortization computed for tax purposes with respect to such property for such period bears to the adjusted tax basis of such property. If such property has a zero adjusted tax basis, the book depreciation, depletion or amortization may be determined under any reasonable method selected by the Tax Matters Member.

References in this Section 6.2 to book and tax depreciation, depletion, amortization, and gain or loss with respect to property that has an adjusted tax basis that differs from its book value include, under analogous rules and principles, the unrealized income or deduction with respect to accounts receivable, accounts payable and other accrued but unpaid items.

6.3. **Distribution of Available Cash Flow.** Except as provided in Section 4.5, the LLC shall distribute Available Cash Flow. Such mandatory distributions shall be made in monthly installments within fifteen (15) days after the end of each month and shall be made to all Members pro rata in proportion to the respective Membership Percentages of the Members at the time of each distribution.

6.4. **Consequences of Distributions.** Upon the determination to distribute funds in any manner expressly provided in this Article 6, made in good faith, no Member shall incur liability on account of such distribution, even though such distribution may have resulted in the LLC retaining insufficient funds for the operation of its business, which insufficiency resulted in loss to the LLC or necessitated the borrowing of funds by the LLC.

6.5. **Distribution Upon Termination.** When the LLC is terminated, pursuant to Article 13 or otherwise, the final distribution to Members shall be according to the balance of their Book Capital Accounts, after allocation of income, gain, expense and loss in the fiscal year of termination (including the allocation for the deemed sale of assets distributed in kind required by Section 13.3).

## 7. BOARD OF DIRECTORS

7.1. **Number and Term.** The LLC shall have a Board consisting of two (2) AmSurg Directors and two (2) Owner Directors. Each AmSurg Director shall hold office for a period of one (1) year or until such AmSurg Director's earlier resignation, removal or death. Each Owner Director shall hold office for a period of one (1) year or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member; provided, that the initial Owner Directors shall hold office for a period of three (3) years or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member.

7.2. **Duties.** Except as otherwise specifically set forth in this Agreement, the Board shall have ultimate authority with respect to the LLC's operations, including, but not limited to, physician credentialing, granting of privileges and approval of operating policies and procedures of the Center.

7.3. **Acts Requiring Board Approval.** Notwithstanding anything contained herein to the

contrary, without obtaining the consent of the Board, no Member, Officer or Agent shall:

7.3.1. Sell, exchange, lease or otherwise transfer all or substantially all of the assets of the LLC;

7.3.2. Cause the LLC to commence any voluntary proceeding under any bankruptcy, reorganization, insolvency or similar laws;

7.3.3. Dissolve the LLC;

7.3.4. Merge or consolidate the LLC into another entity;

7.3.5. Change the name under which the Center does business or relocate the Center from its current location;

7.3.6. Enter into any Material Contract; provided, that the Officers shall have the power and authority to renew the lease for the Center premises so long as the renewal is on substantially the same terms as the lease then in effect;

7.3.7. Establish or change in any material respect the operating policies and procedures of the Center, except for policies and procedures relating to corporate governance and regulatory compliance, employment matters and financial reporting matters;

7.3.8. Vary or change in any material respect any portion of the professional liability coverage of the Center; or

7.3.9. Request or require a Capital Contribution to be made by any Member.

7.4. **Election.** The AmSurg Directors shall be elected by AmSurg. The initial AmSurg Directors shall be Frank Blair and Steve Marshall. The Owner Directors shall be elected by Owners holding a majority of the Membership Interests held by the Owners. The initial Owner Directors shall be Kolala Sridhar, M.D. and Ashan Manohar, M.D. Any vacancy occurring on the Board for any reason shall be filled by AmSurg if the vacancy is the result of the termination of service by an AmSurg Director, or the Owners if the vacancy is the result of the termination of service by an Owner Director. A Chairman of the Board shall be elected by a majority of the members of the Board at the first meeting of the Board held in each fiscal year.

7.5. **Quorum and Voting.** A quorum of the Board shall consist of a majority of the number of Directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present shall be the act of the Board, unless the Articles of Organization or this Agreement requires the vote of a greater number of Directors. Each Director shall have one vote on each matter considered by the Board.

7.6. **Regular Meetings of the Board.** Regular meetings of the Board shall be held quarterly at such places, within or without the State of Connecticut, on such dates and at such times as the Board may determine from time to time. Unless otherwise determined by the Board, regular meetings of the Board shall be held in Norwich, Connecticut.

7.7. **Meeting by Telephone.** Any or all Directors may participate in a regular or special meeting by conference telephone or any other means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

7.8. **Action on Unanimous Written Consent.** Action required or permitted to be taken at a meeting of the Board may be taken without a meeting if all of the Directors consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken.

7.9. **Notice of Meetings.** The President or a majority of the Directors may call a special meeting of the Board of Directors by giving 48 hours' prior notice to all Directors of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

## 8. MEMBERS

8.1. **Medical Malpractice Insurance.** Each Owner shall maintain at all times medical malpractice insurance complying with the Medical Staff Bylaws of the Center as approved by the Board.

8.2. **Ownership and Investment Restrictions.** No Owner or Affiliated Physician, nor any Affiliate of any Owner or Affiliated Physician shall:

8.2.1. have any direct or indirect ownership interest in, or manage, lease, develop or otherwise have any financial interest in any business or entity competing or planning to compete with the LLC (including, but not limited to, any ambulatory surgery center or any physician office in which surgical procedures are performed and for which facility fees, tray fees or other fees in addition to standard professional fees are charged) within a twenty-five (25) mile radius of the Center (the "Market Area"), or

8.2.2. become an employee of a hospital or an Affiliate of a hospital that is located within the Market Area, or enter into any contract or other arrangement with a hospital or an Affiliate of a hospital that is located within the Market Area (whether as a result of his or her employment or otherwise) that requires or

incentivizes him or her to perform procedures that could have been performed at the Center at any hospital or facility affiliated with a hospital in the Market Area,

in each case described in Sections 8.2.1 and 8.2.2 until the later of (i) five (5) years from the date of this Agreement, or (ii) two (2) years after such Owner (or with respect to an Affiliated Physician, the Owner with whom such Affiliated Physician is affiliated) ceases to be a Member of the LLC.

The foregoing shall not prohibit any Owner or Affiliated Physician, nor any Affiliate of an Owner or Affiliated Physician, from (i) owning shares of capital stock constituting less than 1% of the outstanding capital stock of any corporation whose common stock is traded on a national securities exchange, (ii) practicing medicine or performing surgical procedures at any facility, or (iii) receiving a reasonable fee in exchange for providing medical director or call coverage services to a tertiary hospital. The parties acknowledge and agree that this Section 8.2 does not require physician Owners or Affiliated Physicians to perform surgical procedures at the Center or to refer patients to the Center, and imposes no restrictions on where such procedures are performed or where referrals are made.

Each Owner who is a physician and each Affiliated Physician acknowledges and agrees that the enforcement of the provisions of this Section 8.2 against him or her would not prevent such person from engaging in his or her profession, the practice of medicine.

Each Owner and Affiliated Physician recognizes and acknowledges that the ascertainment of damages in the event of a breach of this Section 8.2 would be difficult, and agrees that the LLC, at the direction of AmSurg, in addition to all other remedies it may have, shall have the right to injunctive relief if there is such a breach. Notwithstanding the foregoing, in the event a physician Owner or Affiliated Physician, or any Affiliate of a physician Owner or Affiliated Physician violates the provisions of Section 8.2.2, such physician Owner or Affiliated Physician shall pay to the LLC, as liquidated damages, an amount equal to (a) five (5) times the LLC Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by such Owner's ownership interest in the LLC (or such Owner's ownership interest in the LLC immediately prior to the termination of his or her membership in the LLC), it being acknowledged by the parties that the damages to the LLC in such event would be difficult to ascertain.

8.3. **Services Provided by Owners.** As additional consideration for his or her Membership Interests and without further charge to the LLC other than the

expenses outlined in Section 5.2 hereof, Owners shall provide the Center with:

8.3.1. A Medical Director acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board, including, but not limited to:

8.3.1.1 Assisting in the selection of suitable treatment modality for all patients of the Center;

8.3.1.2 Devising clinical procedures which, when implemented by the Center, will assure adequate monitoring of patients and the treatment process;

8.3.1.3 Directing, coordinating and reporting to the Board on all medical aspects of the Center's operations;

8.3.1.4 Devising procedures which, when implemented by the Center, will assure (i) adequate training of nurses and other staff in appropriate treatment techniques, and (ii) the supervision of all non-physician staff at the Center;

8.3.1.5 Devising clinical procedures which, when implemented by the Center, will assure the availability of a patient care policy and procedures manual and other written materials that reflect current professional standards and assisting in the periodic review and revision thereof;

8.3.1.6 Developing and maintaining professional memberships and active visibility in the local community through the provision of consulting, educational and related services in a manner consistent with the role of Medical Director which promotes the positive visibility of the Center in the community;

8.3.1.7 Devising the medical policy statements of the Center, presenting the statements for the approval of the Board and upon securing Board approval, implementing and monitoring the policies;

8.3.1.8 Assisting the LLC in attracting qualified physicians to the medical staff of the Center and recommending to the Board that qualified physicians be granted clinical privileges at the Center;

8.3.1.9 Assisting the LLC in attracting qualified non-physician staff to work at the Center and assessing, in conjunction with other members of the medical staff, the performance of non-physician staff;

8.3.1.10 Using best efforts to assist the Board in assuring that the Center complies with all state and federal statutes, all standards of applicable accreditation bodies, and regulations and agency directives concerning the medical standards of patient care required at the Center, and reporting to the Board any known deficiencies therein;

8.3.1.11 Accepting appropriate and reasonable medical staff duties and assignments at the Center including (i) acting as the liaison between the medical staff and the Board, (ii) appointing physicians to serve as members and chairmen of medical staff committees, and (iii) serving on all committees of the Center; and

8.3.1.12 Participating in long and short range planning for the Center, reviewing the Center's operating budget, and, where appropriate, making recommendations on the budget.

The initial Medical Director shall be You Sung Sang, M.D.

8.3.2. A Performance Improvement Chairman acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board or its designee, including, but not limited to:

8.3.2.1 Overseeing the performance improvement program and all corresponding activities of the Center;

8.3.2.2 Assisting in the development and revision of indicators necessary to adequately evaluate care provided by the Center and that meet or exceed governmental requirements;

8.3.2.3 Directing the review of data summaries of all identified indicators, as well as information from other sources regarding the quality of care provided by the Center;

8.3.2.4 Directing the development of educational programs based on the needs identified through committee activities and supporting department-wide education on continuous process improvement principles;

8.3.2.5 Overseeing the credentialing and recredentialing process for the Center's medical staff;

8.3.2.6 Overseeing and administering the risk management program for the Center;

8.3.2.7 Overseeing and administering medical malpractice issues related to the Center;

8.3.2.8 Working with the Center's performance improvement committee and conducting quarterly performance improvement committee meetings; and

8.3.2.9 Reviewing the Center's performance improvement program on at least an annual basis.

The initial Performance Improvement Chairman shall be Abera Abay, M.D.

**8.4. Member Representations.** Each Owner hereby represents that he or she maintains a current license to practice medicine in the State of Connecticut, has not been excluded from participation in the Medicare program or any other governmental health care program for any reason, has not been convicted of any crime in violation of any state or Federal law related to health care matters, and has no knowledge of any circumstances or conditions that could have a material adverse impact on the operations of the Center or the medical practices of Owners (other than conditions which might have a material adverse effect on the health care industry in general).

**8.5. Meetings.** Meetings of the Members, for any purpose or purposes, may be called by the President, the Board of Directors or Members holding a majority of the Membership Interests by giving 48 hours' prior notice to all Members of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

**8.6. Action by Members Without a Meeting; Telephone Meetings.** Action required or permitted to be taken at a meeting of the Members may be taken without a meeting, if the number of Members required to approve any such action consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken. The LLC shall promptly distribute copies

of any such action to the Members, but the failure of the LLC to distribute copies of such action shall not void or otherwise affect the validity of such action in any manner. A meeting also may take place by telephone conference call or any other form of electronic communication through which the Members may simultaneously hear each other. A Member participating in a meeting by this means is deemed to be present in person at the meeting.

**8.7. Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 8.7, such determination shall apply to any adjournment thereof.

**8.8. Quorum.** Members holding 75% of the Membership Interests, represented in person, shall constitute a quorum at any meeting of Members.

**8.9. Required Vote; Manner of Acting.** Except as otherwise provided in Section 8.7 above, if a quorum is present, the affirmative vote of Members holding 75% of the Membership Interests present and entitled to vote on that item of business shall be the act of the Members.

**8.10. Confidentiality.** Except as required by law or legal process, each Member and Affiliated Physician shall maintain the confidentiality of all documents and information provided by the other Members or the Center in connection with the formation of, and the business to be conducted by, the LLC, including, but not limited to, pro forma financial information, outcome studies, information concerning the other Members or their Affiliates and any documents to be utilized in connection with the ownership and operation of the Center (the "Information"). No Member or Affiliated Physician will discuss or disclose any of the Information to any third party or take any action that could compromise the confidentiality of the Information without the prior written consent of the Member providing such Information. Each Member and Affiliated Physician shall, upon termination of his or her membership in the LLC, promptly return to the LLC all Information in his, her or its possession, including without limitation all policy, procedure and program manuals and related documents, and such person shall not make or retain any copies thereof. By their execution of this Agreement, each Member and Affiliated Physician acknowledges that the Information is proprietary and contains specialized knowledge and data that constitutes valuable intellectual property.

8.11. Triggering Events.

8.11.1. Each of the following events shall be deemed a "Triggering Event" for purposes of this Section 8.11 with respect to any Owner (and such Owner shall hereinafter be referred to as "Terminating Owner"):

8.11.1.1 the death of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.2 the Permanent Disability of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.3 the cessation of the practice of medicine by such Terminating Owner or the Affiliated Physician of such Terminating Owner on a full-time basis; provided, that the fact that an Owner or Affiliated Physician is working under an arrangement whereby he or she is not required to take a full call schedule or any call at a hospital shall not be deemed to be the cessation of the practice of medicine by that Owner or Affiliated Physician on a full-time basis;

8.11.1.4 the relocation of the practice of such Terminating Owner or the Affiliated Physician of such Terminating Owner outside of the Market Area;

8.11.1.5 such Terminating Owner or the Affiliated Physician of such Terminating Owner no longer maintaining a current license to practice medicine in the State of Connecticut (the foregoing not being applicable to a temporary suspension of a license to practice in Connecticut for a period of less than ninety (90) days);

8.11.1.6 such Terminating Owner or the Affiliated Physician of such Terminating Owner is involved in a divorce proceeding or matrimonial dissolution that becomes final and in which a transfer of any of such Terminating Owner's Membership Interest is ordered, in which case this subsection shall be applied solely to the ex-spouse of the Terminating Owner or the Affiliated Physician of such Terminating Owner; provided, however, that in the event the LLC

exercises its right to purchase any of the Terminating Owner's Membership Interest pursuant to this subsection, the Terminating Owner or the Affiliated Physician of such Terminating Owner shall have an option to repurchase such membership interest for the same purchase price paid by the LLC in accordance with Section 8.11.2.1;

8.11.1.7 a Transferring Owner (A) makes an assignment for the benefit of creditors or admits in writing his inability to pay debts generally as they become due, (B) applies to any tribunal for the appointment of a trustee or receiver of any substantial part of his assets, (C) commences any voluntary proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or other liquidation laws of any jurisdiction, (D) becomes the subject of any involuntary proceedings and such Transferring Owner indicates his approval, consent or acquiescence, or (E) becomes the subject of an order appointing a trustee or receiver, adjudicating him bankrupt or insolvent, or approving a petition in any involuntary proceeding, and such order remains in effect for ninety (90) days;

8.11.1.8 the Centers for Medicare and Medicaid Services or any other applicable governmental official or entity shall determine that such Terminating Owner or the Affiliated Physician of such Terminating Owner shall be excluded from participation in the Medicare, Medicaid or any other governmental health program pursuant to Section 1128 or 1156 of the Federal Social Security Act or other applicable provisions of Federal or state law;

8.11.1.9 the conviction of such Terminating Owner or the Affiliated Physician of such Terminating Owner of a felony in violation of any state or federal law related to healthcare matters;

8.11.1.10 the violation of the provisions of Section 8.2 by such Terminating Owner or the Affiliated

Physician of such Terminating Owner; and

8.11.1.11 the determination by AmSurg and the Owners holding a majority of the Membership Interests held by all Owners (other than the Terminating Owner) that the Terminating Owner's Membership Interest shall be repurchased by the LLC.

8.11.2. In the event of a Triggering Event, the remaining Owners shall have the obligation to repurchase their proportionate share of such Terminating Owner's Membership Interest equal to the Terminating Owner's Membership Interest multiplied by (i) (a) 100%, with respect to an individual Terminating Owner or (b) the percentage beneficial ownership of the Affiliated Physician or his or her Immediate Family Member in the Terminating Owner, with respect to a Terminating Owner who is not an individual (the "Subject Interest"). The Owners shall purchase the Subject Interest proportionately, based on a fraction, the numerator of which shall be the percentage Membership Interest held by each remaining Owner and the denominator of which shall be the aggregate percentage Membership Interests held by all remaining Owners. The aggregate purchase price for the Subject Interest pursuant to this Section 8.11.2 shall be payable in cash and determined as follows:

8.11.2.1 If the Triggering Event is one described in Sections 8.11.1.1 through 8.11.1.7 and Section 8.11.1.11, an amount equal to (i) three (3) times the LLC Profit for the twelve (12) calendar months immediately preceding the Triggering Event Date plus the LLC's interest expense for the twelve (12) calendar months immediately preceding the Triggering Event Date, minus (ii) the LLC's outstanding Principal Indebtedness as of the Triggering Event Date, with this amount multiplied by the selling Terminating Owner's pro rata percentage ownership interest in the LLC.

8.11.2.2 If the Triggering Event is one described in Sections 8.11.1.8 and 8.11.1.9, the purchase price shall be equal to 50% of the amount determined in accordance with Section 8.11.2.1.

8.11.2.3 If the Triggering Event is described in Section 8.11.1.10, the purchase price shall be One Dollar (\$1.00).

In the event the purchase of the Subject Interest is from a Terminating Owner who is not an individual, such purchase price shall be paid by the Terminating Owner to the Affiliated Physician or his or her Immediate Family Member in redemption of his or her full beneficial ownership interest in the Terminating Owner.

8.11.3. The Terminating Owner shall give the LLC and the other Owners prompt written notice of the occurrence of a Triggering Event, and such Terminating Owner's Membership Interest shall terminate as of the date of the Triggering Event. The purchase price for the Terminating Owner's Membership Interest as described in Section 8.11.2 shall be paid in a lump sum in cash to the Terminating Owner within sixty (60) days following the date of the Triggering Event.

8.11.4. In the event one or more of the Owners breaches this Agreement and does not purchase his, her or its pro rata portion of the Subject Interest, the remaining Owners or, at the direction of AmSurg, the LLC shall have the right, but not the obligation, to purchase the portion of the Subject Interest not purchased by the Owner[s].

8.11.5. By their execution of this Agreement, each Owner acknowledges and agrees that the LLC may purchase a Terminating Owner's ownership interest in LLC pursuant to Section 8.11.2 and may subsequently thereafter transfer such ownership interest to another physician in the Market Area without then obtaining any additional consent of any Owner. Any such physician shall be treated as an Owner on the same terms as the other Owners.

8.12. **Fiduciary Duty.** AmSurg, each Owner and Affiliated Physician, and each Affiliate of an Owner or Affiliated Physician shall have a fiduciary duty to act at all times in a manner such Person reasonably believes to be in the best interest of the LLC, in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

## 9. OFFICERS

9.1. **Appointment of Officers.** The Board shall appoint a President, one or more Vice Presidents, a Treasurer, a Secretary and such other officers as the Board shall elect from time to time, all of whom will be

Affiliates of AmSurg, to serve as the officers of the LLC.

9.2. **Term.** The Officers shall serve for an indefinite term until removed and replaced by the Board.

9.3. **President.**

9.3.1. **General.** Subject to the provisions of this Agreement, the management of the business affairs of the LLC shall rest with the President, who shall have all the authority which may be possessed by a president pursuant to the Act, and such additional authority as otherwise conferred by law or is necessary or advisable in the discharge of the duties of the President under this Agreement. The President shall perform his or her duties to the best of his or her ability and shall use his or her best efforts to carry out the business of the LLC.

9.3.2. **Powers.** Subject to the provisions of Section 7.3 and those powers reserved to the Members and the Board by this Agreement or the Articles of Organization, the President may, on behalf of and at the cost, expense and risk of the LLC and in accordance with the operating and capital budgets of the LLC:

9.3.2.1 On behalf of the LLC, spend the capital and net income of the LLC in the exercise of any rights or powers possessed by the President hereunder;

9.3.2.2 Make capital expenditures on behalf of the LLC;

9.3.2.3 Cause the LLC to lease, acquire, own, manage and operate the Center, and enter into agreements containing such terms, provisions and conditions as the President may deem advisable;

9.3.2.4 Cause the LLC to lease, acquire, own and operate any equipment, fixtures, supplies or other items necessary for the operation of the Center;

9.3.2.5 On behalf of and for the benefit of the LLC, enter into any contracts or arrangements necessary for the conduct of the business of the LLC;

9.3.2.6 Purchase from or through others contracts of liability, casualty and other insurance which the President deems advisable for the

protection of the LLC or for any purpose convenient or beneficial to the LLC;

9.3.2.7 On behalf of and for the benefit of the LLC, incur indebtedness;

9.3.2.8 Sell or otherwise dispose of, upon such terms and conditions as the President may deem advisable, appropriate or convenient, any of the assets of the LLC that do not constitute all or substantially all of the LLC's assets;

9.3.2.9 Establish bank accounts in the name and on behalf of the LLC and designate the signatories thereon;

9.3.2.10 Invest in short-term debt obligations of federal and state governments and their agencies, commercial paper and certificates of deposit of commercial banks, savings bank or savings and loan associations and "money market" mutual funds, such funds as are temporarily not required for the purposes of the LLC's operations; and

9.3.2.11 Appoint, employ or contract with any person (including Affiliates of the Members) to assist him or her in carrying out his or her duties hereunder and transacting the business of the LLC, which persons may, under the supervision of the President, act as consultants, accountants, attorneys, brokers, escrow agents, or in any other capacity deemed by the President necessary or desirable, and pay appropriate fees to any of such persons. Without limiting the foregoing, the President may delegate to AmSurg or its Affiliates the authority to negotiate and execute agreements with payors on behalf of the LLC.

9.4. **Duties.** As additional consideration for its Membership Interest and without further charge to the LLC other than the expenses outlined in Section 5.2 hereof, AmSurg, through the President, shall consult in and oversee the administrative operations of the Center and, subject to the terms of this Agreement and the general direction and control of the Board, coordinate all business and administrative activities pertaining to the Center, including, but not in any way limited to, the following:

9.4.1. Assist the Center in operating in an efficient and business like manner;

9.4.2. Coordinate the purchase or lease of equipment, supplies and pharmaceuticals (including purchases through national purchasing programs) necessary for the operation of the Center;

9.4.3. Coordinate all reasonable and necessary actions to maintain all licenses, permits and certificates required for the operation of the Center, and to ensure that all appropriate certification and accreditation available to the Center's operations are obtained;

9.4.4. Coordinate, with the support of the Medical Director and the Board, ongoing marketing programs to increase community and payor awareness of the Center;

9.4.5. Negotiate the amount and method of reimbursement that the Center will receive from all appropriate third party payors, both public and private;

9.4.6. Establish, maintain, revise and administer, with the support and approval of the Board, the overall charge structure of the Center and arrange for payment of such charges by others, when appropriate;

9.4.7. Arrange and negotiate financing for equipment and future capital needs of the Center;

9.4.8. Develop and revise, subject to approval by the Board, all necessary policies and operating procedures pertaining to each aspect of the Center's operations (except for policies and procedures relating to corporate and regulatory compliance, employment matters and financial reporting matters, which shall be approved by AmSurg and shall not be subject to Board approval);

9.4.9. Hire, supervise, discipline and discharge, in conjunction with the Medical Director, all persons working in the Center and providing direct patient care, as needed;

9.4.10. Train Center personnel with respect to all aspects of the Center's operations, including but not limited to administrative, clinical, financial and marketing matters;

9.4.11. Arrange for the purchase by the LLC of necessary insurance coverage for the Center;

9.4.12. Establish and administer accounting procedures and controls and systems for the development, preparation and keeping of

records and books of accounting related to the business and financial affairs of the Center;

9.4.13. Oversee the preparation of the annual report and tax information returns required to be filed by the LLC, and deliver a copy of same to the Members in a timely manner as needed;

9.4.14. Furnish the LLC in a timely fashion monthly operating reports and other reports reasonably requested by the Board or any Director;

9.4.15. Prepare for Board review all capital and annual operating budgets as needed; and

9.4.16. Perform all duties herein required of it in good faith and with reasonable diligence so as to maximize the Center's ability to efficiently provide appropriate quality health care to patients.

9.5. **Right to Rely Upon the Authority of the President.** No person dealing with the President shall be required to determine the President's authority to make any commitment or undertaking on behalf of the LLC, nor to determine any fact or circumstance bearing upon the existence of its authority. In addition, no purchaser of any property of the LLC shall be required to determine the sole and exclusive authority of the President to sign and deliver on behalf of the LLC any instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith, unless such purchasers shall have received written notice from the LLC affecting the same.

9.6. **Vice President.** The Vice President or Vice Presidents (if any) shall assist the President in the management of the LLC, and shall perform such other duties as the Board may from time to time prescribe.

9.7. **Secretary.** The Secretary shall be responsible for recording the minutes of all Board and Member meetings. The Secretary shall have the responsibility of authenticating records of the LLC and receiving notices required to be sent to the Secretary and shall perform such other duties as the Board may from time to time prescribe.

9.8. **Treasurer.** The Treasurer shall have custody of the LLC's funds and securities, shall keep or cause to be kept full and accurate account of receipts and disbursements in books of the LLC, shall disburse or cause to be disbursed the funds of the LLC as required in the ordinary course of business, and shall perform such other duties as may be incident to his or her office or as prescribed by the Board.

9.9. **Limitation on Liability.** An Officer shall not be liable for any action taken as an Officer, or any failure to take action as an Officer, except to the extent

that such Officer's conduct failed to comply with the standards set forth in the Act.

9.10. **Resignation.** Any Officer of the LLC may resign at any time by giving written notice to the Members. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.11. **Compensation and Reimbursement.** No Officer shall have any right to compensation for services performed on behalf of the LLC except as determined from time to time by the Board. Notwithstanding the foregoing, an Officer shall have the right to be reimbursed by the LLC for any out-of-pocket expenses incurred by such Officer in connection with any services performed by such Officer on behalf of the LLC.

9.12. **No Exclusive Duty.** Each Officer may have other business interests and may engage in other activities in addition to those relating to the LLC. Neither the LLC nor any Member shall have the right to share or participate in such other investments or activities of such Officer based on such Officer's status as an Officer of the LLC. No Officer shall incur any liability to any Member or the LLC as a result of engaging in any other business or venture.

## 10. INDEMNIFICATION

10.1. **Authority to Indemnify.** The LLC shall indemnify, and upon request shall advance expenses to, an individual made a party to a proceeding because such individual is or was an officer, director or employee of the LLC, to the full extent permitted by law, against liability incurred in the proceeding if such individual satisfies the following standard of conduct:

10.1.1. The individual's conduct was in good faith and the individual reasonably believed (a) in the case of conduct in his or her official capacity with the LLC, that his or her conduct was in the best interest of the LLC and (b) in all other cases, that his or her conduct was at least not opposed to the LLC's best interest; and

10.1.2. In the case of any criminal proceeding, the individual had no reasonable cause to believe his or her conduct was unlawful.

10.2. **Limitations on Authority to Indemnify.** Except as required by applicable law, the LLC may not indemnify an officer, director or employee (a) in connection with a proceeding by or in the right of the LLC in which the individual was adjudged liable to the LLC, and (b) in connection with any other proceeding charging improper personal benefit to such individual,

whether or not involving action in his or her official capacity, in which the individual was adjudged liable on the basis that personal benefit was improperly received by such individual.

The indemnification and advancement of expenses granted pursuant to this Article 10 shall not be deemed exclusive of any other rights to which an officer, director or employee of the LLC seeking indemnification or advancement of expenses may be entitled, whether contained in this Article 10, the Articles of Organization, the Act, a resolution of the Board, or an agreement providing for such indemnification; provided, however, that no indemnification may be made to or on behalf of any individual if a judgment or other final adjudication adverse to the individual establishes his or her liability:

10.2.1. For any breach of duty of loyalty to the LLC or its Members;

10.2.2. For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

10.2.3. For any liability for unlawful distributions.

10.3. **Advances for Expenses.** To the full extent permitted by law, the indemnification and advances provided for herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement. If the LLC advances expenses to an officer, director or employee of the LLC pursuant to this Article 10 and it is subsequently determined that the individual is not entitled to indemnification, the individual will repay such advances within fifteen (15) days of such determination.

## 11. FISCAL MATTERS

11.1. **Books and Records.** The LLC's books and records (including a current list of the names and addresses of all Members) and an executed copy of this Agreement, as currently in effect, shall be maintained at the principal executive office of the LLC, and each Member shall have access thereto at all reasonable times.

11.2. **Fiscal Year.** The fiscal year of the LLC shall be the calendar year.

11.3. **Tax Status; Elections.** Notwithstanding any provision hereof to the contrary, solely for purposes of the federal income tax laws, each of the Members hereby recognizes that the LLC will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of a U.S. Partnership Return of Income shall not be construed to extend the purposes of the LLC or expand the obligations or liabilities of the Members. Upon the transfer of an interest in the LLC or in the event of a

distribution of the LLC's property, the Tax Matters Member may, but is not required to, elect pursuant to Section 754 of the Code to adjust the basis of the LLC's property as allowed by Sections 734(b) and 743(b) thereof.

**11.4. Reports to Members.** As soon as reasonably practicable after the end of each fiscal year, but not later than ninety (90) days after the end of each fiscal year, the LLC shall make available to each Member an unaudited balance sheet of the LLC at the end of the previous fiscal year and unaudited statements of income or loss of the LLC for such year. In addition, the LLC will deliver to each Member unaudited monthly summaries of its operations.

All such financial statements shall be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles consistently applied. The LLC shall also furnish to each Member not later than ninety (90) days after the end of each fiscal year whatever information may be necessary for Members to file their federal income tax returns. The LLC will also make available to each Member upon request a copy or summary of all state and/or local tax returns which are filed by the LLC.

**11.5. Banking.** All funds of the LLC shall be initially deposited in a separate bank account or accounts or in an account or accounts of a savings and loan association as shall be determined by the Board, but such funds may be invested as provided in Section 9.3.2.10 hereof.

**11.6. Tax Matters Member.** AmSurg shall be the Tax Matters Member within the meaning of the Code.

## **12. ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS**

**12.1. Assignment of Membership Interests.** No assignment of all or any part of a Membership Interest in the LLC (including any Financial Rights, Governance Rights or other rights pertaining to a Membership Interest) shall be made except as follows:

**12.1.1.** Subject to the provisions of Section 12.2 hereof, a Member may assign all or any part of such Member's Membership Interest to another Member, without the consent of any Member other than the assignee;

**12.1.2.** Subject to the provisions of Section 12.3 hereof, a Member may assign such Member's Membership Interest to any person who is not a Member who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

**12.1.3.** Notwithstanding any other provision of this Agreement to the contrary, a Member may assign all or any part of his Membership Interest to a physician who is not a Member who meets the credentialing requirements of the Center and who is a member of such Member's medical practice entity without the consent of any Member if: (a) the assignee accepts such assignment and executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c) the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned;

**12.1.4.** A Member may not assign all or any part of such Member's Financial Rights in the LLC except pursuant to a simultaneous assignment of the Governance Rights and other rights pertaining to the entire Membership Interest to which such Financial Rights relate pursuant to this Article 12;

**12.1.5.** Governance Rights may not be assigned to another person except pursuant to a simultaneous assignment of the Financial Rights and other rights pertaining to the entire Membership Interest to which such Governance Rights relate pursuant to this Article 12;

**12.1.6.** AmSurg may assign all or any part of its Membership Interest to an Affiliate of AmSurg, to another Member, or to a person who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

**12.1.7.** The LLC need not recognize any assignment of all or any part of a Membership Interest other than an assignment described in Sections 12.1.1 through 12.1.6 hereof. Any other assignment or attempted assignment shall be void. No assignment shall be effective until written notice thereof has been provided to the LLC and any other applicable requirements set forth in this Agreement or the Articles of Organization have been satisfied.

**12.2. Assignment of Membership Interest to Another Member.** A Member may assign all or any portion of such Member's Membership Interest to another Member if: (a) the assignee accepts such assignment, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c)

the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned.

**12.3. Assignment of Membership Interest with Consent of Other Members.** Except as provided in Section 12.1.3 above, if an Owner (the "Transferor") desires to transfer, assign or sell all or any portion of his or her Membership Interest (the "Offered Interests") to a third party who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center (the "Transferee"), the Transferor shall obtain from the Transferee a bona fide written offer to purchase the Offered Interests, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor (the "Offer"). The Transferor shall give notice to the LLC and the remaining Member(s) of his or her intention to sell, furnishing a copy of the entire Offer (the "Notice").

**12.3.1. Right of First Refusal.**

**12.3.1.1** Within thirty (30) days of the receipt of Notice (the "LLC Option Period"), the LLC may exercise an option to purchase all but not less than all of the Offered Interests proposed to be sold by the Transferor, upon the terms and conditions and for the same consideration stated in the Offer. The LLC, at the direction of the Board, shall exercise such option by giving written notice both to the Transferor and each other Member within the LLC Option Period. Should the LLC fail to give written notice within such LLC Option Period, the LLC shall be deemed to have waived such option.

**12.3.1.2** If the LLC does not exercise its option to purchase all (but not less than all) of the Offered Interests, each Member other than the Transferor, within thirty (30) days beginning on the earlier of the expiration of the LLC Option Period or the date of

the written notice from the LLC waiving such option (the "Member Option Period"), may exercise an option to purchase the Offered Interests upon the same terms and conditions and for the same consideration stated in the Offer, on a basis pro rata to their Membership Percentage (or on a basis pro rata to the interest of those remaining Member(s) exercising this second option to purchase.) The other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Member Option Period. Should a Member fail to give written notice within the Member Option Period, the Member shall be deemed to have waived such option.

**12.3.1.3** In the event any Member shall not have exercised his or her option to purchase the Offered Interests, each other Member who exercises in full its option pursuant to subsection (ii) above may, within ten (10) days after the expiration of the Member Option Period (the "Over-Allotment Period"), exercise an option to purchase the remaining Offered Interests upon the terms and conditions and for the same consideration stated in the Offer. In the case of a single Member, his or her option shall be to purchase all of the remaining Offered Interests. In the case of two or more other Members, each such other Member's option shall be to purchase the amount all such other Members may determine by agreement among themselves, or if they cannot agree, by one or

more successive allocations in the proportion that the Membership Interest owned by each of the eligible other Members bears to the total Membership Interest. Interests owned by all such eligible other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Over-Allotment Period. Should a Member fail to give written notice within the Over-Allotment Period, the Member shall be deemed to have waived such option.

12.3.1.4 The LLC and the other Members must, in the aggregate, exercise their options to purchase all of the Offered Interests; otherwise, their options shall be forfeited.

12.3.1.5 Notwithstanding anything contained herein to the contrary, the rights under this Section 12.3.1 may be waived with respect to any proposed transfer or assignment by an Owner provided that such transfer or assignment is approved by the Board and the Members elect to waive their rights under this Section 12.3.1.

12.3.2. If the right of first refusal options set forth above are forfeited or waived, then within ten (10) days after the expiration of the last option period granted above, the Transferor may transfer the Offered Interests to the Transferee named in the Notice upon the terms specified therein, provided (i) such Transferor has provided the Notice set forth in subsection (a) above, (ii) such transfer, sale or assignment is in compliance with the Securities Act of 1933, as amended (the "Securities Act"), and all applicable state securities laws, and, if requested by the Board, such Transferor has delivered an opinion of such Transferor's counsel to the LLC, in form and substance reasonably satisfactory to the LLC, to the effect that such transfer is either

exempt from the requirements of the Securities Act and the applicable securities laws of any state or that such registration requirements have been complied with, (iii) the Board approves such transfer, sale or assignment (iv) the proposed transfer, assignment or sale is made in compliance with subsection 12.2.3.1 above, and (v) the Transferee executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof. Upon the satisfaction of the conditions set forth in the preceding sentence and the making of the assignment, the LLC will cause Exhibit A hereto to be amended in accordance with Section 12.9 hereof and the assignee will become a Member holding the Membership Interest so assigned.

12.4. **Termination of a Membership Interest.** Notwithstanding any provisions to the contrary contained in the Act or this Agreement, no Member shall have the right to withdraw as a member of the LLC or otherwise terminate his or her Membership Interest in the LLC without the written consent of the Board.

12.5. **Restrictions on Assignment.** No Member shall be permitted to assign such Member's Membership Interest, Financial Rights or Governance Rights if such assignment would result in the LLC being taxed for federal income tax purposes as an association taxable as a corporation or would constitute a violation of any applicable federal or state law. Each of the Members hereby agrees and acknowledges that the restrictions on assignment contained in this Article 12 are not unreasonable in view of the nature of the parties and their relationships to one another and the nature of the business of the LLC.

12.6. **Rights and Obligations of Former Members.** A Member who assigns all of the Governance Rights of such Member or whose Membership Interest is otherwise terminated shall cease to be a Member; provided, however, that such former Member or any Successor shall remain liable to the LLC for any obligations of such Member for unlawful distributions under the Act.

12.7. **Admission of New Members.** The admission of a new Member pursuant to the issuance of a new Membership Interest which is not acquired pursuant to any assignment by or from any existing or former Member (a "New Member") must be approved by the Board. The purchase price for any such Membership Interest issued to a New Member shall be equal to fair market value, as determined by the Board.

12.8. **Government Regulation.** If a Fundamental Regulatory Change should occur, AmSurg or its Affiliates or assigns may, at their option, purchase some or all of the Membership Interests of Owners for a purchase price equal to (a) three (3) times the LLC

Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by the Membership Interest of Owners being purchased hereunder.

The determination that a Fundamental Regulatory Change has occurred shall be made by (a) counsel to AmSurg, with the concurrence of counsel to Owners, (b) counsel to Owners, with the concurrence of counsel to AmSurg or (c) if counsel to AmSurg and Owners cannot concur, by a nationally recognized law firm with expertise in health care law jointly selected by AmSurg and Owners.

The Membership Interest that may be purchased by AmSurg pursuant to this Section will not exceed the minimum Membership Interest required to be purchased as a result of the Fundamental Regulatory Change.

In the event of a Fundamental Regulatory Change and the exercise by AmSurg of its option as described above, the purchase price of the Membership Interest purchased shall be determined and payable in the manner hereinafter set forth:

12.8.1. Owners shall be paid 20% of the purchase price (net after reduction for any obligations owed by any Owner to the LLC), in cash and 80% by AmSurg Corp.'s non-negotiable promissory note payable in four (4) approximately equal annual installments of principal, commencing twelve (12) months after the closing, together with interest at a rate equal to one-half percentage point over the Prime Rate.

The note shall contain provisions for (a) the acceleration of the entire unpaid balance of principal and accrued interest at the option of the holder in the event of default in payment of any principal or interest when due, (b) the payment of reasonable attorneys' fees in the event of default, and (c) prepayment, without penalty, of all or any part of the unpaid principal, any prepayment being first applied to then accrued interest.

12.8.2. If in dispute, all determinations of LLC Profit required under this Section 12.8 shall be made by an independent certified public accountant acceptable to both Owners and AmSurg and any such determination so made shall be binding on all parties.

12.8.3. If an Owner's Membership Interest is acquired pursuant to this Section 12.8, such Owner will be distributed a pro rata share of the Available Cash Flow allocated to that Membership Interest for the month in which AmSurg purchases the Membership Interest

based upon the number of days during such month prior to such purchase in relation to the total number of days in such month. Such distribution shall be made within ninety (90) days after the end of such month.

12.8.4. No payment other than those specifically provided for herein shall be due or payable with respect to the Membership Interest of any Owner. Any debt due by the LLC to any Owner shall be payable according to its terms.

12.8.5. Any closing of the purchase of an Owner's Membership Interest pursuant to this Section 12.8 shall be held at the principal office of the LLC within thirty (30) days following the exercise by AmSurg of its option to purchase such Membership Interest as described above.

At the closing, AmSurg shall pay, upon the terms specified hereinabove, the determined value of such Membership Interest to such Owner, after receiving appropriate releases and satisfactions.

12.8.6. AmSurg may transfer or assign any of its rights to purchase the Membership Interest of an Owner to AmSurg's Affiliates or assigns.

12.8.7. If AmSurg or its Affiliate purchases some or all of the Membership Interest of an Owner pursuant to this Section 12.8, AmSurg will use its best efforts to have such Owner released from the appropriate portion of Principal Indebtedness, if any, guaranteed by such Owner. In the event that an Owner is not so released, AmSurg and AmSurg Corp. will indemnify and hold harmless such Owner from liability resulting from that portion of such guaranty.

12.9. **Amendment to Exhibit A.** An appropriate amendment to the amounts shown for capital account balances and Membership Percentages on Exhibit A hereto shall be made upon: (a) any assignment or termination of a Membership Interest described in Sections 12.1.1 through 12.1.6 hereof, (b) the admission of any New Member under Section 12.7 hereof, or (c) any purchase of a Membership Interest pursuant to Section 12.8 hereof.

12.10. **Pledge of Membership Interest.** No pledge of an Owner's interest may be made without the approval of AmSurg. The pledge of or the granting of a security interest, lien or other encumbrance in or against any or all of a Member's Membership Interest shall not constitute an assignment or transfer of such Membership Interest for purposes of this Article 12 or cause such Member to cease to be a Member or to cease to have the

power to exercise any of its rights or powers as a Member. Any such pledgee shall not be a Member and shall not be entitled to any rights of a Member, other than the right to receive profit and loss allocations and distributions to the extent permitted by applicable law, unless such pledgee becomes a Member pursuant to Section 12.3 hereof. In any event, the foreclosure of or exercise of other secured party remedies with respect to such pledge, security interest, lien or other encumbrance resulting in an Assignment of any such Membership Interest shall nonetheless be an Assignment subject to the restrictions of Article 12. AmSurg shall have the right to pledge or grant a security interest, lien or other encumbrance in or against any or all of its Membership Interest.

### 13. DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE

13.1. **Term.** The term of the LLC shall continue until earlier terminated in accordance with the provisions of this Agreement. The Members intend for the term of the LLC, and their involvement in the operation thereof, to continue until the Members mutually agree otherwise. Neither Member shall take any action unilaterally to terminate the LLC or withdraw as a Member.

13.2. **Events Causing Dissolution and Winding Up.** The LLC shall be dissolved and its affairs wound up only upon the occurrence of the following events (individually, a "Dissolution Event"):

13.2.1. At any time with the prior approval of those Members holding 100% of the voting power and 100% of the Membership Interests in the LLC; or

13.2.2. Termination of this Agreement pursuant to Section 14.13 hereof.

13.3. **Winding Up Affairs on Dissolution.** Upon dissolution of the LLC, the Officers or other persons required or permitted by law to carry out the winding up of the affairs of the LLC shall promptly notify all Members of such dissolution; shall wind up the affairs of the LLC; shall prepare and file all instruments or documents required by law to be filed to reflect the dissolution of the LLC; and, after collecting the debts and obligations owed to the LLC and after paying or providing for the payment of all liabilities and obligations of the LLC, shall distribute the assets of the LLC in accordance with Section 6.5. In determining the final balance of the Book Capital Accounts, assets of the LLC which are distributed in kind to the Members, if any, shall be treated as if sold for their fair market value and allocations shall be made pursuant to Sections 6.1 and 6.2 hereof.

13.4. **Waiver of Right to Partition and Decree of Dissolution.** As a material inducement to each Member to execute this Agreement, each Member covenants and represents to each other Member that, during the period beginning on the date of this Agreement, no Member, nor such Member's heirs, representatives, successors, transferees or assigns, will attempt to make any partition whatever of the assets of the LLC or any interest therein whether now owned or hereafter acquired, and each Member waives all rights of partition provided by statute or principles of law or equity, including partition in kind or partition by sale. The Members agree that irreparable damage would be done to the goodwill and reputation of the LLC if any Member should bring an action in a court to dissolve the LLC. The Members agree that this Agreement provides fair and just provisions for payment and liquidation of the interest of any Member in the LLC, and fair and just provisions to prevent a Member from selling or otherwise alienating its interest in the LLC. Accordingly, each Member hereby waives and renounces its right to such a court decree of dissolution or to seek the appointment by court of a liquidator or receiver for the LLC.

### 14. GENERAL PROVISIONS

14.1. **Notices.** Except as otherwise provided in this Agreement, any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be duly given

14.1.1. if delivered in writing, personally to the person to whom it is authorized to be given; or

14.1.2. if sent by certified or registered mail, overnight courier service or facsimile to the address of the Member or Director reflected in the records of the LLC.

Any such notice shall be deemed to be given as of the date so delivered, if delivered personally, as of the date on which the same was deposited in the United States mail, postage prepaid, addressed and sent as aforesaid, or on the date received if sent by overnight courier services or electronic facsimile.

14.2. **Section Captions.** Section and other captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.3. **Applicable Law.** This Agreement and the rights of the Members shall be governed by and construed and enforced in accordance with the laws of the State of Connecticut.

14.4. **Severability.** In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or

unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby. Without limiting the foregoing, the Members agree that in the event a court or arbitrator with appropriate jurisdiction determine that the geographic area and/or the time restrictions set forth in Section 8.2 hereof are unenforceable as a matter of law, then the court or arbitrator may modify the unenforceable provision in order to make it enforceable and such modification will be deemed to be valid amendment to this Agreement to which each Owner and his or her Affiliates will be bound.

**14.5. Binding Effect.** Except as herein otherwise provided to the contrary, this Agreement shall be binding upon, and inure to the benefit of, the Members and their respective heirs, executors, administrators, successors, transferees and assigns.

**14.6. Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural, and vice versa.

**14.7. Amendment.** This Agreement may be amended in writing (a) with the consent of AmSurg and Owners holding a majority of the Membership Interest held by the Owners and (b) with respect to Exhibit A hereto, under the circumstances set forth in Sections 4.8 and 12.9 hereof. In the event that the parties hereto agree to admit a New Member pursuant to Section 12.7 hereof, the parties will amend this Agreement accordingly.

**14.8. Parties in Interest.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the Members hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

**14.9. Counterparts.** This Agreement may be executed in multiple counterparts and by way of facsimile or scanned email transfer, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Each party may rely upon machine copies of the signed Agreement to the same extent as a manually signed original copy hereof.

**14.10. Interpretation in Accordance with Requirements for Partnership Tax Treatment.** The LLC is intended to be treated as a partnership for federal income tax purposes, and this Agreement shall be interpreted in a manner consistent with such intended tax treatment.

**14.11. Arbitration.** All disputes with respect to interpretation of the provisions of this Agreement shall be resolved by binding arbitration pursuant to the rules

of the American Health Lawyers Association Dispute Resolution Service ("AHLA") then pertaining. The arbitration proceedings shall be held in Philadelphia, Pennsylvania. The procedures for conducting discovery in connection with any such arbitration proceeding shall be determined by the mutual agreement of the Members party to the arbitration proceeding or, if the Members cannot agree, by the arbitrators. The arbitrators shall apply the substantive laws of the State of Connecticut and the United States.

The Members may, if they are able to do so, agree upon one arbitrator; otherwise, there shall be three arbitrators selected to resolve disputes pursuant to this Section 14.11, one named in writing by each Member party to the arbitration proceeding within thirty (30) days after notice of arbitration is served upon any Member by another Member and a third arbitrator selected by the two arbitrators selected by the Members within fifteen (15) days thereafter.

If the two arbitrators cannot select a third arbitrator within such fifteen (15) days, either Member may request that the AHLA select such third arbitrator. If one Member does not choose an arbitrator within thirty (30) days, the other Member shall request that the AHLA name such other arbitrator. No one shall serve as arbitrator who is in any way financially interested in this Agreement or in the affairs of any Member.

Each of the parties to the arbitration shall pay its own expenses of arbitration and one-half of the expenses of the arbitrators. If any position by any party to the arbitration, or any defense or objection thereto, is deemed by the arbitrators to have been unreasonable, the arbitrators shall assess, as part of their award against the unreasonable Member or reduce the award to the unreasonable Member, all or part of the arbitration expenses (including reasonable attorneys' fees) of the other Member and of the arbitrators.

**14.12. Access to Books and Records by Governmental Officials.** Upon written request of the Secretary of Health and Human Services or the Comptroller General or any other duly authorized representatives thereof, each Member shall make available to the Secretary those contracts, books, documents and records necessary to verify the nature and extent of the cost of providing its services to the Center. Such inspection shall be available up to four (4) years after such services are rendered. If either Member carries out any of the duties of this Agreement through subcontract with a value of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related individual or organization, such Member agrees to include this requirement in such subcontract. If a request from the Secretary or his representative is served on a Member, that Member will notify the LLC in writing prior to responding to the request.

14.13. **Limited Renegotiation.** This Agreement shall be construed to be in accordance with any and all federal and state laws, including laws relating to Medicare, Medicaid and other third party payors. In the event there is a change in such laws, whether by statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or otherwise that has any material effect on any term of this Agreement, then the applicable term(s) of the Agreement shall be subject to renegotiation and any Member may request renegotiation of the affected term or terms of this Agreement, upon written notice to the other Member, to remedy such condition.

The Members expressly recognize that upon request for renegotiation, each Member has a duty and obligation to the others only to renegotiate the affected term(s) in good faith and, further, each Member expressly agrees that its consent to proposals submitted by the other Members during renegotiation efforts shall not be unreasonably withheld.

Should the Members be unable to renegotiate the term or terms so affected so as to bring it/them into compliance with the statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or other reason that rendered it/them unlawful or unenforceable within sixty (60) days of the date on which notice of a desired renegotiation is given, then the Members shall be entitled, after the expiration of said sixty (60) day period, to terminate this Agreement upon thirty (30) additional days written notice to the other Members.

14.14. **Integrated Agreement.** This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations or warranties among the Members other than those set forth herein or herein provided for.

The Members acknowledge that they have independently negotiated the provisions of this Agreement, that they have relied upon their own counsel as to matters of law and application and that no Member has relied on any other Member with regard to such matters. The Members expressly agree that there shall be no presumption created as a result of any Member having prepared in whole or in part any provision of this Agreement.

[Remainder of page intentionally left blank]

**CERTIFICATE**

IN WITNESS WHEREOF, the undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Operating Agreement of Eastern Connecticut Endoscopy Center, LLC adopted by the Members.

AMSURG HOLDINGS, INC.

By: *Clare J. J.*  
Name: Clare M. J.  
Title: Vice President

**OWNERS:**

\_\_\_\_\_  
Kolala Sridhar, M.D.

\_\_\_\_\_  
You Sung Sang, M.D.

\_\_\_\_\_  
Ashan Monohar, M.D.

\_\_\_\_\_  
Abera H. Abay, M.D.

**CERTIFICATE**

**IN WITNESS WHEREOF**, the undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Operating Agreement of Eastern Connecticut Endoscopy Center, LLC adopted by the Members.

**AMSURG HOLDINGS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OWNERS:**

K R Sridhar  
Kolala Sridhar, M.D.

You Sung Sang  
You Sung Sang, M.D.

Ashish M. Mohar  
Ashish M. Mohar, M.D.

Abera H. Abay  
Abera H. Abay, M.D.

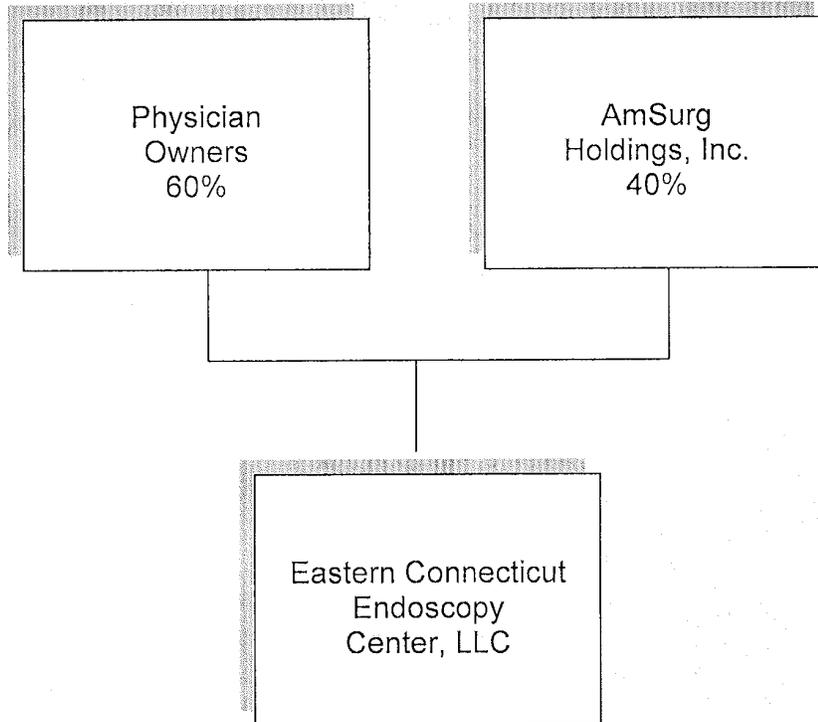
**EXHIBIT A**

<u>Member Name and Address</u>	<u>Membership Percentage</u>
AmSurg Holdings, Inc. 20 Burton Hills Boulevard Nashville, TN 37215 FEIN: 62-1595888	40.00%
Kolala Sridhar, M.D. 12 Royal Oaks Drive Norwich, CT 06360 SSN: 304-80-0720	19.32%
You Sung Sang, M.D. 27 Sandpiper Lane East Lyme, CT 06333 SSN: 059-64-7272	19.32%
Ashan Manohar, M.D. 3 Blue Bird Circle East Lyme, CT 06333 SSN: 053-82-7561	10.68%
Abera H. Abay, M.D. 44 Canterbury Turnpike Norwich, CT 06360 SSN: 085-84-9627	10.68%
<b>TOTAL:</b>	<b>100%</b>

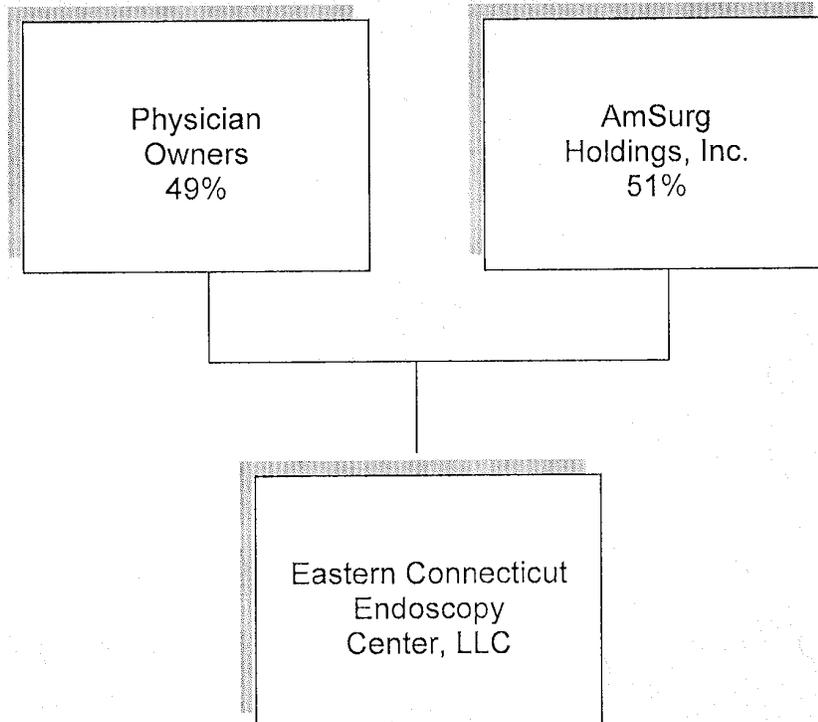
11169512.8

# Exhibit 3

## Organizational Chart of ECEC Pre-Transaction

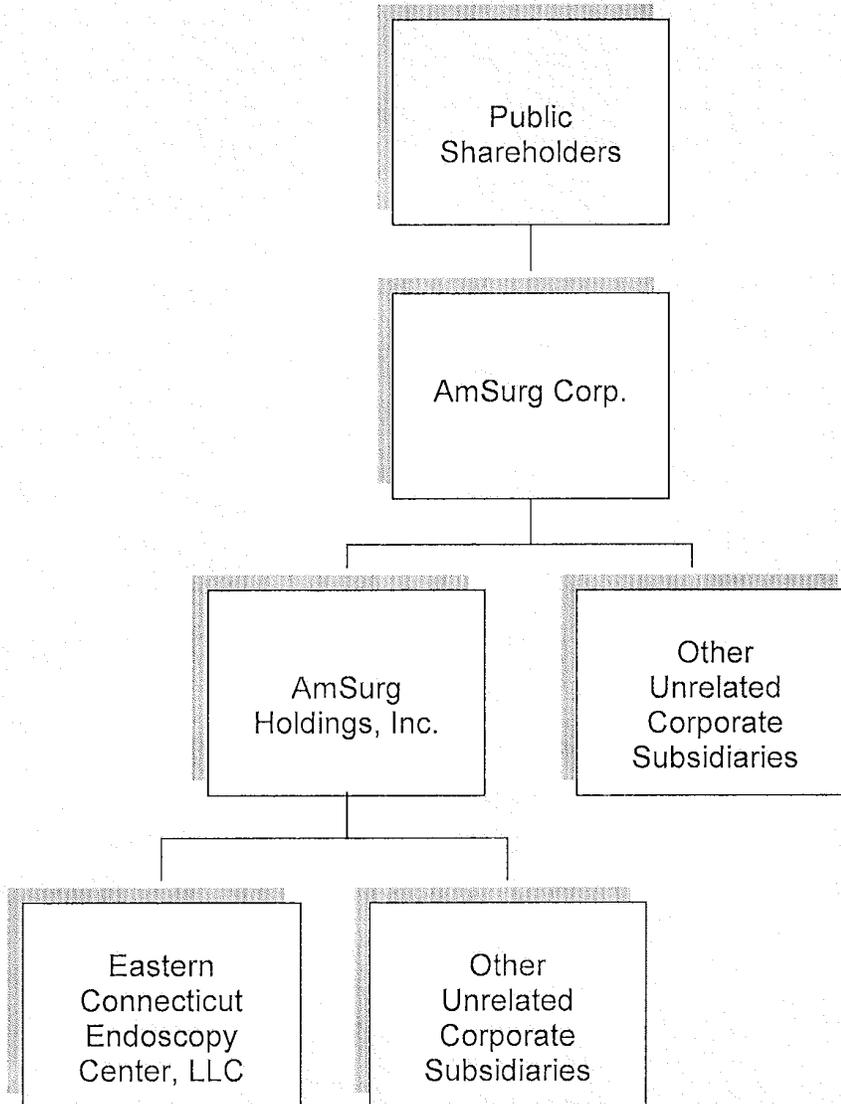


## Organizational Chart of ECEC Post-Transaction



# Organizational Chart of AmSurg Holdings Inc.

## Post-Transaction



# Exhibit 4

<b>Owner</b>	<b>ECEC Ownership Prior to Closing</b>	<b>ECEC Ownership After Closing</b>
AmSurg Holdings, Inc.	40%	51%
Kolala Sridhar, M.D.	19.32%	15.8%
You Sung Sang, M.D.	19.32%	15.8%
Ashan Manohar, M.D.	10.68%	8.7%
Abera H. Abay, M.D.	10.68%	8.7%
Total	100%	100%

# Exhibit 5

**KOLALA R. SRIDHAR, M.D., F.A.C.G., A.G.A.F.**

Gastroenterology  
Norwich GI Associates, P.C.  
79 Wawecus Street  
Norwich CT 06360  
(860) 886-2655

**Education**

College		
University of Bangalore, India		
Certificate of Graduation		1966-1968
Medical School		
University of Mysore, India		
MBBS		1968-1976

**Post-Graduate Training**

Internship and Residency in Medicine		
Griffin Hospital, Derby CT		July 1977-June 1980
Fellow in Infectious Diseases		
University of Kansas Medical Center		
Kansas City, Kansas		July 1980-March 1981
Fellowship in Gastroenterology		
Yale University School of Medicine		July 1982-June 1984

**Board Certification**

American Board of Internal Medicine		
Internal Medicine		1980
American Board of Internal Medicine		
Gastroenterology		1985

**Research, Presentations and Publications**

1. K. Sridhar, D. Ricci, R. Lange & RW McCallum  
"Effect of Histamine-1 Receptor Stimulation on Gastric Emptying of Solid Food in Humans". Abstract presented at the annual AFCR meeting, Washington, DC, May 1984.

2. K. Sridhar, D. Ricci, R. Lange & RW McCallum  
 "Delta-9-Tetrahydrocannabinol Delays the Gastric Emptying of Solid Food in Humans. A Randomized Double-Blind Study". Abstract presented at the annual AGA meeting, New Orleans, Louisiana, May 1984.
3. K. Sridhar, D. Ricci, R. Lange & RW McCallum  
 "Definition of a Gastric Emptying Abnormality in Progressive Systemic Sclerosis". Abstract presented at the annual AFCR meeting in Washington, DC 1984.

**Present Position**

Senior Medical Staff Member The William W. Backus Hospital, Norwich CT	1984 to present
President, Norwich GI Associates, P.C. 79 Wawecus Street, Norwich CT	1984 to June 30, 2005
Medical Director Eastern CT Endoscopy Center	April 2000- June 30 2003 June 30, 2005-12/31/2012.

**Academic Appointments**

Clinical Instructor in Medicine Yale University School of Medicine	1985- 1986
Assistant Clinical Professor of Pharmacy University of Connecticut School of Pharmacy	July 1999- current

**Hospital Appointments**

President of Medical staff	11/2006-11/2008
Vice President of Medical Staff	11/2004- 11/2006
Quality Improvement Committee member	11/2004-2005
Medical Executive Committee*	11/01/2001 to present
Pharmacy & Therapeutics Committee	11/01/1996 to present
Library Committee	11/01/1986 to present

Past:

Chairman, Nutritional Support Committee	1988-2000
Medical Executive Committee*	11/1995-10/1996
Medical Executive Committee*	11/1993-10/1994
Medical Executive Committee*	11/1991-10/1992
Institutional Review Board (formerly Human Investigation Committee)	11/1987-10/1994
Tumor Board	11/1987-10/1990
Utilization Review Committee	11/1986-10/1988

\*G.I. representative: a rotating position on MEC

**Medical Society Appointments**

American Medical Association	1997- current
Hospital Medical Staff Section Representative of American Medical Association	04/2005- current
American College of Gastroenterology	1997- current
Connecticut State Medical Society Councilor	1999 to 2005
New London County Medical Association President	1995-1996
President-elect	1994-1995
Vice President	1993-1994
Secretary	1992-1993
Treasurer	1991-1992
Trustee	1988-1991
Immediate Past President	1996
Chair, Public Affairs Committee	1997-1998

**Academic Fellowships**

Fellow, American College of Gastroenterology (FACG)	February 2006
Fellow, American Gastroenterological Association (AGAF)	February 2006

**ABERA H. ABAY, M.D.**

111 North Broadway, Apt 2D  
Irvington, New York 10533  
(914) 591-4779 (Home)

(212) 420-4015 (Office)  
(212) 420-4373 (fax)  
e-mail: aberaabay@aol.com

---

**EDUCATION**

**Doctor of Medicine**  
Addis Ababa University  
School of Medicine.  
Ethiopia  
1984-1990

**Certificate in Public health management**  
McGill University and Ministry of Health of  
Ethiopia  
1991

**POSTGRADUATE TRAINING**

**Gastroenterology and Hepatology Fellowship**  
Beth Israel Medical Center  
New York, New York  
1999-2002

**Chief Medical Residency**  
Beth Israel Medical Center  
New York, New York  
1998-1999

**Internal Medicine Residency**  
Beth Israel Medical Center  
New York, New York  
1995-1998

**WORK EXPERIENCE**

**General Practitioner**  
Debre Birhan Hospital  
Selale, Ethiopia  
1991-1994

**District Health Manager**  
Selale District, Ethiopia  
1990-1991

## HONORS/AWARDS

The Weingarten Award for "Most Outstanding Resident", Beth Israel Medical Center. 1998

Chief Medical Resident, Beth Israel Medical Center. 1998-1999

Ranked 95<sup>th</sup> percentile, Internal Medicine National In-Training Examination. 1997-1998

Dean's List for Excellent Academic performance 1984/85

Very Great Distinction, Ethiopian School Leaving Examination  
1983

## PROFESSIONAL MEMBERSHIP

Member, American College of physicians  
Member, New York society of Gastrointestinal Endoscopy

Member, American Gastroenterological Association

Member, American College of Gastroenterology

Secretary, Ethiopian Physicians in New York

Board member, Ethiopians against HIV/AIDS

Resident Representative to the Committee on Graduate Medical Education at Beth Israel Medical Center (1997-1999)

Member, Medical Committee, Canadian Physicians for Aid and Relief, Canada (1994/5)

## CERTIFICATION / EXAM

Board Certified in Internal Medicine, 1998

USMLE steps 1, 2 and 3. 1994-1996

MCCEE (Medical Council of Canada Evaluating Examination). 1994

MCCQE (Medical Council of Canada Qualifying Examination), part I. 1995

Royal College of Physicians and Surgeons of Canada, Internal Medicine Examination, written part. 1999

**PERSONAL**

Born in Jan. 7, 1965  
Addis Ababa, Ethiopia.  
Married in 1993, with one son.

**LANGUAGES**

English, Amharic and Tigrigna

**INTERESTS**

Family, Reading, Soccer, Biking and Music

**RESEARCH / PUBLICATIONS**

Abay, A., Gelb, A. and Reyes, R.

“Factors Influencing compliance on H.Pylori treatment”. (ongoing)

Abay, A., Bergasa, N. and Fukami, N.

“Effect of Melatonin on bile flow in rats”. 1997 (not published)

Abay, A., Bergasa, N., and Ravi, J.

“Effect of opioids on bile flow in rats”. 1998 (not published)

Abay, A.

“Knowledge, Attitude and Practice survey on Diarrheal diseases and Iodine deficiency”.

Published in The Ethiopian Medical Journal, 1988.

Participant on “ Multicenter Trial on the Use of Pegylated Interferon on HIV patients with Hepatitis C (ACTG A5071)”. (ongoing)

Abay, A., Reyes, R., and Siegel, M.

**Streptococcus Morbillorium Bacteremia Associated with Cecal Carcinoma:**

A Case Report (submitted)

Abay, A., Linden, T. and Tabanda, R

**“Segmental Absence of Intestinal Musculature (SAIM)”**

A Case Report (submitted)

## PRESENTATIONS

“Acute Pulmonary Hemorrhage in a Young Male Professional Dancer”  
Department of Medicine Grand Rounds, August, 1997.

“Board Review on Gastroenterology, Pulmonary and Critical Care, Endocrinology and Primary Care for Third-Year residents” September and October 1999.

“Sickle Cell Intrahepatic Cholestasis”  
Division of Gastroenterology Grand Rounds, October, 1999.

“Peutz-Jeghers Syndrome”  
Division of Gastroenterology Grand Rounds, January, 2000.

“Highlights of DDW”  
Division of Gastroenterology Grand Rounds, June, 2000.

“Advances on IBD Management”  
Division of Gastroenterology Grand Rounds. April, 2001.

“Board review on Gastroenterology”  
Department of Medicine, 2000 and 2001

“Highlights of DDW 2001”  
Department of Gastroenterology Grand Rounds. June, 2001

## ENDOSCOPIC SKILLS

Diagnostic Upper and Lower Endoscopy  
Bleeding Control Using Heater Probe/Epinephrine Injection and Banding  
Polypectomy/Mucosal resection  
PEG/PEJ feeding tube placement  
Endoscopic/Fluoroscopic Dilation  
Endoluminal stent Placement  
Endoscopic Tattooing  
Endoscopic Botulinum Toxin Injection  
Laser Ablation  
Diagnostic and therapeutic ERCP including Sphincterotomy, stent placement, stone  
Extraction and stricture Dilation.  
Percutaneous liver biopsy

## References:

1. Alvin Gelb, M.D.  
Professor of medicine,  
Albert Einstein College of medicine  
Chief, Division of Gastroenterology  
Beth Israel Medical Center  
Tel. (212)420-4015
2. David Clain, M.D.  
Professor of Medicine  
Chief of Hepatology at Beth Israel Medical Center  
Tel. (212)420-4521
3. Adrienne M. Fleckman, M.D.  
Professor of Medicine  
Program Director, Department of Internal Medicine  
Beth Israel Medical Center  
Tel. (212) 420-4097
4. Mark Siegel, M.D.  
Endoscopy Director  
Beth Israel Medical Center  
Tel. (212) 254 6387
5. Stephen G. Baum, M.D.  
Professor of medicine  
Chief, Department of Internal Medicine  
Beth Israel Medical Center  
Tel. (212) 420-4050

**ASHAN MANOHAR, M.D.**  
Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street  
Norwich CT 06360

HOSPITAL AFFILIATION:

The William W. Backus Hospital, Norwich CT

CERTIFICATION:

Board certified in Gastroenterology, November 1999  
Board certified in Internal Medicine, August 1996

WORK EXPERIENCE:

Norwich GI Associates, July 1999 – present

Emergency Room Physician  
Sir Thomas Roddick Hospital  
Canada, January 1992-May 1993

Staff Physician in Internal Medicine  
Livingstone Hospital  
South Africa, January 1991- December 1991

Research Fellow, Department of Gastroenterology  
University of Natal Medical School  
South Africa, January 1989-December 1990

Rotating Internship  
King Edward University Hospital  
South Africa, January 1988-December 1988

FELLOWSHIP:

Department of Gastroenterology  
State University of New York HSC Brooklyn  
New York, July 1996-June 1999

RESIDENCY:

Department of Medicine  
St. John's Episcopal Hospital (Affiliate SUNY Brooklyn)  
New York, July 1993-June 1996

EDUCATION:

*Doctor of Medicine*, December 1987  
University of Natal Medical School  
South Africa

MEDICAL LICENSURE:

State of Connecticut, No. 037701

You Sung Sang, M.D.  
Norwich GI Associates, P.C.  
79 Wawecus Street  
Norwich CT 06360  
(860)886-2655

HOSPITAL AFFILIATION:

1995- Present      The William W. Backus Hospital, Norwich CT

WORK EXPERIENCE:

1995- Present      Norwich GI Associates, P.C., Norwich CT

PROFESSIONAL TRAINING:

1993-1995      Nassau County Medical Center, East Meadow, NY  
Gastroenterology fellowship  
Therapeutic Endoscopy and ERCP, motility studies, hepatobiliary diseases

1990- 1993      Beth Israel Medical Center, New York, NY  
Medical internship, junior residency, senior residency

EDUCATION:

1986 – 1990      Mount Sinai Medical School, M.D.  
Internal Medicine  
Activities: Teaching assistant in gross anatomy

1982- 1986      Columbia University, B.A., Cum Laude  
Major: Psychology Major: Biology  
Overall GPA: 3.7/4.0

MEDICAL LICENSURE:

1994      American Board of Gastroenterology- Board Certified, No.149027  
1995      Connecticut State Medical License No. 034513  
1994      American Board of Internal Medicine- Board Certified No. 149027  
1992      New York State Medical License, No. 188757  
1991      National Board of Medical Examiners, No. 381896

PROFESSIONAL AFFILIATIONS:

- American College of Gastroenterology
- American Gastroenterological Association
- Connecticut State Medical Society
- New London County Medical Society

# SHIVANI SOOD, MD, MPH

98 North Wantagh Avenue • Levittown, NY 11756 • Mobile (401)241-4344 • shiva.sood@gmail.com

**OBJECTIVE** To obtain a promising career as a gastroenterology attending physician in a competitive and rewarding clinical based practice.

**EDUCATION** NORTH SHORE UNIVERSITY HOSPITAL NYU SCHOOL OF MEDICINE, LONG ISLAND JEWISH HEALTH SYSTEM, MANHASSET, NY

Fellow, Department of Gastroenterology, Hepatology and Nutrition, July 2005-Present  
300 Community Drive, 4 Levitt, Manhasset, NY 11030

- Three year gastroenterology fellowship in a 730 bed tertiary care facility which serves the Long Island and Queens, NY region
- Curriculum includes training in general Gastroenterology, Hepatology, Nutrition with proficiency in endoscopic and therapeutic techniques
- Administrative Senior Fellow with responsibilities in management of fellowship training program

BROWN UNIVERSITY SCHOOL OF MEDICINE, PROVIDENCE, RI

Resident, Department of Internal Medicine, June 2002-July 2005  
Rhode Island Hospital, 593 Eddy Street, Providence, RI 02903

MAILMAN SCHOOL OF PUBLIC HEALTH, COLUMBIA UNIVERSITY, NY, NY  
MPH, Health Policy and Management, May 2002

STATE UNIVERSITY OF NEW YORK DOWNSTATE, BROOKLYN, NY

M.D. Degree, May 2002. Participated in a Problem Based Learning track which focuses upon utilizing individual and group dynamics for case presentations.

CITY UNIVERSITY OF NEW YORK, BROOKLYN COLLEGE, BROOKLYN, NY

Bachelor of Arts Degree: Biology and Psychology, June 1997

- B.A./M.D. Honors Program
- Summa Cum Laude
- Dept of Biology Honor Award

## HONORS AND AWARDS

2002

- Joshua H. Weiner, M.D. International Health Fellowship Award

## PUBLICATIONS

- Sood S, Yaskiv O, Kahn E, *et al.* AIDS Associated Arteriopathy as Etiology of Non-Infectious Recto-Colonic Ulcerations in an Adult: The First Reported Case. Publication in progress.
- Moss SF, Sood S. Helicobacter pylori. *Curr Opin Infect Dis* 2003; 16(5) 445-451.
- Moreland RB, Goldstein I, Traish A. Special acknowledgement Sood S. Sildenafil, a Novel Phosphodiesterase Type 5 in Human Corpus Cavernosum Smooth Muscle Cells. *Life Sciences* 1998; 62(20): 309-18.
- Fairbrother G, Luciano J, Park HL. Special acknowledgement Sood S. Improving the Process through which Health Plans and Providers Exchange Performance-Related Mammography Data. *J. Urban Health* 2002; 79(14): 617-37.

## ABSTRACTS

- Sood S, Savetsky IL, Katz, S *et al.* Gastroduodenal Crohn's disease: A Case of Dramatic Response to Selective Granulocyte-Monocyte Apheresis. Abstract ACG 2007.
- Sood S, Yaskiv O, Devito B, *et al.* AIDS Associated Arteriopathy as Etiology of Non-Infectious Recto-Colonic Ulcerations in an Adult: The First Reported Case. *Am J Gastro* 2006; 101(9): Abstract 964.
- Sood S, Rosen E, Devito B, *et al.* Acute Pancreatitis Secondary to Extracorporeal Shock Wave Lithotripsy (ESWL). *Am J Gastro* 2006; 101(9): Abstract 1621.
- Sood P, Sood S, Lee TP, *et al.* Median Arcuate Ligament Syndrome (MALS): A Lesser Known Entity with an Atypical presentation. Submitted to ACG 2006.

# SHIVANI SOOD, MD, MPH

98 North Wantagh Avenue • Levittown, NY 11756 • Mobile (401)241-4344 • shiva.sood@gmail.com

- Yaskiv O, Sood S, Alhindawi R, et al. AIDS Associated Arteriopathy. An Unusual Cause of Recto-Colonic Ulcerations. Award winning poster at 41<sup>st</sup> Annual Academic Competition, NSLIJHS.
- Moreland RB, Sood S, Goldstein I, Krane RJ, Traish A. Identification of Phosphodiesterase Type 5 in Cultured Human Corpus Cavernosum Smooth Muscle Cells and its Inhibition by Sildenafil. J. Urology 1997; 157(416): Abstract 1621.
- Sood S, Lutchman G. Hepatic Sarcoidosis presenting with Portal Hypertension as the only Feature of Sarcoidosis. Poster presentation at 2002 ACP, Downstate Chapter. New York, NY. April 24, 2002.
- Sood, S, McGarry K. Antemortem Diagnosis of Marantic Endocarditis. Poster presentation at 2003 ACP, Rhode Island Chapter, Providence, RI. February 2003.

## RESEARCH

2003

Rhode Island Hospital, Providence, RI-Department of Gastroenterology

*Oral Presentation of Abstract at Digestive Diseases Week 2005: Chicago, Illinois*

- Squamous Cell Carcinoma of the Esophagus in Patients with prior Head and Neck Cancers: Analysis of Data from Rhode Island State Cancer Registry Database to determine prevalence rates and to evaluate the merits of early screening practices for Esophageal cancer in patients with known Head and Neck cancer.

Research Advisor: Harlan Rich, MD

1995-1996

Boston University Medical Center-Urology Labs-American Foundation for Urologic Diseases (AFUD) - Summer Research Fellowship, Boston, MA

- Applied Gene and Protein isolation, recombination and amplification techniques for characterization of Type V Phosphodiesterase activity in human corpus cavernosum smooth muscle cells and its inhibition by Sildenafil (Viagra).

Research Advisors: Irwin Goldstein, MD, Robert B. Moreland, PhD

## EXPERIENCE

2002

Rhode Island Hospital, Providence, RI: *Supervising Resident*

- Teaching Resident for Brown University, Biomed 301 Core Clerkship in Internal Medicine

2001

Montefiore Medical Center Contract Management Organization, NY: *Independent Consultant*

- Conducted a Return on Investment Analysis of Montefiore's Emergency Department Outreach Program aimed at identifying potentially inappropriate use of the ED and its resources.

2001

New York Academy of Medicine, NY: *Independent Consultant*

- Worked in collaboration with the United Hospital Fund and researchers from the NY Academy of Medicine to develop a more efficient process for collecting and reporting Health Plan Employer Data and Information Set (HEDIS) related information within the Montefiore network and to compare this approach with the current processes.

2000

American Association of Physicians of Indian Origin (AAPI): *CME Coordinator*

- Organized National Convention medical education series involving 32 distinguished speaker from all arenas of the health care field, ranging from physicians to politicians over a 4-day span.

1999

American Medical Students' Association: *National Primary Care Week Coordinator*

- Organized speakers, events, workshops, and group lectures overseeing the contents of the entire event for SUNY Downstate.

1999

Columbia University, School Of Social Work: *Immigrant Women's Health Project*

- Research Associate/Translator/Transcriber for 100+ pg. questionnaire designed to provide South Asian women (through SAKHI) political, domestic and medical relief.

1999-2001

SUNY Health Science Center at Brooklyn, NY: *Residential Life Advisor*

- Counseled peers, managed residential life issues and coordinated social events for medical residents and colleagues.

1997

Johns Hopkins University-Center for Talented Youth, Carlisle, PA: *Residential/Group Advisor*

- Coordinated daily activities for a group of students demonstrating superior academic skills, serving as their peer mentor. Conducted study sessions and organized leisure activities.

## SHIVANI SOOD, MD, MPH

98 North Wantagh Avenue • Levittown, NY 11756 • Mobile (401)241-4344 • shiva.sood@gmail.com

### PROFESSIONAL SOCIETIES

- 2006 American College of Gastroenterology: Member  
American Society of Gastroenterologic Endoscopy: Member
- 2005 American Board of Internal Medicine: Diplomate

### COMMUNITY/VOLUNTEER ACTIVITIES

- 1999-2000 Substance Abuse Committee - SUNY Health Science Center at Brooklyn - *Student Representative and Administrative Counselor*
- Advised and offered follow-up care for students in the Substance Abuse Program.
- South Asian Medical Benevolence Association-*Executive Council Associate and Project Supervisor*
- Organized charity events and coordinated public relations for major effort to establish free medical care for South Asian refugee women and children who are victims of domestic violence or unregistered in health care network. Served as a translator in Hindi, Punjabi and Urdu.
- South Asian Association at Brooklyn-*President and Public Relations Officer*
- Organized cultural and informational events to enlighten the medical school community about South Asian culture and their practices and medical beliefs.

### HOBBIES/INTERESTS

- Cooking, Dancing, Reading, Traveling, Outdoor fitness activities.

### LANGUAGES

- Proficient in Hindi, Punjabi, Urdu and Basic Spanish.

**Christopher A. Holden**

President, Chief Executive Officer and Director

Christopher A. Holden joined AmSurg in October 2007 as President, Chief Executive Officer and Director. Mr. Holden is a healthcare industry veteran of more than 21 years, engaged during most of his career directly in multi-facility and multi-market healthcare management. Prior to joining AmSurg, Mr. Holden served as Senior Vice President and a Division President of Triad Hospitals, Inc., of which Mr. Holden was a founding team member and officer in May 1999. From August 1994 until May 1999, Mr. Holden held several officer positions with Columbia/HCA Healthcare Corporation. Mr. Holden received his Bachelor of Science degree in Health Policy and Administration from The University of North Carolina and his Juris Doctorate and Masters in Healthcare Administration degrees from Washington University in St. Louis.

**Claire M. Gulmi**

Executive Vice President, Chief Financial Officer, Secretary and Director

Claire M. Gulmi joined AmSurg in September 1994 as Vice President and Chief Financial Officer. Ms. Gulmi became Senior Vice President in March 1997, Secretary in December 1997, a Director in May 2004 and Executive Vice President in February 2006.

**Phillip A. Clendenin**

Executive Vice President – Operations

Phillip A Clendenin has served as Executive Vice President – Operations of AmSurg since February 2013. Mr. Clendenin joined AmSurg in March 2009 and served as Senior Vice President, Corporate Services from March 2009 to February 2013. Prior to joining AmSurg, Mr. Clendenin held management positions with Community Health Systems, Triad Hospitals, HCA and National Medical Enterprises. Mr. Clendenin received his B.S. in business administration from the University of Tennessee at Martin, and holds a master's degree in health administration from Washington University School of Medicine.

**Shawn G. Strash**

Senior Vice President of Corporate Services and Chief Compliance Officer

Shawn G. Strash joined AmSurg in February 2013 and serves as Senior Vice President of Corporate Services and Chief Compliance Officer. Prior to joining AmSurg, Mr. Strash served as Chief Executive Officer of Paradise Valley Hospital, a hospital located in Phoenix, Arizona, from July 2011 to September 2012, and as Chief Executive Officer of Oro Valley Hospital, a hospital in Tucson, Arizona, from 2007 to 2011.

**Robert McCullough**  
Vice President of Development

Robert McCullough joined AmSurg in July 2001 as Vice President, Development. Rob has held various management positions in acquisitions and partnership development of 15 years.

# Exhibit 6

**STATE OF CONNECTICUT**

**Department of Public Health**

**LICENSE**

**LICENSE NO. 0295**

**Outpatient Surgical Facility**

In accordance with the provisions of the General Statutes of Connecticut Section 19a-493:

Eastern Connecticut Endoscopy Center, LLC of Norwich, CT d/b/a Eastern Connecticut Endoscopy Center, LLC is hereby licensed to maintain and operate an Outpatient Surgical Facility.

**Eastern Connecticut Endoscopy Center, LLC** is located at 79 Wawecus Street, Norwich, CT, 06360.

This license expires **September 30, 2014** and may be revoked for cause at any time.

Dated at Hartford, Connecticut, October 1, 2012. RENEWAL

Waiver Sec. 19-13-D56 (b)(C)(2)

Waiver Sec. 19-13-D56 (b)(D)(5)

Waiver Sec. 19-13-D56 (b)(D)(6)

Waiver Sec. 19-13-D56 (b)(E)(7)

Waiver Sec. 19-13-D56 (b)(E)(11)

Waiver Sec. 19-13-D56 (b)(I)(1)(a)

Waiver Sec. 19-13-D56 (b)(I)(2)(b)

Waiver Sec. 19-13-D56 (b)(E)(9)

Waiver Sec. 19-13-D56 (b)(D)(3)

Waiver Sec. 19-13-D56 (b)(D)(5)

Waiver Sec. 19-13-D56 (b)(E)(4)

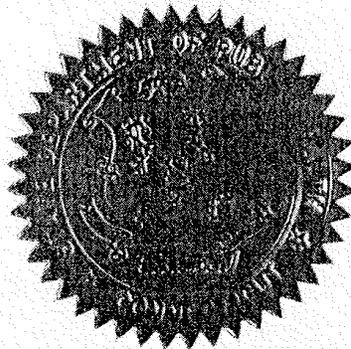
Waiver Sec. 19-13-D56 (b)(E)(8)

Waiver Sec. 19-13-D56 (b)(G)(1)(c)

Waiver Sec. 19-13-D56 (b)(I)(2)(c)

Waiver Sec. 19-13-D56 (b)(E)(5)

Waiver Sec. 19-13-D56 (b)(I)(2)(f)



*Jewel Mullen, MD*

Jewel Mullen, MD, MPH, MPA  
Commissioner

# Exhibit 7

EASTERN CONNECTICUT  
ENDOSCOPY CENTER, LLC

Financial Statements

December 31, 2012 and 2011

EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC.

Financial Statements  
December 31, 2012 and 2011

Table of Contents

	Page
Independent Accountants' Compilation Report .....	1
Statements of Assets, Liabilities and Members' Equity - Income Tax Basis.....	2
Statements of Revenues, Expenses and Members' Equity - Income Tax Basis.....	3
Statements of Cash Flows - Income Tax Basis .....	4

## INDEPENDENT ACCOUNTANTS' COMPILATION REPORT

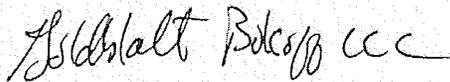
To the Members  
Eastern CT Endoscopy Center, LLC  
Norwich, Connecticut

We have compiled the accompanying statements of assets, liabilities, and members' equity - income tax basis of the Eastern CT Endoscopy Center, LLC (a partnership) as of December 31, 2012 and 2011, and the related statements of revenues, expenses and members' equity - income tax basis and cash flows - income tax basis for the years then ended. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with the income tax basis of accounting.

The Owners are responsible for the preparation and fair presentation of the financial statements in accordance with the income tax basis of accounting and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

The Owners have elected to omit substantially all of the disclosures ordinarily included in financial statements prepared in accordance with the income tax basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the Company's assets, liabilities, equity, revenues, and expenses. Accordingly, the financial statements are not designed for those who are not informed about such matters.



GOLDBLATT BOKOFF LLC  
Certified Public Accountants

May 16, 2013

Page 1

EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC  
 Statements of Assets, Liabilities and Members' Equity - Income Tax Basis  
 December 31,

	<u>2012</u>	<u>2011</u>
<u>ASSETS</u>		
CURRENT ASSETS		
Cash	\$ 154,720	\$ 170,522
TOTAL CURRENT ASSETS	154,720	170,522
PROPERTY AND EQUIPMENT	510,176	499,273
Accumulated Depreciation	<u>(510,176)</u>	<u>(499,273)</u>
NET PROPERTY AND EQUIPMENT	0	0
OTHER ASSETS		
Goodwill, Net of Accumulated Amortization	<u>258,414</u>	<u>278,420</u>
TOTAL ASSETS	<u>\$ 413,134</u>	<u>\$ 448,942</u>
<u>LIABILITIES AND MEMBERS' EQUITY</u>		
CURRENT LIABILITIES		
Payroll Withholding Payable	\$ 1,437	\$ 415
Current Portion of Long-term Debt	<u>76,886</u>	<u>72,419</u>
TOTAL CURRENT LIABILITIES	78,323	72,834
LONG-TERM DEBT, Net of Current Portion	<u>93,835</u>	<u>164,678</u>
TOTAL LIABILITIES	172,158	237,512
MEMBERS' EQUITY	<u>240,976</u>	<u>211,430</u>
TOTAL LIABILITIES AND MEMBERS' EQUITY	<u>\$ 413,134</u>	<u>\$ 448,942</u>

**EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC**  
 Statements of Revenues, Expenses and Members' Equity - Income Tax Basis  
 For the Years Ended December 31,

	<u>2012</u>	<u>2011</u>
REVENUE	\$ 3,029,321	\$ 2,474,881
Refunds	<u>(90,429)</u>	<u>(50,424)</u>
NET REVENUE	2,938,892	2,424,457
OPERATING EXPENSES		
Wages & Temporary Help	683,161	601,805
Medical Supplies	197,021	176,119
Rent	170,758	131,477
Professional Fees	142,564	42,418
Office Expense	68,838	59,084
Payroll Taxes	62,510	49,912
Repairs & Maintenance	55,478	75,058
Employee Benefits	43,442	49,120
Employee Profit-sharing Plan	42,805	37,250
Linen Service	33,402	31,938
Depreciation & Amortization Expense	32,409	334,603
Utilities	18,173	19,090
Computer Supplies & Maintenance	17,430	20,091
Dues & Licenses	17,417	6,309
Malpractice Insurance	14,475	21,491
Insurance	8,907	7,186
Continuing Education	7,408	3,950
Local & State Entity Taxes	5,171	5,968
Advertising	3,061	650
Telephone	2,273	2,125
Meals & Entertainment	<u>818</u>	<u>656</u>
Total Operating Expense	1,627,521	1,676,300
OTHER INCOME (EXPENSE)		
Interest Income	161	155
Reimbursed Payroll Expenses	54,811	81,891
Interest Expense	<u>(11,061)</u>	<u>(14,728)</u>
Total Other Income (Expense)	43,911	67,318
NET INCOME	1,355,282	815,475
MEMBERS' EQUITY, Beginning	211,430	359,955
WITHDRAWALS	<u>(1,325,736)</u>	<u>(964,000)</u>
MEMBERS' EQUITY, Ending	<u>\$ 240,976</u>	<u>\$ 211,430</u>

# EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC

## Statements of Cash Flows - Income Tax Basis

For the Years Ended December 31,

	<u>2012</u>	<u>2011</u>
<u>OPERATING ACTIVITIES</u>		
Net Income	\$ 1,355,282	\$ 815,475
Adjustments to Reconcile Net Income to Net Cash Provided by Operating Activities:		
Depreciation & Amortization Expense	32,409	334,603
Increase (Decrease) in Liabilities:		
Payroll Withholding Payable	1,022	80
Due to Member	0	(144,000)
	1,388,713	1,006,158
<u>INVESTING ACTIVITIES</u>		
Purchase of Property and Equipment	(12,403)	(314,597)
NET CASH USED BY INVESTMENT ACTIVITIES	(12,403)	(314,597)
<u>FINANCING ACTIVITIES</u>		
Proceeds from Long-term Borrowing	0	300,000
Principal Payments on Long-term Borrowing	(66,376)	(62,903)
Member Withdrawals	(1,325,736)	(964,000)
NET CASH USED BY FINANCING ACTIVITIES	(1,392,112)	(726,903)
DECREASE IN CASH	(15,802)	(35,342)
CASH, Beginning of Period	170,522	205,864
CASH, End of Period	\$ 154,720	\$ 170,522

**Item 8. Financial Statements and Supplementary Data**

---

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of  
AmSurg Corp.  
Nashville, Tennessee

We have audited the accompanying consolidated balance sheets of AmSurg Corp. and subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of earnings, comprehensive income, changes in equity, and cash flows for each of the three years in the period ended December 31, 2012. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of AmSurg Corp. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 27, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

Nashville, Tennessee  
February 27, 2013

**Item 8. Financial Statements and Supplementary Data – (continued)****AmSurg Corp.  
Consolidated Balance Sheets  
December 31, 2012 and 2011  
(Dollars in thousands)**

	<u>2012</u>	<u>2011</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 46,398	\$ 40,718
Accounts receivable, net of allowance of \$22,379 and \$18,844, respectively	96,752	93,454
Supplies inventory	18,406	15,039
Deferred income taxes	3,088	2,129
Prepaid and other current assets	<u>27,537</u>	<u>21,875</u>
Total current assets	192,181	173,215
Property and equipment, net	166,612	144,558
Investments in unconsolidated affiliates and long-term notes receivable	11,274	10,522
Goodwill	1,652,002	1,229,298
Intangible assets, net	<u>22,517</u>	<u>15,425</u>
Total assets	<u>\$ 2,044,586</u>	<u>\$ 1,573,018</u>
<b>Liabilities and Equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 17,407	\$ 10,800
Accounts payable	23,509	19,746
Current income taxes payable	-	1,796
Accrued salaries and benefits	29,251	22,224
Other accrued liabilities	<u>14,246</u>	<u>9,088</u>
Total current liabilities	84,413	63,654
Long-term debt	620,705	447,963
Deferred income taxes	137,648	114,167
Other long-term liabilities	25,972	28,131
Commitments and contingencies		
Noncontrolling interests – redeemable	175,382	170,636
Preferred stock, no par value, 5,000,000 shares authorized, no shares issued or outstanding	-	-
Equity:		
Common stock, no par value, 70,000,000 shares authorized, 31,941,441 and 31,283,772 shares outstanding, respectively	183,867	173,187
Retained earnings	<u>505,621</u>	<u>443,058</u>
Total AmSurg Corp. equity	689,488	616,245
Noncontrolling interests – non-redeemable	<u>310,978</u>	<u>132,222</u>
Total equity	<u>1,000,466</u>	<u>748,467</u>
Total liabilities and equity	<u>\$ 2,044,586</u>	<u>\$ 1,573,018</u>

See accompanying notes to the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Consolidated Statements of Earnings**  
**Years Ended December 31, 2012, 2011 and 2010**  
**(In thousands, except earnings per share )**

	2012	2011	2010
Revenues	\$ 928,509	\$ 777,587	\$ 692,571
Operating expenses:			
Salaries and benefits	291,713	240,386	209,062
Supply cost	132,044	102,356	89,863
Other operating expenses	194,293	169,730	145,800
Depreciation and amortization	30,078	25,872	24,665
Total operating expenses	648,128	538,344	469,390
Equity in earnings of unconsolidated affiliates	1,564	613	-
Operating income	281,945	239,856	223,181
Interest expense	16,972	15,330	13,476
Earnings from continuing operations before income taxes	264,973	224,526	209,705
Income tax expense	42,627	35,254	32,991
Net earnings from continuing operations	222,346	189,272	176,714
Discontinued operations:			
Earnings from operations of discontinued interests in surgery centers, net of income tax	1,272	2,385	6,514
Gain (loss) on disposal of discontinued interests in surgery centers, net of income tax	25	(1,543)	(2,732)
Net earnings from discontinued operations	1,297	842	3,782
Net earnings	223,643	190,114	180,496
Less net earnings attributable to noncontrolling interests:			
Net earnings from continuing operations	159,761	138,878	126,716
Net earnings from discontinued operations	1,319	1,239	3,955
Total net earnings attributable to noncontrolling interests	161,080	140,117	130,671
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825
Amounts attributable to AmSurg Corp. common shareholders:			
Earnings from continuing operations, net of income tax	\$ 62,585	\$ 50,394	\$ 49,998
Discontinued operations, net of income tax	(22)	(397)	(173)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825
Earnings per share-basic:			
Net earnings from continuing operations attributable to AmSurg Corp. common shareholders	\$ 2.03	\$ 1.65	\$ 1.65
Net loss from discontinued operations attributable to AmSurg Corp. common shareholders	-	(0.01)	-
Net earnings attributable to AmSurg Corp. common shareholders	\$ 2.03	\$ 1.64	\$ 1.65
Earnings per share-diluted:			
Net earnings from continuing operations attributable to AmSurg Corp. common shareholders	\$ 1.98	\$ 1.61	\$ 1.63
Net loss from discontinued operations attributable to AmSurg Corp. common shareholders	-	(0.01)	(0.01)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 1.98	\$ 1.60	\$ 1.62

Weighted average number of shares and share equivalents outstanding:			
Basic	30,773	30,452	30,255
Diluted	31,608	31,211	30,689

See accompanying notes to the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Consolidated Statements of Comprehensive Income  
Years Ended December 31, 2012, 2011 and 2010  
(In thousands )**

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Net earnings	\$ 223,643	\$ 190,114	\$ 180,496
Other comprehensive income, net of income tax:			
Unrealized gain on interest rate swap, net of income tax	<u>-</u>	<u>515</u>	<u>1,334</u>
Comprehensive income, net of income tax	223,643	190,629	181,830
Less comprehensive income attributable to noncontrolling interests	<u>161,080</u>	<u>140,117</u>	<u>130,671</u>
Comprehensive income attributable to AmSurg Corp. common shareholders	<u>\$ 62,563</u>	<u>\$ 50,512</u>	<u>\$ 51,159</u>

See accompanying notes to the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data -- (continued)**

**AmSurg Corp.**  
**Consolidated Statements of Changes in Equity**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands)

	<u>AmSurg Corp. Shareholders</u>							
	Common Stock		Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Non-Controlling Interests - Non-Redeemable	Total Equity (Permanent)	Non-Controlling Interests - Redeemable (Temporary Equity)	Net Earnings
	Shares	Amount						
Balance at January 1, 2010	30,674	\$ 163,729	\$ 343,236	\$ (1,849)	\$ 5,255	\$ 510,371	\$ 123,363	
Issuance of restricted common stock	233	-	-	-	-	-	-	
Cancellation of restricted common stock	(25)	(15)	-	-	-	(15)	-	
Stock options exercised	158	2,583	-	-	-	2,583	-	
Share-based compensation	-	4,869	-	-	-	4,869	-	
Tax benefit related to exercise of stock options	-	71	-	-	-	71	-	
Net earnings	-	-	49,825	-	4,546	54,371	126,125	<u>\$ 180,496</u>
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(4,844)	(4,844)	(127,193)	
Purchase of noncontrolling interest	-	893	-	-	(137)	756	(1,046)	
Sale of noncontrolling interest	-	(608)	-	-	434	(174)	614	
Acquisitions and other transactions impacting noncontrolling interests	-	-	-	-	7,545	7,545	25,877	
Gain on interest rate swap, net of income tax expense of \$860	-	-	-	1,334	-	1,334	-	
Balance at December 31, 2010	31,040	171,522	393,061	(515)	12,799	576,867	147,740	
Issuance of restricted common stock	277	-	-	-	-	-	-	
Cancellation of restricted common stock	(1)	(9)	-	-	-	(9)	-	
Stock options exercised	374	6,872	-	-	-	6,872	-	
Stock repurchased	(406)	(10,007)	-	-	-	(10,007)	-	
Share-based compensation	-	6,178	-	-	-	6,178	-	
Tax benefit related to exercise of stock options	-	649	-	-	-	649	-	
Net earnings	-	-	49,997	-	10,181	60,178	129,936	<u>\$ 190,114</u>
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(9,502)	(9,502)	(129,979)	
Purchase of noncontrolling interest	-	195	-	-	(817)	(622)	(788)	
Sale of noncontrolling interest	-	(1,702)	-	-	439	(1,263)	1,771	
Acquisitions and other transactions impacting noncontrolling								

interests	-	-	-	-	122,276	122,276	21,390
Disposals and other transactions impacting noncontrolling interests	-	(511)	-	-	(3,154)	(3,665)	566
Gain on interest rate swap, net of income tax expense of \$332	-	-	-	515	-	515	-
Balance at December 31, 2011	31,284	\$ 173,187	\$ 443,058	\$ -	\$ 132,222	\$ 748,467	\$ 170,636

See accompanying notes to the consolidated financial statements.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Consolidated Statements of Changes in Equity – (continued)**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands)

	<u>AmSurg Corp. Shareholders</u>				Non-Controlling Interests – Redeemable	Total Equity (Permanent)	Non-Controlling Interests – Redeemable (Temporary Equity)	Net Earnings
	Common Stock Shares	Common Stock Amount	Retained Earnings	Accumulated Other Comprehensive Income (Loss)				
Balance at December 31, 2011	31,284	\$ 173,187	\$ 443,058	\$ -	\$ 132,222	\$ 748,467	\$ 170,636	
Issuance of restricted common stock	281	-	-	-	-	-	-	
Cancellation of restricted common stock	(2)	-	-	-	-	-	-	
Stock options exercised	842	18,214	-	-	-	18,214	-	
Stock repurchased	(464)	(13,101)	-	-	-	(13,101)	-	
Share-based compensation	-	6,692	-	-	-	6,692	-	
Tax benefit related to exercise of stock options	-	1,834	-	-	-	1,834	-	
Net earnings	-	-	62,563	-	26,303	88,866	134,777	<u>\$ 223,643</u>
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(26,514)	(26,514)	(136,356)	
Purchase of noncontrolling interest	-	252	-	-	(421)	(169)	(81)	
Sale of noncontrolling interest	-	(2,794)	-	-	4,352	1,558	-	
Acquisitions and other transactions impacting noncontrolling interests	-	-	-	-	175,036	175,036	7,038	
Disposals and other transactions impacting noncontrolling interests	-	(417)	-	-	-	(417)	(632)	
Balance at December 31, 2012	<u>31,941</u>	<u>\$ 183,867</u>	<u>\$ 505,621</u>	<u>\$ -</u>	<u>\$ 310,978</u>	<u>\$ 1,000,466</u>	<u>\$ 175,382</u>	

See accompanying notes to the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands)

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Cash flows from operating activities:			
Net earnings	\$ 223,643	\$ 190,114	\$ 180,496
Adjustments to reconcile net earnings to net cash flows provided by operating activities:			
Depreciation and amortization	30,078	25,872	24,665
Net (gain) loss on sale of long-lived assets	(1,065)	(1,518)	4,243
Share-based compensation	6,692	6,178	4,869
Excess tax benefit from share-based compensation	(1,784)	(977)	(200)
Deferred income taxes	24,558	23,623	18,247
Equity in earnings of unconsolidated affiliates	(1,564)	(613)	-
Increase (decrease) in cash and cash equivalents, net of effects of acquisitions and dispositions, due to changes in:			
Accounts receivable, net	8,061	(2,122)	713
Supplies inventory	110	168	(541)
Prepaid and other current assets	(4,651)	838	(3,364)
Accounts payable	579	(2,205)	(220)
Accrued expenses and other liabilities	7,550	2,329	168
Other, net	3,445	1,736	1,499
Net cash flows provided by operating activities	<u>295,652</u>	<u>243,423</u>	<u>230,575</u>
Cash flows from investing activities:			
Acquisition of interests in surgery centers and related transactions	(277,388)	(239,223)	(53,690)
Acquisition of property and equipment	(28,864)	(22,170)	(19,275)
Proceeds from sale of interests in surgery centers	7,309	7,026	60
Net cash flows used in investing activities	<u>(298,943)</u>	<u>(254,367)</u>	<u>(72,905)</u>
Cash flows from financing activities:			
Proceeds from long-term borrowings	565,566	288,869	176,619
Repayment on long-term borrowings	(394,164)	(129,107)	(195,960)
Distributions to noncontrolling interests	(162,941)	(138,724)	(132,110)
Proceeds from issuance of common stock upon exercise of stock options	18,214	6,872	2,583
Repurchase of common stock	(13,101)	(10,007)	-
Capital contributions and ownership transactions by noncontrolling interests	1,595	660	224
Excess tax benefit from share-based compensation	1,784	977	200
Financing cost incurred	(7,982)	(2,025)	(4,456)
Net cash flows provided by (used in) financing activities	<u>8,971</u>	<u>17,515</u>	<u>(152,900)</u>
Net increase in cash and cash equivalents	5,680	6,571	4,770
Cash and cash equivalents, beginning of year	<u>40,718</u>	<u>34,147</u>	<u>29,377</u>
Cash and cash equivalents, end of year	<u>\$ 46,398</u>	<u>\$ 40,718</u>	<u>\$ 34,147</u>

See accompanying notes to the consolidated financial statements.

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements**

**I. Summary of Significant Accounting Policies**

**a. Principles of Consolidation**

AmSurg Corp. (the "Company"), through its wholly owned subsidiaries, owns interests, primarily 51%, in limited partnerships and limited liability companies ("LLCs") which own and operate ambulatory surgery centers ("centers"). The Company also has majority ownership interests in other limited partnerships and LLCs formed to develop additional centers. The Company does not have an ownership interest in a limited partnership or LLC greater than 51% which it does not consolidate. The Company does have an ownership interest of less than 51% in five of its limited partnerships and LLC's, three of which it consolidates as the Company has substantive participation rights, and two of which it does not consolidate, as the Company owns 20% of each entity and the Company's rights are limited to protective rights only. The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries and the consolidated limited partnerships and LLCs. Consolidation of such limited partnerships and LLCs is necessary as the Company's wholly owned subsidiaries have primarily 51% or more of the financial interest, are the general partner or majority member with all the duties, rights and responsibilities thereof, are responsible for the day-to-day management of the limited partnerships and LLCs, and have control of the entities. The responsibilities of the Company's noncontrolling partners (limited partners and noncontrolling members) are to supervise the delivery of medical services, with their rights being restricted to those that protect their financial interests, such as approval of the acquisition of significant assets or the incurrence of debt which they are generally required to guarantee on a pro rata basis based upon their respective ownership interests. Intercompany profits, transactions and balances have been eliminated. All limited partnerships and LLCs and noncontrolling partners are referred to herein as partnerships and partners, respectively.

Ownership interests in consolidated subsidiaries held by parties other than the Company are identified and generally presented in the consolidated financial statements within the equity section but separate from the Company's equity. However, in instances in which certain redemption features that are not solely within the control of the Company are present, classification of noncontrolling interests outside of permanent equity is required. Consolidated net income attributable to the Company and to the noncontrolling interests are identified and presented on the face of the consolidated statements of earnings; changes in ownership interests are accounted for as equity transactions; and when a subsidiary is deconsolidated, any retained noncontrolling equity investment in the former subsidiary and the gain or loss on the deconsolidation of the subsidiary is measured at fair value. Certain transactions with noncontrolling interests are also classified within financing activities in the statements of cash flows.

As further described in note 14, upon the occurrence of various fundamental regulatory changes, the Company would be obligated, under the terms of certain partnership and operating agreements, to purchase the noncontrolling interests related to a substantial majority of the Company's partnerships. While the Company believes that the likelihood of a change in current law that would trigger such purchases was remote as of December 31, 2012, the occurrence of such regulatory changes is outside the control of the Company. As a result, the noncontrolling interests that are subject to this redemption feature are not included as part of the Company's equity and are classified as noncontrolling interests – redeemable on the Company's consolidated balance sheets.

Center profits and losses of consolidated entities are allocated to the Company's partners in proportion to their ownership percentages and reflected in the aggregate as net earnings attributable to noncontrolling interests. The partners of the Company's center partnerships typically are organized as general partnerships, limited partnerships or limited liability companies that are not subject to federal income tax. Each partner shares in the pre-tax earnings of the center in which it is a partner. Accordingly, the earnings attributable to noncontrolling interests in each of the Company's consolidated partnerships are generally determined on a pre-tax basis, and total net earnings attributable to noncontrolling interests are presented after net earnings. However, the Company considers the impact of the net earnings attributable to noncontrolling interests on earnings before income taxes in order to determine the amount of pre-tax earnings on which the Company must determine its tax expense. In addition, distributions from the partnerships are made to both the Company's wholly owned subsidiaries and the partners on a pre-tax basis.

Investments in unconsolidated affiliates in which the Company exerts significant influence but does not control or otherwise consolidate are accounted for using the equity method. These investments are included as investments in unconsolidated affiliates in the accompanying consolidated balance sheets. The Company's share of the profits and losses from these investments are reported in equity in earnings of unconsolidated affiliates in the accompanying consolidated statement of earnings. The Company monitors its investments for other-than-temporary impairment by considering factors such as current economic and market conditions and the operating performance of the companies and records reductions in carrying values when necessary.

The Company operates in one reportable business segment, the ownership and operation of ambulatory surgery centers.

**b. Cash and Cash Equivalents**

Cash and cash equivalents are comprised principally of demand deposits at banks and other highly liquid short-term investments with maturities of less than three months when purchased.

**c. Supplies Inventory**

Supplies inventory consists of medical and drug supplies and is recorded at cost on a first-in, first-out basis.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**d. Prepaid and Other Current Assets**

At December 31, 2012, prepaid and other current assets were comprised of short-term investments of \$8,804,000, other prepaid expenses of \$6,462,000, prepaid insurance expense of \$4,963,000, other current receivables of \$5,926,000 and other current assets of \$1,382,000. At December 31, 2011, prepaid and other current assets were comprised of short-term investments of \$6,516,000, other prepaid expenses of \$5,674,000, prepaid insurance expense of \$4,185,000, other current receivables of \$4,394,000 and other current assets of \$1,106,000.

**e. Property and Equipment, net**

Property and equipment are stated at cost. Equipment held under capital leases is stated at the present value of minimum lease payments at the inception of the related leases. Depreciation for buildings and improvements is recognized under the straight-line method over 20 to 40 years or, for leasehold improvements, over the remaining term of the lease plus renewal options for which failure to renew the lease imposes a penalty on the Company in such an amount that a renewal appears, at the inception of the lease, to be reasonably assured. The primary penalty to which the Company is subject is the economic detriment associated with existing leasehold improvements which might be impaired if a decision is made not to continue the use of the leased property. Depreciation for movable equipment and software and software development costs is recognized over useful lives of three to ten years.

**f. Goodwill**

The Company evaluates goodwill for impairment at least on an annual basis and more frequently if certain indicators are encountered. Goodwill is to be tested at the reporting unit level, defined as an operating segment or one level below an operating segment (referred to as a component), with the fair value of the reporting unit being compared to its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to be impaired. The Company has determined that it has one operating, as well as one reportable, segment. For impairment testing purposes, the centers qualify as components of that operating segment. Because they have similar economic characteristics, the components are aggregated and deemed a single reporting unit. The Company completed its annual impairment test as of December 31, 2012, and determined that goodwill was not impaired.

**g. Intangible Assets**

Intangible assets consist primarily of deferred financing costs of the Company and certain amortizable and non-amortizable non-compete and customer agreements. Deferred financing costs and amortizable non-compete agreements and customer agreements are amortized over the term of the related debt as interest expense and the contractual term or estimated life (five to ten years) of the agreements as amortization expense, respectively.

**h. Other Long-Term Liabilities**

At December 31, 2012, other long-term liabilities are comprised of deferred rent of \$12,134,000, tax-effected unrecognized benefits of \$10,113,000 (see note 1(k)), unfavorable lease liability of \$3,559,000 and other long-term liabilities of \$166,000. At December 31, 2011, other long-term liabilities are comprised of deferred rent of \$10,255,000, tax-effected unrecognized benefits of \$8,356,000 (see note 1(k)), purchase price obligation of \$5,236,000, unfavorable lease liability of \$4,084,000 and other long-term liabilities of \$200,000.

**i. Revenue Recognition**

Center revenues consist of billing for the use of the centers' facilities (the "facility fee") directly to the patient or third-party payor and, at certain of our centers (primarily centers that perform gastrointestinal endoscopy procedures), billing for anesthesia services provided by medical professionals employed or contracted by our centers. Such revenues are recognized when the related surgical procedures are performed. Revenues exclude any amounts billed for physicians' surgical services, which are billed separately by the physicians to the patient or third-party payor.

Revenues from centers are recognized on the date of service, net of estimated contractual adjustments from third-party medical service payors including Medicare and Medicaid. During the years ended December 31, 2012, 2011 and 2010, the Company derived approximately 27%, 29% and 31%, respectively, of its revenues from government healthcare programs, primarily Medicare, and managed Medicare programs. Concentration of credit risk with respect to other payors is limited due to the large number of such payors.

**j. Operating Expenses**

Substantially all of the Company's operating expenses relate to the cost of revenues and the delivery of care at the Company's surgery centers. Such costs primarily include the surgery centers' clinical and administrative salaries and benefits, supply cost, rent and other variable expenses, such as linen cost, repair and maintenance of equipment, billing fees and bad debt expense. Bad debt expense was approximately \$20,073,000, \$18,449,000 and \$16,945,000 for the years ended December 31, 2012, 2011 and 2010, respectively.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**k. Income Taxes**

The Company files a consolidated federal income tax return. Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Company applies recognition thresholds and measurement attributes for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return as it relates to accounting for uncertainty in income taxes. In addition, it is the Company's policy to recognize interest accrued and penalties, if any, related to unrecognized benefits as income tax expense in its statement of earnings. The Company does not expect significant changes to its tax positions or liability for tax uncertainties during the next 12 months.

The Company and its subsidiaries file income tax returns in the U.S. federal jurisdiction and various state jurisdictions. With few exceptions, the Company is no longer subject to U.S. federal or state income tax examinations for years prior to 2009.

**l. Earnings Per Share**

Basic earnings per share is computed by dividing net earnings attributable to AmSurg Corp. common shareholders by the combined weighted average number of common shares, while diluted earnings per share is computed by dividing net earnings attributable to AmSurg Corp. common shareholders by the weighted average number of such common shares and dilutive share equivalents.

**m. Share-Based Compensation**

Transactions in which the Company receives employee and non-employee services in exchange for the Company's equity instruments or liabilities that are based on the fair value of the Company's equity securities or may be settled by the issuance of these securities are accounted using a fair value method. The Company applies the Black-Scholes method of valuation in determining share-based compensation expense.

Benefits of tax deductions in excess of recognized compensation cost are reported as a financing cash flow, thus reducing the Company's net operating cash flows and increasing its financing cash flows by \$1,784,000, \$977,000 and \$200,000 for the years ended December 31, 2012, 2011 and 2010, respectively.

The Company examines its concentrations of holdings, its historical patterns of award exercises and forfeitures as well as forward-looking factors, in an effort to determine if there were any discernable employee populations. From this analysis, the Company has identified three employee populations, consisting of senior executives, officers and all other recipients. The expected volatility rate applied was estimated based on historical volatility. The expected term assumption applied is based on contractual terms, historical exercise and cancellation patterns and forward-looking factors where present for each population identified. The risk-free interest rate used is based on the U.S. Treasury yield curve in effect at the time of the grant. The pre-vesting forfeiture rate is based on historical rates and forward-looking factors for each population identified. The Company will adjust the estimated forfeiture rate to its actual experience. The Company intends to retain its earnings to finance growth and development of the business and does not expect to disclose or pay any cash dividends in the foreseeable future.

**n. Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The determination of contractual and bad debt allowances constitutes a significant estimate. Some of the factors considered by management in determining the amount of such allowances are the historical trends of the centers' cash collections and contractual and bad debt write-offs, accounts receivable agings, established fee schedules, contracts with payors and procedure statistics. Accordingly, net accounts receivable at December 31, 2012 and 2011 reflect allowances for contractual adjustments of \$216,363,000 and \$136,265,000, respectively, and allowance for bad debt expense of \$22,379,000 and \$18,844,000, respectively.



**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**

**Notes to the Consolidated Financial Statements – (continued)**

**o. Recent Accounting Pronouncements**

In June 2011, the Financial Accounting Standards ("FASB") amended Accounting Standards Codification ("ASC") 220, "Presentation of Comprehensive Income." This amendment requires companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements. It eliminates the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. In December 2011, the FASB issued Accounting Standards Update ("ASU") 2011-12, which is an update to the amendment issued in June 2011. This amendment defers the specific requirements to present items that are reclassified from accumulated other comprehensive income to net income separately with their respective components of net income and other comprehensive income. The amended guidance, which must be applied retroactively, is effective for interim and annual periods beginning after December 15, 2011, with earlier adoption permitted. This ASU impacts presentation only and had no effect on the Company's consolidated financial position, results of operations or cash flows.

In July 2011, the FASB issued ASU 2011-07, which requires healthcare organizations that perform services for patients for which the ultimate collection of all or a portion of the amounts billed or billable cannot be determined at the time services are rendered to present all bad debt expense associated with patient service revenue as an offset to the patient service revenue line item in the statement of operations. The ASU also requires qualitative disclosures about the Company's policy for recognizing revenue and bad debt expense for patient service transactions and quantitative information about the effects of changes in the assessment of collectability of patient service revenue. This ASU is effective for fiscal years beginning after December 15, 2011. The Company has evaluated ASU 2011-07 and has determined that the requirements of this ASU are not applicable to the Company as the ultimate collection of patient service revenue is generally determinable at the time of service, and therefore, the ASU had no impact on the Company's consolidated financial position, results of operations or cash flows.

In September 2011, the FASB issued ASU 2011-08, which simplifies how entities test goodwill for impairment. Previous guidance required an entity to perform a two-step goodwill impairment test at least annually by comparing the fair value of a reporting unit with its carrying amount, including goodwill, and recording an impairment loss if the fair value is less than the carrying amount. This ASU allows an entity to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If an entity determines after that assessment that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is not required. This ASU is applicable to interim and annual goodwill impairment tests performed for fiscal years beginning after December 15, 2011, and was adopted by the Company effective January 1, 2012. The adoption of this ASU did not have an impact on the Company's consolidated financial position, results of operations or cash flows.

**p. Reclassifications**

Certain prior year amounts have been reclassified to reflect the impact of additional discontinued operations as further discussed in note 3.

**2. Acquisitions**

The Company accounts for its business combinations under the fundamental requirements of the acquisition method of accounting and under the premise that an acquirer be identified for each business combination. The acquirer is the entity that obtains control of one or more businesses in the business combination and the acquisition date is the date the acquirer achieves control. The assets acquired, liabilities assumed and any noncontrolling interests in the acquired business at the acquisition date are recognized at their fair values as of that date, and the direct costs incurred in connection with the business combination are recorded and expensed separately from the business combination.

As a significant part of its growth strategy, the Company primarily acquires controlling interests in centers. During 2012 and 2011, the Company, through a wholly owned subsidiary, acquired a controlling interest in 17 centers, one of which was merged into an existing center, and 24 centers, respectively. In addition, the Company acquired a non-controlling interest in two centers during 2011. The aggregate amount paid for the centers acquired and for settlement of purchase price payable obligations during 2012 and 2011 was approximately \$277,388,000 and \$239,223,000, respectively, and was paid in cash and funded by a combination of operating cash flow and borrowings under the Company's long term debt structure.

At December 31, 2012 and 2011, the Company had contingent purchase price obligations of \$2,744,000 and \$5,236,000. During 2012, the Company funded through operating cash flow \$1,829,000 of its purchase price obligations. The remaining purchase price obligations are related to the Company's acquisition of 17 centers from National Surgical Care, Inc. ("NSC") on September 1, 2011. The Company agreed to pay as additional consideration an amount up to \$7,500,000 based on a multiple of

the excess earnings over the targeted earnings of the acquired centers, if any, from the period of January 1, 2012 to December 31, 2012. In addition, \$3,500,000 of the purchase price was placed in an escrow fund to allow for any working capital adjustments up to \$500,000, with the remainder allocated to potential indemnity claims, if any, which must be asserted by the Company within one year of the transaction date. During 2012, the Company paid NSC \$115,000 to settle the working capital adjustment and authorized the release of \$3,500,000 from escrow. As of December 31, 2011, the Company had recorded \$3,100,000 in other long-term liabilities in the accompanying balance sheet a purchase price obligation related to the Company's estimate of the fair value of the potential additional consideration due to NSC. As of December 31, 2012, the Company's estimate of the fair value of the additional consideration due to NSC is approximately \$2,744,000.

**Item 8. Financial Statements and Supplementary Data -- (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements -- (continued)**

The total fair value of an acquisition includes an amount allocated to goodwill, which results from the centers' favorable reputations in their markets, their market positions and their ability to deliver quality care with high patient satisfaction consistent with the Company's business model.

The acquisition date fair value of the total consideration transferred and acquisition date fair value of each major class of consideration for the acquisitions completed during 2012 and 2011, including post acquisition date adjustments recorded to finalize purchase price allocations, are as follows (in thousands):

	<u>Individual Acquisitions 2012</u>	<u>Acquired NSC Centers 2011</u>	<u>Individual Acquisitions</u>
Accounts receivable	\$ 11,572	\$ 16,032	\$ 7,837
Supplies inventory, prepaid and other current assets	4,750	5,744	1,888
Investment in unconsolidated subsidiaries	-	10,710	-
Property and equipment	23,546	18,208	8,350
Goodwill	429,504	167,865	169,777
Other intangible assets	800	268	1,750
Accounts payable	(3,199)	(2,612)	(2,665)
Other accrued liabilities	(2,387)	(5,233)	(415)
Long-term debt	(6,954)	(2,900)	(5,698)
Other long-term liabilities	-	(1,895)	-
	<u>457,632</u>	<u>206,187</u>	<u>180,824</u>
Total fair value			
Less: Fair value attributable to noncontrolling interests	<u>182,073</u>	<u>70,502</u>	<u>72,050</u>
Acquisition date fair value of total consideration transferred	<u>\$ 275,559</u>	<u>\$ 135,685</u>	<u>\$ 108,774</u>

Fair value attributable to noncontrolling interests is based on significant inputs that are not observable in the market. Key inputs used to determine the fair value include financial multiples used in the purchase of noncontrolling interests in centers. Such multiples, based on earnings, are used as a benchmark for the discount to be applied for the lack of control or marketability. The fair value of noncontrolling interests for acquisitions where the purchase price allocation is not finalized may be subject to adjustment as the Company completes its initial accounting for acquired intangible assets. During 2012 and 2011, respectively, approximately \$260,547,000 and \$212,576,000 of goodwill recorded was deductible for tax purposes. Goodwill deductible for tax purposes associated with the acquisition of NSC centers was approximately \$110,000,000 for the year ended December 31, 2011. Associated with the transactions discussed above, the Company incurred and expensed in other operating expenses approximately \$700,000 and \$3,783,000 in acquisition related costs during 2012 and 2011, respectively. The additional transaction costs incurred for the year ended December 31, 2011 over the year end December 31, 2012 is primarily due to the acquisition of the NSC centers in 2011.

Revenues and net earnings included in the years ended December 31, 2012 and 2011 associated with these acquisitions are as follows (in thousands):

	<u>Individual Acquisitions 2012</u>	<u>Acquired NSC Centers 2011</u>	<u>Individual Acquisitions</u>
Revenues	\$ 11,247	\$ 35,130	\$ 23,534
Net earnings	3,441	4,982	7,251
Less: Net earnings attributable to noncontrolling interests	<u>1,977</u>	<u>3,193</u>	<u>4,213</u>

Net earnings attributable to AmSurg Corp. common shareholders	\$	<u>1,464</u>	\$	<u>1,789</u>	\$	<u>3,038</u>
---	----	--------------	----	--------------	----	--------------

---

46

**Item 8. Financial Statements and Supplementary Data -- (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements -- (continued)**

The unaudited consolidated pro forma results for the years ended December 31, 2012 and 2011, assuming all 2012 acquisitions had been consummated on January 1, 2011 and all 2011 acquisitions had been consummated on January 1, 2010, are as follows (in thousands, except per share data):

	<u>2012</u>	<u>2011</u>
Revenues	\$ 1,075,748	\$ 1,050,150
Net earnings	261,397	245,893
Amounts attributable to AmSurg Corp. common shareholders:		
Net earnings from continuing operations	72,777	67,861
Net earnings	72,755	63,274
Net earnings from continuing operations per common share:		
Basic	\$ 2.36	\$ 2.23
Diluted	\$ 2.30	\$ 2.17
Net earnings:		
Basic	\$ 2.36	\$ 2.08
Diluted	\$ 2.30	\$ 2.03
Weighted average number of shares and share equivalents:		
Basic	30,773	30,452
Diluted	31,608	31,211

**3. Dispositions**

The Company initiated the dispositions of certain of its centers primarily due to management's assessment of the limited growth opportunities at these centers and as a result of certain market driven strategies. Results of operations of the centers discontinued for the years ended December 31, 2012, 2011 and 2010, are as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Cash proceeds from disposal	\$ 7,309	\$ 7,026	\$ 60
Net earnings from discontinued operations	1,297	842	3,782
Net loss from discontinued operations attributable to AmSurg Corp.	(22)	(397)	(173)

The results of operations of discontinued centers have been classified as discontinued operations in all periods presented. Results of operations of the combined discontinued surgery centers for the years ended December 31, 2012, 2011 and 2010 are as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Revenues	\$ 5,648	\$ 13,302	\$ 28,136
Earnings before income taxes	1,538	3,059	8,240
Net earnings	1,272	2,385	6,514

**4. Property and Equipment**

Property and equipment at December 31, 2012 and 2011 were as follows (in thousands):

	<u>2012</u>	<u>2011</u>
Building and improvements	\$ 151,270	\$ 126,537
Movable equipment, software and software development costs	208,541	182,254
Construction in progress	2,313	4,824
	<u>362,124</u>	<u>313,615</u>
Less accumulated depreciation	(195,512)	(169,057)
Property and equipment, net	<u>\$ 166,612</u>	<u>\$ 144,558</u>

The Company capitalized interest in the amount of \$43,000, \$85,000 and \$54,000 for the years ended December 31, 2012, 2011 and 2010, respectively. At December 31, 2012, the Company and its partnerships had unfunded construction and

equipment purchases of approximately \$1,076,000 in order to complete construction in progress. Depreciation expense for continuing and discontinued operations for the years ended December 31, 2012, 2011 and 2010 was \$30,072,000, \$26,068,000 and \$25,279,000, respectively.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**5. Goodwill and Intangible Assets**

The changes in the carrying amount of goodwill for the years ended December 31, 2012 and 2011 are as follows (in thousands):

	<b>2012</b>	<b>2011</b>
Balance, beginning of period	\$ 1,229,298	\$ 894,497
Goodwill acquired, including post acquisition adjustments	429,504	344,089
Disposals	(6,800)	(9,288)
Balance, end of period	\$ 1,652,002	\$ 1,229,298

Amortizable intangible assets at December 31, 2012 and 2011 consisted of the following (in thousands):

	<b>2012</b>			<b>2011</b>		
	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Net</b>	<b>Gross Carrying Amount</b>	<b>Accumulated Amortization</b>	<b>Net</b>
Deferred financing cost	\$ 14,523	\$ (3,029)	\$ 11,494	\$ 6,541	\$ (1,838)	\$ 4,703
Agreements, contracts and other intangible assets	3,448	(2,250)	1,198	3,448	(2,026)	1,422
Total amortizable intangible assets	\$ 17,971	\$ (5,279)	\$ 12,692	\$ 9,989	\$ (3,864)	\$ 6,125

Amortization of intangible assets for the years ended December 31, 2012, 2011 and 2010 was \$1,415,000, \$1,472,000 and \$1,184,000, respectively. Deferred financing costs increased approximately \$6,200,000 related to the issuance of the senior unsecured notes. Estimated amortization of intangible assets for the five years and thereafter subsequent to December 31, 2012, with a weighted average amortization period of 5.8 years, is \$2,329,000, \$2,324,000, \$2,323,000, \$2,323,000, \$1,508,000 and \$1,885,000.

At December 31, 2012 and 2011, other non-amortizable intangible assets related to restrictive covenant arrangements were \$9,825,000 and \$9,300,000, respectively.

**6. Long-term Debt**

Long-term debt at December 31, 2012 and 2011 was comprised of the following (in thousands):

	<b>2012</b>	<b>2011</b>
Revolving credit agreement (average rate of 2.5%)	\$ 279,780	\$ 351,000
Senior Unsecured Notes (5.625%)	250,000	-
Senior Secured Notes (8.04%)	75,000	75,000
Other debt at an average rate of 3.9%, due through 2019	21,350	20,052
Capitalized lease arrangements at an average rate of 5.7%, due through 2026	11,982	12,711
	638,112	458,763
Less current portion	17,407	10,800
Long-term debt	\$ 620,705	\$ 447,963

Principal payments required on long-term debt in the five years and thereafter subsequent to December 31, 2012 are \$17,407,000, \$17,878,000, \$14,679,000, \$12,585,000, \$291,936,000, and \$283,627,000.

**a. Credit Facility**

On June 29, 2012, the Company amended its revolving credit agreement to increase the borrowing capacity and adjust the interest rate spreads. On November 7, 2012, the Company further amended its revolving credit facility to allow for the Company's issuance of the 5.625% Senior Notes (discussed below), which resulted in certain adjustments to the existing covenants. The revolving credit agreement, as amended, permits the Company to borrow up to \$475,000,000 at an interest rate equal to, at the Company's option, the base rate plus 0.50% to 1.25% or LIBOR plus 1.50% to 2.25%, or a combination thereof; provides for a fee of 0.20% to 0.40% of unused commitments; and contains certain covenants relating to the ratio of debt to operating performance measurements, interest coverage ratios and minimum net worth. Borrowings under the revolving credit agreement mature in June 2017 and are secured primarily by a pledge of the stock of our wholly-owned subsidiaries and our partnership and membership interests in the limited

---

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

partnerships and limited liability companies. The Company was in compliance with the covenants contained in the revolving credit agreement at December 31, 2012.

**b. Senior Unsecured Notes**

On November 20, 2012, the Company completed a private offering of \$250,000,000 aggregate principal amount of 5.625% senior unsecured notes due 2020 (the "Senior Unsecured Notes"). The net proceeds from the issuance were used to reduce the outstanding indebtedness under the Company's existing revolving credit facility, creating capacity to fund future acquisitions. The Senior Unsecured Notes are general unsecured obligations of the Company and are guaranteed by the Company and certain of its existing and subsequently acquired or organized wholly owned domestic subsidiaries, (the "Guarantors"). The Senior Unsecured Notes are pari passu in right of payment with all the existing and future senior debt of the Company and senior to all existing and future subordinated debt of the Company. Interest on the Senior Unsecured Notes accrues at the rate of 5.625% per annum and is payable semi-annually in arrears on May 30 and November 30, beginning on May 30, 2013, and ending on the maturity date of November 30, 2020.

Prior to November 30, 2015, the Company may redeem up to 35% of the aggregate principal amount of the Senior Unsecured Notes at a redemption price of 105.625% of the principal amount thereof, plus accrued and unpaid interest and liquidated damages, if any, using proceeds of one or more equity offerings. On or after November 30, 2015, the Company may redeem the Senior Unsecured Notes in whole or in part. The redemption price for such a redemption (expressed as percentages of principal amount) is set forth below, plus accrued and unpaid interest and liquidated damages, if any, if redeemed during the twelve-month period beginning on November 30 of the years indicated below:

<u>Period</u>	<u>Redemption Price</u>
2015	104.219%
2016	102.813%
2017	101.406%
2018 and thereafter	100.000%

The Senior Unsecured Notes contain certain covenants which, among other things, limit, but may not restrict the Company's ability to enter into or guarantee additional borrowings, sell preferred stock, pay dividends and repurchase stock. The Company was in compliance with the covenants contained in the indenture relating to the Senior Unsecured Notes at December 31, 2012.

In connection with the issuance of the Senior Unsecured Notes, the Company entered into a registration rights agreement, dated November 20, 2012 (the "Registration Rights Agreement"). Under the terms of the Registration Rights Agreement, the Company and the Guarantors will use their commercially reasonable efforts to file an exchange offer registration statement with respect to the Senior Unsecured Notes with the Securities and Exchange Commission (the "SEC") within 270 days from the date of the agreement. If the registration does not become effective within the allotted period, the Company would be obligated to pay certain liquidated damages, not to exceed a maximum amount of 1.0% per annum.

**c. Senior Secured Notes**

The senior secured notes (the "Senior Secured Notes") were issued on May 28, 2010, pursuant to a note purchase agreement, in the principal amount of \$75,000,000 and are due May 28, 2020. The Senior Secured Notes, which were originally issued with a stated interest rate of 6.04%, were amended on November 7, 2012 to allow for the Company's issuance of the Senior Unsecured Notes, which resulted in an increase in the annual interest rate of 2% to 8.04%, and included certain other adjustments to the existing covenants. The Senior Secured Notes are pari passu with the indebtedness under the Company's revolving credit facility and the Senior Unsecured Notes and require payment of principal beginning in August 2013. The note purchase agreement governing the Senior Secured Notes contains covenants similar to the covenants in the revolving credit agreement and includes a make whole provision in the event of any prepayment of principle. The Company was in compliance with the covenants contained in the note purchase agreement relating to the Senior Secured Notes at December 31, 2012.

**d. Other Debt**

Certain partnerships included in the Company's consolidated financial statements have loans with local lending institutions, included above in other debt, which are collateralized by certain assets of the centers with a book value of approximately \$89,595,000. The Company and the partners have guaranteed payment of the loans in proportion to the relative partnership interests.



**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**7. Derivative Instruments**

The Company entered into an interest rate swap agreement in April 2006, the objective of which was to hedge exposure to the variability of the future expected cash flows attributable to the variable interest rate of a portion of the Company's outstanding balance under its revolving credit agreement. The interest rate swap matured in April 2011. Prior to April 2011, the interest rate swap had a notional amount of \$50,000,000. The Company paid to the counterparty a fixed rate of 5.365% of the notional amount of the interest rate swap and received a floating rate from the counterparty based on LIBOR. In the opinion of management and as permitted by Accounting Standards Codification Topic 815, *Derivatives and Hedging* ("ASC 815"), the interest rate swap (as a cash flow hedge) was a fully effective hedge. Payments or receipts of cash under the interest rate swap were shown as a part of operating cash flows, consistent with the interest expense incurred pursuant to the revolving credit agreement. An increase in the fair value of the interest rate swap, net of tax, of \$515,000 and \$1,334,000 was included in other comprehensive income in the years ended December 31, 2011 and 2010, respectively.

**8. Fair Value Measurements**

The fair value of a financial instrument is the amount at which the instrument could be exchanged in an orderly transaction between market participants to sell the asset or transfer the liability. The inputs used by the Company to measure fair value are classified into the following fair value hierarchy:

- Level 1: Quoted prices in active markets for identical assets or liabilities.
- Level 2: Inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with market data at the measurement date.
- Level 3: Unobservable inputs that reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The Company adopted the updated guidance of the FASB related to fair value measurements and disclosures, which requires a reporting entity to disclose separately the amounts of significant transfers in and out of Level 1 and Level 2 fair value measurements and to describe the reasons for the transfers. In addition, in the reconciliation for fair value measurements using significant unobservable inputs, or Level 3, a reporting entity should disclose separately information about purchases, sales, issuances and settlements. The updated guidance also requires that an entity should provide fair value measurement disclosures for each class of assets and liabilities and disclosures about the valuation techniques and inputs used to measure fair value for both recurring and non-recurring fair value measurements for Level 2 and Level 3 fair value measurements. The guidance was effective for the Company January 1, 2010, except for the disclosures about purchases, sales, issuances and settlements in the roll forward activity in Level 3 fair value measurements, which was effective for the Company January 1, 2011. The adoption of the updated guidance for Level 3 fair value measurements did not have an impact on the Company's consolidated results of operations or financial condition.

In determining the fair value of assets and liabilities that are measured on a recurring basis at December 31, 2012 and 2011, with the exception of the contingent purchase price payable, the Company utilized Level 2 inputs to perform such measurements methods which were commensurate with the market approach. The Company utilized Level 3 inputs, which utilizes unobservable data, to measure the fair value of the contingent purchase price payable (in thousands):

	<u>2012</u>	<u>2011</u>
Assets:		
Supplemental executive retirement savings plan investments - Level 2	\$ 8,804	\$ 6,516
Liabilities:		
Contingent purchase price payable - Level 3 (see note 2)	\$ 2,744	\$ 3,100

The fair value of the supplemental executive retirement savings plan investments, which are included in prepaid and other current assets, was determined using the calculated net asset values obtained from the plan administrator and observable inputs of similar public mutual fund investments. The fair value of the contingent purchase price payable related to the centers acquired from NSC as of December 31, 2012 was determined utilizing the actual earnings of those centers during the earnout period, January 1, 2012 to December 31, 2012, in accordance with the purchase agreement. The fair value of the contingent purchase price payable as of December 31, 2011 was based on an estimate of the expected earnings of the centers acquired from NSC utilizing various scenarios and weighting the probable outcome of each scenario using a range of expected probability of 25% to 40%. Management discounted the results of such analysis using a discount rate of 1.6%.

During the year ended December 31, 2012, the Company recognized an unrealized gain of approximately \$356,000 in the accompanying consolidated statements of earnings. The change in fair value is a result of the completion of the earnout period and the final measurement of the excess earnings over the targeted earnings of the acquired centers. The Company expects to fund the contingent purchase price payable using its revolving credit facility during the first quarter of 2013. There were no transfers to or from Levels 1 and 2 during the year ended December 31, 2012.

**Item 8. Financial Statements and Supplementary Data -- (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements -- (continued)**

Cash and cash equivalents, receivables and payables are reflected in the financial statements at cost, which approximates fair value. The fair value of fixed rate long-term debt, with a carrying value of \$354,105,000, was approximately \$379,036,000 at December 31, 2012. The fair value of variable-rate long-term debt approximates its carrying value of \$284,007,000 at December 31, 2012. The fair value of fixed rate long-term debt, with a carrying value of \$101,188,000, was approximately \$105,302,000 at December 31, 2011. The fair value of variable-rate long-term debt approximates its carrying value of \$357,575,000 at December 31, 2011. With the exception of the Company's Senior Unsecured Notes, the fair value of fixed rate debt (Level 2) is determined based on an estimation of discounted future cash flows of the debt at rates currently quoted or offered to the Company for similar debt instruments of comparable maturities by its lenders. The fair value of the Company's Senior Unsecured Notes (Level 1) is determined based on quoted prices in an active market.

**9. Leases**

The Company has entered into various building and equipment capital and operating leases for its surgery centers in operation and under development and for office space, expiring at various dates through 2031. Future minimum lease payments, including payments during expected renewal option periods, at December 31, 2012 were as follows (in thousands):

<u>Year Ended December 31,</u>	<u>Capitalized Equipment Leases</u>	<u>Operating Leases</u>
2013	\$ 2,674	\$ 47,102
2014	1,859	46,568
2015	1,383	45,745
2016	1,125	44,973
2017	1,011	44,466
Thereafter	7,937	362,031
Total minimum rentals	15,989	\$ 590,885
Less amounts representing interest at rates ranging from 3.8% to 11.8%	4,007	
Capital lease obligations	\$ 11,982	

At December 31, 2012, buildings and equipment with a cost of approximately \$16,219,000 and accumulated depreciation of approximately \$4,243,000 were held under capital leases. The Company and the partners in the partnerships have guaranteed payment of certain of these leases. Rental expense for operating leases for the years ended December 31, 2012, 2011 and 2010 was approximately \$47,278,000, \$42,413,000 and \$37,301,000, respectively.

**10. Shareholders' Equity**

**a. Common Stock**

On October 20, 2010, the Company's Board of Directors authorized a stock repurchase program for up to \$40,000,000 of the Company's shares of common stock to be purchased over the following 18 months. On April 24, 2012, the Board of Directors authorized a new stock purchase program for up to \$40,000,000 of the Company's shares of common stock through November 1, 2013.

During the year ended 2012, the Company purchased 415,084 shares of the Company's common stock for approximately \$11,838,000, at an average price of \$28.50 per share, in order to mitigate the dilutive effect of shares issued upon the exercise of stock options pursuant to the Company's stock incentive plans. During the year ended 2011, the Company purchased 344,100 shares of the Company's common stock for approximately \$8,584,000, at an average price of \$24.92 per share. In addition, during 2012 and 2011, the Company repurchased 48,139 shares and 62,700 shares, respectively, of common stock for approximately \$1,263,000 and \$1,423,000 to cover payroll withholding taxes in connection with the vesting of restricted stock awards in accordance with the restricted stock agreements.

**b. Stock Incentive Plans**

In May 2006, the Company adopted the AmSurg Corp. 2006 Stock Incentive Plan. The Company also has options outstanding under the AmSurg Corp. 1997 Stock Incentive Plan, under which no additional options may be granted. Under these plans, the Company has granted restricted stock and non-qualified options to purchase shares of common stock to employees and outside directors from its authorized but unissued common stock. At December 31, 2012, 2,760,250 shares

were authorized for grant under the 2006 Stock Incentive Plan and 1,069,084 shares were available for future equity grants, including 906,972 shares available for issuance as restricted stock. Restricted stock granted to outside directors prior to 2010 is fully vested but is restricted from trading for five years from the date of grant. Restricted stock granted to outside directors in 2011 and 2012 vests over a two and one year period, respectively, and is subject to certain holding restrictions. Restricted stock granted to employees during 2010 and thereafter vests over four years in three equal installments beginning on the second anniversary of the date of grant. Restricted stock granted to

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

employees prior to 2010 vests at the end of four years from the date of grant. In addition, shares held by the Company's senior management are subject to certain holding restrictions. The fair value of restricted stock is determined based on the closing bid price of the Company's common stock on the grant date.

Options are granted at market value on the date of the grant and vest over four years. No options have been issued subsequent to 2008 and all outstanding options are fully vested. Outstanding options have a term of ten years from the date of grant.

Other information pertaining to share-based activity for the years ended December 31, 2012, 2011 and 2010 was as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Share-based compensation expense	\$ 6,692	\$ 6,178	\$ 4,869
Fair value of shares vested	6,425	7,356	1,647
Cash received from option exercises	18,214	6,872	2,583
Tax benefit from option exercises	1,784	977	200

As of December 31, 2012, the Company had total unrecognized compensation cost of approximately \$6,382,000 related to non-vested awards, which the Company expects to recognize through 2016 and over a weighted-average period of 1.1 years.

Average outstanding share-based awards to purchase approximately 20,000, 923,000 and 2,400,000 shares of common stock that had an exercise price in excess of the average market price of the common stock during the years ended December 31, 2012, 2011 and 2010, respectively, were not included in the calculation of diluted securities under the treasury method for purposes of determining diluted earnings per share due to their anti-dilutive impact.

A summary of the status of and changes for non-vested restricted shares for the three years ended December 31, 2012, is as follows:

	<u>Number of Shares</u>	<u>Weighted Average Grant Price</u>
Non-vested shares at January 1, 2010	466,387	\$ 22.29
Shares granted	233,460	21.83
Shares vested	(8,973)	20.45
Shares forfeited	<u>(25,965)</u>	22.21
Non-vested shares at December 31, 2010	664,909	\$ 22.16
Shares granted	276,869	21.78
Shares vested	(208,949)	23.11
Shares forfeited	<u>(417)</u>	24.75
Non-vested shares at December 31, 2011	732,412	\$ 21.91
Shares granted	281,429	26.78
Shares vested	(183,019)	25.98
Shares forfeited	<u>(2,136)</u>	26.26
Non-vested shares at December 31, 2012	<u>828,686</u>	\$ 22.50

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

A summary of stock option activity for the three years ended December 31, 2012 is summarized as follows:

	<b>Number of Shares</b>	<b>Weighted Average Exercise Price</b>	<b>Weighted Average Remaining Contractual Term (in years)</b>
Outstanding at January 1, 2010	3,151,052	\$ 22.22	5.0
Options exercised with total intrinsic value of \$511,000	(157,750)	16.38	
Options terminated	<u>(91,313)</u>	23.73	
Outstanding at December 31, 2010	2,901,989	\$ 22.49	4.5
Options exercised with total intrinsic value of \$2,482,000	(374,350)	18.36	
Options terminated	<u>(17,585)</u>	25.42	
Outstanding at December 31, 2011	2,510,054	\$ 23.09	3.4
Options exercised with total intrinsic value of \$6,287,000	(841,599)	21.64	
Options terminated	<u>(5,625)</u>	21.85	
Outstanding at December 31, 2012 with aggregate intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9
Vested or expected to vest at December 31, 2012 with total intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9
Exercisable at December 31, 2012 with total intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9

The aggregate intrinsic value represents the total pre-tax intrinsic value received by the option holders on the exercise date or that would have been received by the option holders had all holders of in-the-money outstanding options at December 31, 2012 exercised their options at the Company's closing stock price on December 31, 2012.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**d. Earnings per Share**

The following is a reconciliation of the numerator and denominators of basic and diluted earnings per share (in thousands, except per share amounts):

	<u>Earnings (Numerator)</u>	<u>Shares (Denominator)</u>	<u>Per Share Amount</u>
<b>For the year ended December 31, 2012:</b>			
Net earnings from continuing operations attributable to AmSurg Corp. per common share (basic)	\$ 62,585	30,773	\$ 2.03
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>835</u>	
Net earnings from continuing operations attributable to AmSurg Corp. per common share (diluted)	<u>\$ 62,585</u>	<u>31,608</u>	\$ 1.98
Net earnings attributable to AmSurg Corp. per common share (basic)	\$ 62,563	30,773	\$ 2.03
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>835</u>	
Net earnings attributable to AmSurg Corp. per common share (diluted)	<u>\$ 62,563</u>	<u>31,608</u>	\$ 1.98
<b>For the year ended December 31, 2011:</b>			
Net earnings from continuing operations attributable to AmSurg Corp. per common share (basic)	\$ 50,394	30,452	\$ 1.65
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>759</u>	
Net earnings from continuing operations attributable to AmSurg Corp. per common share (diluted)	<u>\$ 50,394</u>	<u>31,211</u>	\$ 1.61
Net earnings attributable to AmSurg Corp. per common share (basic)	\$ 49,997	30,452	\$ 1.64
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>759</u>	
Net earnings attributable to AmSurg Corp. per common share (diluted)	<u>\$ 49,997</u>	<u>31,211</u>	\$ 1.60
<b>For the year ended December 31, 2010:</b>			
Net earnings from continuing operations attributable to AmSurg Corp. per common share (basic)	\$ 49,998	30,255	\$ 1.65
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>434</u>	
Net earnings from continuing operations attributable to AmSurg Corp. per common share (diluted)	<u>\$ 49,998</u>	<u>30,689</u>	\$ 1.63
Net earnings attributable to AmSurg Corp. per common share (basic)	\$ 49,825	30,255	\$ 1.65
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>434</u>	
Net earnings attributable to AmSurg Corp. per common share (diluted)	<u>\$ 49,825</u>	<u>30,689</u>	\$ 1.62



**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**11. Income Taxes**

Total income taxes expense (benefit) for the years ended December 31, 2012, 2011 and 2010 was included within the following sections of the consolidated financial statements as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Income from continuing operations	\$ 42,627	\$ 35,254	\$ 32,991
Discontinued operations	1,311	2,751	207
Shareholders' equity	(1,581)	(649)	(71)
Other comprehensive income	-	332	860
Total	<u>\$ 42,357</u>	<u>\$ 37,688</u>	<u>\$ 33,987</u>

Income tax expense from continuing operations for the years ended December 31, 2012, 2011 and 2010 was comprised of the following (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Current:			
Federal	\$ 15,313	\$ 11,643	\$ 10,959
State	4,971	3,534	3,263
Deferred:			
Federal	19,135	17,693	16,422
State	3,208	2,384	2,347
Income tax expense	<u>\$ 42,627</u>	<u>\$ 35,254</u>	<u>\$ 32,991</u>

Income tax expense from continuing operations for the years ended December 31, 2012, 2011 and 2010 differed from the amount computed by applying the U.S. federal income tax rate of 35% to earnings before income taxes as a result of the following (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Statutory federal income tax	\$ 92,741	\$ 78,514	\$ 73,397
Less federal income tax assumed directly by noncontrolling interests	(55,916)	(48,607)	(44,351)
State income taxes, net of federal income tax benefit	5,309	3,629	3,470
Increase in valuation allowances	419	1,622	441
Interest related to unrecognized tax benefits	(109)	(83)	(151)
Other	183	179	185
Income tax expense	<u>\$ 42,627</u>	<u>\$ 35,254</u>	<u>\$ 32,991</u>

The Company recognizes interest and penalties related to unrecognized tax benefits in income tax expense. Decreases in interest obligations of \$132,000, \$109,000 and \$191,000 were recognized in the consolidated statement of earnings for the years ended December 31, 2012, 2011 and 2010, respectively, resulting in a total recognition of interest obligations of approximately \$1,132,000 and \$1,264,000 in the consolidated balance sheet at December 31, 2012 and 2011, respectively. No amounts for penalties have been recorded.

The Company primarily has unrecognized tax benefits that represent an amortization deduction which is temporary in nature. A reconciliation of the beginning and ending amount of the liability associated with unrecognized tax benefits for the years ended December 31, 2012, 2011 and 2010 is as follows (in thousands):

<u>2012</u>	<u>2011</u>	<u>2010</u>
-------------	-------------	-------------

Balance at beginning of year	\$ 7,252	\$ 7,144	\$ 6,766
Additions for tax positions of current year	119	342	378
Increases (decreases) for tax positions taken during a prior period	1,985	(190)	-
Lapse of statute of limitations	<u>(121)</u>	<u>(44)</u>	<u>-</u>
Balance at end of year	<u>\$ 9,235</u>	<u>\$ 7,252</u>	<u>\$ 7,144</u>

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

The Company believes that it is reasonably possible that the total amount of unrecognized tax benefits will increase \$188,000 within the next 12 months due to continued amortization deductions. The total amount of unrecognized tax benefits that would affect our effective tax rate if recognized is approximately \$150,000.

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities at December 31, 2012 and 2011 were as follows (in thousands):

	<u>2012</u>	<u>2011</u>
Deferred tax assets:		
Allowance for uncollectible accounts	\$ 884	\$ 841
Accrued assets and other	5,212	3,562
Valuation allowances	<u>(2,084)</u>	<u>(1,491)</u>
Total current deferred tax assets	4,012	2,912
Share-based compensation	9,500	9,138
Interest on unrecognized tax benefits	363	456
Accrued liabilities and other	3,077	2,951
Operating and capital loss carryforwards	9,169	7,624
Valuation allowances	<u>(7,265)</u>	<u>(6,133)</u>
Total non-current deferred tax assets	<u>14,844</u>	<u>14,036</u>
Total deferred tax assets	18,856	16,948
Deferred tax liabilities:		
Prepaid expenses	925	783
Property and equipment, principally due to differences in depreciation	3,997	4,143
Goodwill, principally due to differences in amortization	<u>148,494</u>	<u>124,060</u>
Total deferred tax liabilities	<u>153,416</u>	<u>128,986</u>
Net deferred tax liabilities	<u>\$ 134,560</u>	<u>\$ 112,038</u>

The net deferred tax liabilities at December 31, 2012 and 2011 were recorded as follows (in thousands):

	<u>2012</u>	<u>2011</u>
Current deferred income tax assets	\$ 3,088	\$ 2,129
Non-current deferred income tax liabilities	<u>137,648</u>	<u>114,167</u>
Net deferred tax liabilities	<u>\$ 134,560</u>	<u>\$ 112,038</u>

The Company has provided valuation allowances on its gross deferred tax assets to the extent that management does not believe that it is more likely than not that such asset will be realized. Capital loss carryforwards will begin to expire in 2013, and state net operating losses will begin to expire in 2015.

## 12. Related Party Transactions

Certain surgery centers lease space from entities affiliated with their physician partners at negotiated rates that management believes were equal to fair market value at the inception of the leases based on relevant market data. Certain surgery centers reimburse their physician partners for salaries and benefits and billing fees related to time spent by employees of their practices on activities of the centers at current market rates. In addition, certain centers compensate at market rates their physician partners for physician advisory services provided to the surgery centers, including medical director and performance improvement services.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

Related party payments for the years ended December 31, 2012, 2011 and 2010 were as follows (in thousands):

	2012	2011	2010
Operating leases	\$ 29,079	\$ 29,137	\$ 26,373
Salaries and benefits	65,908	64,830	61,524
Billing fees	11,126	11,240	11,387
Medical advisory services	2,671	2,575	2,245

The Company also reimburses their physician partners for operating expenses paid by the physician partners to third party providers on the behalf of the surgery center. For the years ended December 31, 2012, 2011 and 2010, reimbursed expenses were approximately 5% of other operating expenses as reported in the accompanying consolidated statement of earnings. The Company believes that the foregoing transactions are in its best interests.

It is the Company's policy that all transactions by the Company with officers, directors, five percent shareholders and their affiliates be entered into only if such transactions are on terms no less favorable to the Company than could be obtained from unaffiliated third parties, are reasonably expected to benefit the Company and are approved by the Nominating and Corporate Governance Committee of the Company's Board of Directors.

**13. Employee Benefit Programs**

As of January 1, 1999, the Company adopted the AmSurg 401(k) Plan and Trust. This plan is a defined contribution plan covering substantially all employees of the Company and provides for voluntary contributions by these employees, subject to certain limits. Company contributions are based on specified percentages of employee compensation. The Company funds contributions as accrued. The Company's contributions for the years ended December 31, 2012, 2011 and 2010 were approximately \$1,031,000, \$594,000 and \$561,000, respectively, and vest immediately or incrementally over five years, depending on the tenures of the respective employees for which the contributions were made.

As of January 1, 2000, the Company adopted the Supplemental Executive and Director Retirement Savings Plan. This plan is a defined contribution plan covering all officers of the Company and provides for voluntary contributions of up to 50% of employee annual compensation. Company contributions are at the discretion of the Compensation Committee of the Board of Directors and vest incrementally over five years. The employee and employer contributions are placed in a Rabbi Trust and recorded in the accompanying consolidated balance sheets in prepaid and other current assets. Employer contributions to this plan for the years ended December 31, 2012, 2011 and 2010 were approximately \$1,693,000, \$915,000 and \$234,000, respectively. On December 30, 2011, this plan was amended to allow non-employee directors to voluntarily contribute up to 100% of annual director cash compensation to the plan.

**14. Commitments and Contingencies**

The Company and its partnerships are insured with respect to medical malpractice risk on a claims-made basis. The Company also maintains insurance for general liability, director and officer liability and property. Certain policies are subject to deductibles. In addition to the insurance coverage provided, the Company indemnifies its officers and directors for actions taken on behalf of the Company and its partnerships. Management is not aware of any claims against it or its partnerships which would have a material financial impact on the Company.

Certain of the Company's wholly owned subsidiaries, as general partners in the limited partnerships, are responsible for all debts incurred but unpaid by the limited partnership. As manager of the operations of the limited partnerships, the Company has the ability to limit potential liabilities by curtailing operations or taking other operating actions.

In the event of a change in current law that would prohibit the physicians' current form of ownership in the partnerships, the Company would be obligated to purchase the physicians' interests in a majority of the Company's partnerships. The purchase price to be paid in such event would be determined by a predefined formula, as specified in the partnership agreements. The Company believes the likelihood of a change in current law, which would trigger such purchases, was remote as of December 31, 2012.

On September 1, 2011, the Company acquired interests in 17 centers from NSC and agreed to pay as additional consideration an amount up to \$7,500,000 based on a multiple of the excess earnings over the targeted earnings of the acquired centers (as defined), if any, from the period of January 1, 2012 to December 31, 2012. The Company has recorded \$2,744,000 in other accrued liabilities in the accompanying consolidated balance sheet which represents the fair value of such liability at December

31, 2012. Funding of such contingency is expected to occur during the first quarter of 2013.

On December 27, 2012, the Company entered into a lease agreement with an initial term of 15 years plus renewal options, pursuant to which the Company has agreed to lease an approximately 110,000 square foot building to be constructed in Nashville, Tennessee. The Company intends that the property will serve as its corporate headquarters beginning in 2015. Prior to taking possession, the Company may terminate the agreement if the landlord fails to satisfy certain construction milestones. The Company's annual rental obligation at the inception of the lease is approximately \$2,300,000 and increases by 1.9% annually thereafter during the initial term. In addition to base rent, the Company will pay additional rent consisting of, among other

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

things, operating expenses, real estate taxes and insurance costs. The landlord will provide the Company with an allowance of approximately \$4,400,000 for certain interior tenant improvements.

**15. Supplemental Cash Flow Information**

Supplemental cash flow information for the years ended December 31 2012, 2011 and 2010 is as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Cash paid during the period for:			
Interest	\$ 14,786	\$ 13,815	\$ 12,219
Income taxes, net of refunds	19,615	10,232	16,776
Non-cash investing and financing activities:			
Increase in accounts payable associated with acquisition of property and equipment	248	659	164
Capital lease obligations	1,096	466	4,057
Restricted stock vested	4,835	4,476	48
Effect of acquisitions and related transactions:			
Assets acquired, net of cash and adjustments	470,172	408,429	94,686
Liabilities assumed and noncontrolling interests	(194,613)	(163,970)	(37,101)
Notes payable and other obligations	<u>1,829</u>	<u>(5,236)</u>	<u>(3,895)</u>
Payment for interests in surgery centers and related transactions	<u>\$ 277,388</u>	<u>\$ 239,223</u>	<u>\$ 53,690</u>

**16. Financial Information for the Company and Its Subsidiaries**

In 2012, the Company issued the Senior Unsecured Notes in the aggregate principal amount of \$250,000,000. The Senior Unsecured Notes are senior unsecured obligations of the Company and are guaranteed by the Company and certain of its existing and subsequently acquired or organized wholly owned domestic subsidiaries. The Senior Unsecured Notes are guaranteed on a full and unconditional and joint and several basis, with limited exceptions considered customary for such guarantees, including the release of the guarantee when a subsidiary's assets are sold. The following condensed consolidating financial statements present the Company (as parent issuer), the subsidiary guarantors, the subsidiary non-guarantors and consolidating adjustments. These condensed consolidating financial statements have been prepared and presented in accordance with SEC Regulation S-X Rule 3-10 "Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered." The operating and investing activities of the separate legal entities are fully interdependent and integrated. Accordingly, the results of the separate legal entities are not representative of what the operating results would be on a stand-alone basis.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Balance Sheet - December 31, 2012 (Dollars in thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
<b>Assets</b>					
<b>Current assets:</b>					
Cash and cash equivalents	\$ 7,259	\$ -	\$ 39,139	\$ -	\$ 46,398
Accounts receivable, net	-	-	96,752	-	96,752
Supplies inventory	-	-	18,406	-	18,406
Deferred income taxes	3,088	-	-	-	3,088
Prepaid and other current assets	19,342	-	13,160	(4,965)	27,537
Total current assets	29,689	-	167,457	(4,965)	192,181
Property and equipment, net	9,199	-	157,413	-	166,612
Investments in unconsolidated affiliates and long-term notes receivable	1,413,061	1,381,596	-	(2,783,383)	11,274
Goodwill and other intangible assets, net	21,311	-	1,206	1,652,002	1,674,519
Total assets	<u>\$ 1,473,260</u>	<u>\$ 1,381,596</u>	<u>\$ 326,076</u>	<u>\$ (1,136,346)</u>	<u>\$ 2,044,586</u>
<b>Liabilities and Equity</b>					
<b>Current liabilities:</b>					
Current portion of long-term debt	\$ 5,357	\$ -	\$ 12,050	\$ -	\$ 17,407
Accounts payable	1,379	-	26,035	(3,905)	23,509
Other accrued liabilities	29,380	-	15,177	(1,060)	43,497
Total current liabilities	36,116	-	53,262	(4,965)	84,413
Long-term debt	599,423	-	52,747	(31,465)	620,705
Deferred income taxes	137,648	-	-	-	137,648
Other long-term liabilities	10,585	-	15,387	-	25,972
Noncontrolling interests – redeemable	-	-	61,939	113,443	175,382
Equity:					
Total AmSurg Corp. equity	689,488	1,381,596	108,412	(1,490,008)	689,488
Noncontrolling interests – non-redeemable	-	-	34,329	276,649	310,978
Total equity	689,488	1,381,596	142,741	(1,213,359)	1,000,466
Total liabilities and equity	<u>\$ 1,473,260</u>	<u>\$ 1,381,596</u>	<u>\$ 326,076</u>	<u>\$ (1,136,346)</u>	<u>\$ 2,044,586</u>

**Consolidating Balance Sheet - December 31, 2011 (Dollars in thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
<b>Assets</b>					
<b>Current assets:</b>					
Cash and cash equivalents	\$ 8,530	\$ -	\$ 32,188	\$ -	\$ 40,718
Accounts receivable, net	-	-	93,454	-	93,454
Supplies inventory	-	-	15,039	-	15,039
Deferred income taxes	2,129	-	-	-	2,129
Prepaid and other current assets	13,339	-	11,286	(2,750)	21,875
Total current assets	23,998	-	151,967	(2,750)	173,215
Property and equipment, net	8,574	-	135,984	-	144,558
Investments in unconsolidated affiliates and long-term notes receivable	1,145,683	1,113,430	-	(2,248,591)	10,522
Goodwill and other intangible assets, net	13,989	-	1,436	1,229,298	1,244,723
Total assets	<u>\$ 1,192,244</u>	<u>\$ 1,113,430</u>	<u>\$ 289,387</u>	<u>\$ (1,022,043)</u>	<u>\$ 1,573,018</u>
<b>Liabilities and Equity</b>					
<b>Current liabilities:</b>					
Current portion of long-term debt	\$ -	\$ -	\$ 10,800	\$ -	\$ 10,800
Accounts payable	2,347	-	21,489	(2,294)	21,542
Other accrued liabilities	19,485	-	12,283	(456)	31,312
Total current liabilities	21,832	-	44,572	(2,750)	63,654
Long-term debt	426,000	-	50,762	(28,799)	447,963
Deferred income taxes	114,167	-	-	-	114,167
Other long-term liabilities	14,000	-	14,131	-	28,131
Noncontrolling interests – redeemable	-	-	64,150	106,486	170,636

Equity:					
Total AmSurg Corp. equity	616,245	1,113,430	95,081	(1,208,511)	616,245
Noncontrolling interests – non-redeemable	-	-	20,691	111,531	132,222
Total equity	<u>616,245</u>	<u>1,113,430</u>	<u>115,772</u>	<u>(1,096,980)</u>	<u>748,467</u>
Total liabilities and equity	<u>\$ 1,192,244</u>	<u>\$ 1,113,430</u>	<u>\$ 289,387</u>	<u>\$ (1,022,043)</u>	<u>\$ 1,573,018</u>

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Earnings - Year Ended December 31, 2012 (In thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 19,907	\$ -	\$ 923,503	\$ (14,901)	\$ 928,509
Operating expenses:					
Salaries and benefits	54,895	-	237,268	(450)	291,713
Supply cost	-	-	132,044	-	132,044
Other operating expenses	20,499	-	188,245	(14,451)	194,293
Depreciation and amortization	2,860	-	27,218	-	30,078
Total operating expenses	78,254	-	584,775	(14,901)	648,128
Equity in earnings of unconsolidated affiliates	178,137	178,137	-	(354,710)	1,564
Operating income	119,790	178,137	338,728	(354,710)	281,945
Interest expense	14,803	-	2,169	-	16,972
Earnings from continuing operations before income taxes	104,987	178,137	336,559	(354,710)	264,973
Income tax expense	41,059	-	1,568	-	42,627
Net earnings from continuing operations	63,928	178,137	334,991	(354,710)	222,346
Net earnings from discontinued operations	(1,365)	-	2,662	-	1,297
Net earnings	62,563	178,137	337,653	(354,710)	223,643
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	159,761	-	159,761
Net earnings from discontinued operations	-	-	1,319	-	1,319
Total net earnings attributable to noncontrolling interests	-	-	161,080	-	161,080
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 63,928	\$ 178,137	\$ 175,230	\$ (354,710)	\$ 62,585
Discontinued operations, net of income tax	(1,365)	-	1,343	-	(22)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563
Net earnings and comprehensive income, net of tax	\$ 62,563	\$ 178,137	\$ 337,653	\$ (354,710)	\$ 223,643
Less comprehensive income attributable to noncontrolling interests	-	-	161,080	-	161,080
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Earnings - Year Ended December 31, 2011 (In thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 11,253	\$ -	\$ 774,335	\$ (8,001)	\$ 777,587
Operating expenses:					
Salaries and benefits	42,739	-	198,006	(359)	240,386
Supply cost	-	-	102,356	-	102,356
Other operating expenses	19,468	-	157,904	(7,642)	169,730
Depreciation and amortization	2,487	-	23,385	-	25,872
Total operating expenses	64,694	-	481,651	(8,001)	538,344
Equity in earnings of unconsolidated affiliates	152,409	152,409	-	(304,205)	613
Operating income	98,968	152,409	292,684	(304,205)	239,856
Interest expense	13,195	-	2,135	-	15,330
Earnings from continuing operations before income taxes	85,773	152,409	290,549	(304,205)	224,526
Income tax expense	34,072	-	1,182	-	35,254
Net earnings from continuing operations	51,701	152,409	289,367	(304,205)	189,272
Net earnings from discontinued operations	(1,704)	-	2,546	-	842
Net earnings	49,997	152,409	291,913	(304,205)	190,114
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	138,878	-	138,878
Net earnings from discontinued operations	-	-	1,239	-	1,239
Total net earnings attributable to noncontrolling interests	-	-	140,117	-	140,117
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,997	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 49,997
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 51,701	\$ 152,409	\$ 150,489	\$ (304,205)	\$ 50,394
Discontinued operations, net of income tax	(1,704)	-	1,307	-	(397)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,997	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 49,997
Net earnings	\$ 49,997	\$ 152,409	\$ 291,913	\$ (304,205)	\$ 190,114
Other comprehensive income, net of income tax:					
Unrealized gain on interest rate swap, net of income tax	515	-	-	-	515
Comprehensive income, net of income tax	50,512	152,409	291,913	(304,205)	190,629
Less comprehensive income attributable to noncontrolling interests	-	-	140,117	-	140,117
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 50,512	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 50,512

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Earnings - Year Ended December 31, 2010 (In thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 6,267	\$ -	\$ 690,492	\$ (4,188)	\$ 692,571
Operating expenses:					
Salaries and benefits	34,872	-	174,527	(337)	209,062
Supply cost	-	-	89,863	-	89,863
Other operating expenses	13,502	-	136,149	(3,851)	145,800
Depreciation and amortization	2,108	-	22,557	-	24,665
Total operating expenses	50,482	-	423,096	(4,188)	469,390
Equity in earnings of unconsolidated affiliates	141,456	141,456	-	(282,912)	-
Operating income	97,241	141,456	267,396	(282,912)	223,181
Interest expense	11,269	-	2,207	-	13,476
Earnings from continuing operations before income taxes	85,972	141,456	265,189	(282,912)	209,705
Income tax expense	31,783	-	1,208	-	32,991
Net earnings from continuing operations	54,189	141,456	263,981	(282,912)	176,714
Net earnings from discontinued operations	(4,364)	-	8,146	-	3,782
Net earnings	49,825	141,456	272,127	(282,912)	180,496
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	126,716	-	126,716
Net earnings from discontinued operations	-	-	3,955	-	3,955
Total net earnings attributable to noncontrolling interests	-	-	130,671	-	130,671
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,825	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 49,825
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 54,189	\$ 141,456	\$ 137,265	\$ (282,912)	\$ 49,998
Discontinued operations, net of income tax	(4,364)	-	4,191	-	(173)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,825	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 49,825
Net earnings	\$ 49,825	\$ 141,456	\$ 272,127	\$ (282,912)	\$ 180,496
Other comprehensive income, net of income tax:					
Unrealized gain on interest rate swap, net of income tax	1,334	-	-	-	1,334
Comprehensive income, net of income tax	51,159	141,456	272,127	(282,912)	181,830
Less comprehensive income attributable to noncontrolling interests	-	-	130,671	-	130,671
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 51,159	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 51,159

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Cash Flows - Year Ended December 31, 2012 (In thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Cash flows from operating activities:					
Net cash flows provided by (used in) operating activities	\$ (83,605)	\$ 182,851	\$ 379,257	\$ (182,851)	\$ 295,652
Cash flows from investing activities:					
Acquisition of interests in surgery centers and related transactions	(90,029)	(280,189)	-	92,830	(277,388)
Acquisition of property and equipment	(3,681)	-	(25,183)	-	(28,864)
Proceeds from sale of interests in surgery centers	-	7,309	-	-	7,309
Net cash flows used in investing activities	(93,710)	(272,880)	(25,183)	92,830	(298,943)
Cash flows from financing activities:					
Proceeds from long-term borrowings	560,000	-	5,566	-	565,566
Repayment on long-term borrowings	(381,220)	-	(12,944)	-	(394,164)
Distributions to owners, including noncontrolling interests	-	-	(345,792)	182,851	(162,941)
Capital contributions	-	90,029	-	(90,029)	-
Changes in intercompany balances with affiliates, net	(2,666)	-	2,666	-	-
Other financing activities, net	(70)	-	3,381	(2,801)	510
Net cash flows provided by (used in) financing activities	176,044	90,029	(347,123)	90,021	8,971
Net increase (decrease) in cash and cash equivalents	(1,271)	-	6,951	-	5,680
Cash and cash equivalents, beginning of year	8,530	-	32,188	-	40,718
Cash and cash equivalents, end of year	<u>\$ 7,259</u>	<u>\$ -</u>	<u>\$ 39,139</u>	<u>\$ -</u>	<u>\$ 46,398</u>

**Consolidating Statement of Cash Flows - Year Ended December 31, 2011 (In thousands)**

	Parent Issuer	Guarantor Subsidiaries	Non- Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Cash flows from operating activities:					
Net cash flows provided by (used in) operating activities	\$ (67,911)	\$ 151,558	\$ 311,334	\$ (151,558)	\$ 243,423
Cash flows from investing activities:					
Acquisition of interests in surgery centers and related transactions	(84,597)	(243,429)	-	88,803	(239,223)
Acquisition of property and equipment	(2,858)	-	(19,312)	-	(22,170)
Proceeds from sale of interests in surgery centers	-	7,274	(248)	-	7,026
Net cash flows used in investing activities	(87,455)	(236,155)	(19,560)	88,803	(254,367)
Cash flows from financing activities:					
Proceeds from long-term borrowings	281,100	-	7,769	-	288,869
Repayment on long-term borrowings	(118,100)	-	(11,007)	-	(129,107)
Distributions to owners, including noncontrolling interests	-	-	(290,282)	151,558	(138,724)
Capital contributions	-	84,597	-	(84,597)	-
Changes in intercompany balances with affiliates, net	(178)	-	178	-	-
Other financing activities, net	(3,609)	-	4,292	(4,206)	(3,523)
Net cash flows provided by (used in) financing activities	159,213	84,597	(289,050)	62,755	17,515
Net increase in cash and cash equivalents	3,847	-	2,724	-	6,571
Cash and cash equivalents, beginning of year	4,683	-	29,464	-	34,147
Cash and cash equivalents, end of year	<u>\$ 8,530</u>	<u>\$ -</u>	<u>\$ 32,188</u>	<u>\$ -</u>	<u>\$ 40,718</u>

**Item 8. Financial Statements and Supplementary Data -- (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements -- (continued)**

**Consolidating Statement of Cash Flows - Year Ended December 31, 2010 (In thousands)**

	<u>Parent Issuer</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>	<u>Consolidating Adjustments</u>	<u>Total Consolidated</u>
Cash flows from operating activities:					
Net cash flows provided by operating activities	\$ 20,905	\$ 143,049	\$ 298,359	\$ (231,738)	\$ 230,575
Cash flows from investing activities:					
Acquisition of interests in surgery centers and related transactions	-	(54,420)	-	730	(53,690)
Acquisition of property and equipment	(2,138)	-	(17,137)	-	(19,275)
Proceeds from sale of interests in surgery centers	-	60	-	-	60
Net cash flows used in investing activities	(2,138)	(54,360)	(17,137)	730	(72,905)
Cash flows from financing activities:					
Proceeds from long-term borrowings	173,800	-	2,819	-	176,619
Repayment on long-term borrowings	(187,100)	-	(8,860)	-	(195,960)
Distributions to owners, including noncontrolling interests	-	(88,689)	(275,159)	231,738	(132,110)
Changes in intercompany balances with affiliates, net	(799)	-	799	-	-
Other financing activities, net	(1,573)	-	854	(730)	(1,449)
Net cash flows used in financing activities	(15,672)	(88,689)	(279,547)	231,008	(152,900)
Net increase in cash and cash equivalents	3,095	-	1,675	-	4,770
Cash and cash equivalents, beginning of year	1,588	-	27,789	-	29,377
Cash and cash equivalents, end of year	<u>\$ 4,683</u>	<u>\$ -</u>	<u>\$ 29,464</u>	<u>\$ -</u>	<u>\$ 34,147</u>

**17. Subsequent Events**

The Company assessed events occurring subsequent to December 31, 2012 for potential recognition and disclosure in the consolidated financial statements. No events have occurred that would require adjustment to or disclosure in the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**  
**Quarterly Statement of Earnings Data (Unaudited)**

The following table presents certain quarterly statement of earnings data for the years ended December 31, 2012 and 2011. The quarterly statement of earnings data set forth below was derived from our unaudited financial statements and includes all adjustments, consisting of normal recurring adjustments, which we consider necessary for a fair presentation thereof. Results of operations for any particular quarter are not necessarily indicative of results of operations for a full year or predictive of future periods.

	2012				2011			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	(In thousands, except per share data)							
Revenues	\$ 228,899	\$ 230,326	\$ 225,124	\$ 244,160	\$ 176,531	\$ 186,292	\$ 193,616	\$ 221,148
Earnings from continuing operations before income taxes	66,342	67,024	63,504	68,103	51,903	55,814	55,574	61,235
Net earnings from continuing operations	55,526	55,862	53,374	57,584	43,744	47,026	47,249	51,253
Net earnings (loss) from discontinued operations	(587)	(317)	391	1,810	884	(649)	368	239
Net earnings	54,939	55,545	53,765	59,394	44,628	46,377	47,617	51,492
Net earnings (loss) attributable to AmSurg Corp. common shareholders:								
Continuing	15,554	16,060	15,281	15,690	11,460	12,535	12,847	13,552
Discontinued	(778)	(524)	156	1,124	233	(905)	279	(4)
Net earnings	<u>\$ 14,776</u>	<u>\$ 15,536</u>	<u>\$ 15,437</u>	<u>\$ 16,814</u>	<u>\$ 11,693</u>	<u>\$ 11,630</u>	<u>\$ 13,126</u>	<u>\$ 13,548</u>
Diluted net earnings from continuing operations per common share	\$ 0.50	\$ 0.51	\$ 0.48	\$ 0.49	\$ 0.37	\$ 0.40	\$ 0.41	\$ 0.43
Diluted net earnings per common share	\$ 0.47	\$ 0.49	\$ 0.49	\$ 0.53	\$ 0.38	\$ 0.37	\$ 0.42	\$ 0.43

# **Financial Attachment I**

13. B i. Please provide one year of actual results and three years of projections of **Total Facility** revenue, expense and volume statistics without, incremental to and with the CON proposal in the following reporting format:

<u>Total Facility:</u>	2012	2013	2013	2013	2014	2014	2014	2015	2015	2015
<u>Description</u>	<u>Actual Results</u>	<u>Projected W/out CON</u>	<u>Projected Incremental</u>	<u>Projected With CON</u>	<u>Projected W/out CON</u>	<u>Projected Incremental</u>	<u>Projected With CON</u>	<u>Projected W/out CON</u>	<u>Projected Incremental</u>	<u>Projected With CON</u>
<b>NET PATIENT REVENUE</b>										
Non-Government	\$ 2,001,607	\$2,021,623		\$2,021,623	\$2,041,839		\$2,041,839	\$2,062,258		\$2,062,258
Medicare	864,330	\$872,974		\$872,974	\$881,703		\$881,703	\$890,520		\$890,520
Medicaid and Other Medical Assistance	97,048	\$98,018		\$98,018	\$98,998		\$98,998	\$99,988		\$99,988
Other Government	\$69,753	\$70,451		\$70,451	\$71,155		\$71,155	\$71,867		\$71,867
Total Net Patient Patient Revenue	\$3,032,738	\$3,063,065	\$0	\$3,063,065	\$3,093,696	\$0	\$3,093,696	\$3,124,633	\$0	\$3,124,633
Other Operating Revenue	\$0	\$0		\$0	\$0		\$0	\$0		\$0
Revenue from Operations	\$3,032,738	\$3,063,065	\$0	\$3,063,065	\$3,093,696	\$0	\$3,093,696	\$3,124,633	\$0	\$3,124,633
<b>OPERATING EXPENSES</b>										
Salaries and Fringe Benefits	762,108	\$781,161		\$781,161	\$800,690		\$800,690	\$820,707		\$820,707
Professional / Contracted Services	205,544	\$210,683		\$210,683	\$215,950		\$215,950	\$221,348		\$221,348
Supplies and Drugs	215,531	\$220,919		\$220,919	\$226,442		\$226,442	\$232,103		\$232,103
Bad Debts	73,348	\$75,182		\$75,182	\$77,061		\$77,061	\$78,988		\$78,988
Other Operating Expense	\$220,617	\$226,132		\$226,132	\$231,786		\$231,786	\$237,580		\$237,580
Subtotal	1,477,148	\$1,514,077	\$0	\$1,514,077	\$1,551,929	\$0	\$1,551,929	\$1,590,727	\$0	\$1,590,727
Depreciation/Amortization	367,435	\$376,621		\$376,621	\$386,036		\$386,036	\$395,687		\$395,687
Interest Expense	12,306	\$12,614		\$12,614	\$12,929		\$12,929	\$13,252		\$13,252
Lease Expense	\$132,354	\$135,663		\$135,663	\$139,054		\$139,054	\$142,531		\$142,531
Total Operating Expenses	1,989,243	\$2,038,974	\$0	\$2,038,974	\$2,089,948	\$0	\$2,089,948	\$2,142,197	\$0	\$2,142,197
Income (Loss) from Operations	\$1,043,495	\$1,024,091	\$0	\$1,024,091	\$1,003,748	\$0	\$1,003,748	\$982,436	\$0	\$982,436
Non-Operating Income	\$205	\$210		\$210	\$215		\$215	\$221		\$221
Income before provision for income taxes	\$1,043,700	\$1,024,301	\$0	\$1,024,301	\$1,003,963	\$0	\$1,003,963	\$982,657	\$0	\$982,657
Provision for income taxes	\$0	\$0		\$0	\$0		\$0			
Net Income	\$1,043,700	\$1,024,301	\$0	\$1,024,301	\$1,003,963	\$0	\$1,003,963	\$982,657	\$0	\$982,657
Retained earnings, beginning of year	\$1,965,484	\$3,009,184	\$3,009,184	\$3,009,184	\$4,033,485	\$3,009,184	\$4,033,485	\$5,037,448	\$3,009,184	\$5,037,448
Retained earnings, end of year	\$3,009,184	\$4,033,485	\$3,009,184	\$4,033,485	\$5,037,448	\$3,009,184	\$5,037,448	\$6,020,105	\$3,009,184	\$6,020,105
FTEs	13.4	13.7		13.7	14.1		14.1	14.4		14.4

**\*Volume Statistics:**

Provide projected inpatient and/or outpatient statistics for any new services and provide actual and projected inpatient and/or outpatient statistics for any existing services which will change due to the proposal.



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

July 26, 2013

VIA FAX ONLY

Robert M. McCullough  
Vice President  
AmSurg Holding, Inc.  
20 Burton Hills Boulevard  
Nashville, TN 37215

Susan Cowden, R.N.  
Director  
Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street, Suite 107  
Norwich, CT 06360

RE: Certificate of Need Application; Docket Number: 13-31848-CON  
Eastern Connecticut Endoscopy Center, LLC, and AmSurg Holdings, Inc.  
Proposal Changing the Ownership Composition of Eastern Connecticut Endoscopy  
Center, LLC, in Norwich

Dear Mr. McCullough:

On June 26, 2013, the Office of Health Care Access ("OHCA") received your Certificate of Need application filing on behalf of Eastern Connecticut Endoscopy Center, LLC ("Center" or "ECEC") and AmSurg Holdings, Inc. ("AmSurg") for the proposal to change the ownership composition of ECEC. The proposal involves AmSurg Holdings, Inc.'s purchase of 11% of the membership interest in ECEC. AmSurg Holdings currently holds 40% of the membership interest in ECEC, which it purchased from current physician owners in 2012. After the closing of the proposed transaction, AmSurg Holdings will own 51% of the membership interest. Following the proposed transaction, ECEC will merge with and into a Tennessee limited liability company. The Tennessee company, also called Eastern Connecticut Endoscopy Center, LLC, will be the surviving entity.

OHCA has reviewed the CON application and requests the following additional information pursuant to General Statutes §19a-639a(c):

1. Provide AmSurg Corporation's latest annual report that has been conveyed to its stockholders.
2. Provide evidence that that there is a clear public need for AmSurg to gain a controlling membership interest in the Center.

*An Equal Opportunity Provider*

*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*  
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308  
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov

3. The CON application points out that ECEC's decision to partner with AmSurg was based on three main factors:
  - a. AmSurg's contracting capabilities and access to group purchasing and leasing arrangements;
  - b. AmSurg's ability to improve management; and
  - c. AmSurg's ability to deal with an increasingly difficult regulatory environment.

As AmSurg currently holds a 40% in the membership interest in ECEC, for each of the three aforementioned factors provide specific examples in how AmSurg has achieved improvements in the quality of the health care services provided at the Center and how the addition of a controlling interest on the part of AmSurg will increase these improvements.

4. Provide ECEC's actual patient population mix for fiscal years 2009, 2010, and 2011 in the same format presented in Table 3, page 13 of the CON application.
5. What is ECEC's current policy toward treating Medicaid recipients and indigent patients? Will the proposal affect either policy? If so, please explain the anticipated change.
6. With respect to proposal's cost effectiveness, the CON application mentions that efficiencies in operation and administration, economies of scale with vendors and other cost saving will be realized and that these cost savings will be reflected in reduced operation expenses.
  - a. Provide an itemization of anticipated cost savings attributable to the proposal.
  - b. Have the anticipated cost savings been incorporated in the proposed ECEC Financial Attachment I.

In responding to the questions contained in this letter, please repeat each question before providing your response. Paginate and date your response, i.e., each page in its entirety. Information filed after the initial CON application submission (i.e. completeness letter, late file submissions, and the like must be numbered sequentially from the Applicant document preceding it. As the current submission for the application concludes with page 167, please begin with the completeness response with page 168. Reference Docket Number: 13-31848-CON and submit one (1) original and six (6) hard copies of your response in its entirety, including any supporting documentation. Submit a scanned copy of your response in Adobe format, an electronic copy in MS Word format and any worksheets in MS Excel, including all attachments, on CD.

OHCA must receive your response letter no later than Tuesday, September 24, 2013. Should your response letter be received by OHCA after Tuesday, September 24, 2013, the record regarding your request will be closed and considered withdrawn. Please feel free to contact me directly at (860) 418-7069 should you have any questions regarding this letter.

Sincerely,



Jack A. Huber  
Health Care Analyst

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3608  
RECIPIENT ADDRESS 918608867808  
DESTINATION ID  
ST. TIME 07/26 15:25  
TIME USE 00'55  
PAGES SENT 4  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: SUSAN COWI EN, R.N.  
FAX: (860) 886-7808  
AGENCY: EASTERN CONNECTICUT ENDOSCOPY CENTER  
FROM: JACK HUBER  
DATE: 7/26/2013 Time: ~3:15 pm  
NUMBER OF PAGES: 4  
*(including transmittal sheet)*



**Comments:** Transmitted: Eastern Connecticut Endoscopy Center, LLC  
CON Completeness Letter  
Docket Number: 13-31848-CON  
w/ closing signature Proposal to Change the Existing Ownership  
Structure of the Endoscopy Center located in Norwich

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3607  
RECIPIENT ADDRESS 916156650755  
DESTINATION ID  
ST. TIME 07/26 15:27  
TIME USE 01'30  
PAGES SENT 4  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: MR. ROBERT MCCULLOUGH

FAX: (615) 665-0755

AGENCY: AMSURG HOLDINGS, INC.

FROM: JACK HUBER

DATE: 7/26/2013 Time: ~3:15 pm

NUMBER OF PAGES: 4  
*(including transmittal sheet)*

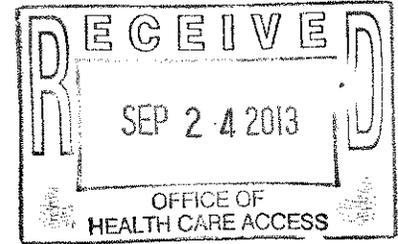
Comments: Transmitted: Eastern Connecticut Endoscopy Center, LLC  
CON Completeness Letter  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of the Endoscopy Center located in Norwich

**MURTHA**  
CULLINA

H. KENNEDY HUDNER  
860.240.6029 DIRECT TELEPHONE  
KHUDNER@MURTHALAW.COM

STEPHANIE SPRAGUE SOBKOWIAK  
203.772.7782 DIRECT TELEPHONE  
SSOBKOWIAK@MURTHALAW.COM

September 24, 2013



VIA HAND DELIVERY

Mr. Jack Huber  
Health Care Analyst  
State of Connecticut  
Department of Public Health,  
Office of Health Care Access  
410 Capitol Avenue, MS #13HCA  
Hartford, Connecticut 06134

Re: Docket No. 13-31848-CON

Dear Mr. Huber:

Enclosed you will find the original and six (6) copies of the response to completeness questions filed by Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. in the above-referenced docket number. A CD containing a scanned copy of the complete submission, as well as MS Word versions of the main text of the submission and Exhibit 1 are also enclosed.

If you have any questions, please feel free to contact either of us. Thank you very much for your consideration of the enclosed submission.

Sincerely,

*H. Kennedy Hudner* (SS)

H. Kennedy Hudner

*Steph Sobkowiak*

Stephanie Sprague Sobkowiak

Enclosures

4798787.1

Murtha Cullina LLP | Attorneys at Law

168

BOSTON

HARTFORD

MADISON

NEW HAVEN

STAMFORD

WOBURN

**DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS**

..... )  
EASTERN CONNECTICUT ENDOSCOPY )  
CENTER, LLC AND AMSURG HOLDINGS, )  
INC. – PROPOSAL CHANGING THE ) DOCKET NO. 13-31848-CON  
OWNERSHIP COMPOSITION OF EASTERN )  
CONNECTICUT ENDOSCOPY CENTER, LLC )  
IN NORWICH ) September 24, 2013  
..... )

**RESPONSES TO COMPLETENESS QUESTIONS**

Eastern Connecticut Endoscopy Center, LLC (“ECEC”) and Amsurg Holdings, Inc. (“AmSurg”) submit the following responses to the Office of Health Care Access’ (“OHCA”) additional questions dated July 26, 2013 in the above-referenced matter.

1. Provide AmSurg Corporation’s latest annual report that has been conveyed to its stockholders.

**RESPONSE:** Please see attached Exhibit 1 for a copy of AmSurg Corp.’s Annual Report on Form 10-K for the fiscal year ended December 31, 2012.

2. Provide evidence that there is a clear public need for AmSurg to gain a controlling membership interest in the Center.

**RESPONSE:** The transfer of the additional 11% membership interest in ECEC from the existing physician owners to AmSurg is necessary to promote optimum integration of the endoscopy center (the “Center”) with the operations and expertise of AmSurg. Such integration

will promote efficiency in the Center's operations and advance the cost-effectiveness of the care delivered in the Center. Importantly, such benefits will be achieved without negatively impacting the delivery of care to patients or the operations of any other providers.

AmSurg currently owns 40% of the membership interest in ECEC. Pursuant to state and federal antitrust laws, there are limitations on the actions AmSurg can take on behalf of ECEC unless AmSurg owns a controlling interest in ECEC. Allowing for the transfer of the additional membership interest will enable AmSurg to take certain actions on behalf of ECEC as its majority owner, thus allowing AmSurg to fully leverage the benefit of its national contracts with equipment and supply vendors for the benefit of the Center. For example, it is important to note that certain of AmSurg's contractual arrangements, such as group purchasing organization ("GPO") undertakings, apply only to subsidiaries that are majority-owned by AmSurg. By participating in these arrangements, the cost-effectiveness of the Center and the care delivered therein will be improved. Finally, as a 51% owner, AmSurg will be better positioned to negotiate with third party payors on behalf of ECEC.

3. The CON Application points out that ECEC's decision to partner with AmSurg was based on three main factors:

- a. AmSurg's contracting capabilities and access to group purchasing and leasing arrangements;
- b. AmSurg's ability to improve management; and
- c. AmSurg's ability to deal with an increasingly difficult regulatory environment.

As AmSurg currently holds a 40% membership interest in ECEC, for each of the three aforementioned factors provide specific examples in how AmSurg has achieved improvements in

the quality of health care provided at the Center and how the addition of a controlling interest on the part of AmSurg will increase these improvements.

**RESPONSE:** With regard to a. above, AmSurg already plays a role in administration of the Center, including assisting with the contracting process whenever possible. As a holder of a majority of the membership interest in ECEC, AmSurg will be able to fully represent ECEC in dealings with suppliers, vendors and payors and bring the leverage of its overall operations and expertise to bear for the benefit of the Center. Importantly, as mentioned above, inclusion of ECEC in some of the contractual arrangements negotiated by AmSurg requires that ECEC be a majority-owned subsidiary of AmSurg.

With regard to b. above, as discussed in the CON Application, AmSurg has significant experience managing and operating surgery centers. It currently has partnerships with over 235 surgery centers across the United States and is providing its expertise to the Center through elements such as administrative support and management oversight. It also provides certain accounting and financial services for the Center. Acquisition of a majority interest in the Center will allow AmSurg to fully implement its operational, clinical, financial and management systems at the Center.

With regard to c. above, again, AmSurg has significant experience working with other surgery centers and assisting those centers with navigating the increasingly regulated world in which they operate. AmSurg already assists the Center with regulatory compliance, including implementing state of the art clinical and operating policies and procedures, and will continue to work with the Center to implement practices to collect and analyze clinical quality and safety data.

4. Provide ECEC's actual patient population mix for fiscal years 2009, 2010 and 2011 in the same format as presented in Table 3, page 13 of the CON application.

**RESPONSE:** Please see attached Exhibit 2.

5. What is ECEC's current policy toward treating Medicaid recipients and indigent patients? Will the proposal affect either policy? If so, please explain the anticipated change.

**RESPONSE:** ECEC currently treats Medicaid patients, as evidenced by the Patient Population Mix table attached hereto as Exhibit 2. However, with very few exceptions (as reflected in the same Exhibit 2), it does not treat uninsured patients. Upon becoming a majority owner of ECEC, the same charity care policy that applies to AmSurg's other majority-owned centers would apply to ECEC. Please see attached Exhibit 3 for a copy of this policy.

This policy will benefit the community by increasing access for the uninsured and under-insured.

6. With respect to the proposal's cost effectiveness, the CON application mentions efficiencies in operation and administration, economies of scale with vendors and other cost savings will be realized and that these cost savings will be reflected in reduced operation expenses.

- a. Provide an itemization of anticipated cost savings attributable to the proposal.
- b. Have the anticipated cost savings been incorporated into the proposed ECEC Financial Attachment?

**RESPONSE:** The costs savings resulting from AmSurg's operating and financial management programs and economies of scale are reflected in the financial attachment. Based

upon AmSurg's past experience, it expects to be able to achieve costs savings in the areas of professional and contracted services, supplies and drugs, and other operating expenses such as marketing, liability insurance, and legal fees.

# EXHIBIT 1

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the Fiscal Year Ended December 31, 2012  
Commission File Number 000-22217

AMSURG CORP.

(Exact Name of Registrant as Specified in Its Charter)

Tennessee

62-1493316

(State or Other Jurisdiction of Incorporation)

(I.R.S. Employer  
Identification No.)

20 Burton Hills Boulevard

Nashville, Tennessee

37215

(Address of Principal  
Executive Offices)

(Zip Code)

Securities registered pursuant to Section 12(b) of the Act: Common Stock, no par value  
(Title of class)  
Nasdaq Global Select Market  
(Name of each exchange on which registered)

Registrant's telephone number, including area code: (615) 665-1283

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the Registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  
Yes  No

Indicate by check mark if the Registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.  
Yes  No

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.  
Yes  No

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  
Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting Company   
(Do not check if a smaller reporting company)

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  
Yes  No

As of February 26, 2013, 32,123,196 shares of the Registrant's common stock were outstanding. The aggregate market value of the shares of common stock of the Registrant held by nonaffiliates on June 30, 2012 (based upon the closing sale price of these shares as reported on the Nasdaq Global Select Market as of June 30, 2012) was approximately \$920,000,000. This calculation assumes that all shares of common stock beneficially held by executive officers and members of the Board of Directors of the Registrant are owned by "affiliates," a status which each of the officers and directors individually may disclaim.

Documents Incorporated by Reference

Portions of the Registrant's Definitive Proxy Statement for its Annual Meeting of Shareholders to be held on May 23, 2013, are incorporated by reference into Part III of this Annual Report on Form 10-K.

**Table of Contents to Annual Report on Form 10-K for the Fiscal Year Ended December 31, 2012**

---

<b>Part I</b>		
Item 1.	<u>Business</u>	1
	<u>Executive Officers of the Registrant</u>	17
Item 1A.	<u>Risk Factors</u>	18
Item 1B.	<u>Unresolved Staff Comments</u>	22
Item 2.	<u>Properties</u>	22
Item 3.	<u>Legal Proceedings</u>	22
Item 4.	<u>Mine Safety Disclosures</u>	22
<b>Part II</b>		
Item 5.	<u>Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities</u>	22
Item 6.	<u>Selected Financial Data</u>	23
Item 7.	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	24
Item 7A.	<u>Quantitative and Qualitative Disclosures About Market Risk</u>	34
Item 8.	<u>Financial Statements and Supplementary Data</u>	35
Item 9.	<u>Changes in and Disagreements with Accountants on Accounting and Financial Disclosure</u>	66
Item 9A.	<u>Controls and Procedures</u>	66
Item 9B.	<u>Other Information</u>	68
<b>Part III</b>		
Item 10.	<u>Directors, Executive Officers and Corporate Governance</u>	68
Item 11.	<u>Executive Compensation</u>	68
Item 12.	<u>Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters</u>	68
Item 13.	<u>Certain Relationships and Related Transactions, and Director Independence</u>	68
Item 14.	<u>Principal Accounting Fees and Services</u>	68
<b>Part IV</b>		
Item 15.	<u>Exhibits and Financial Statement Schedules</u>	69
	<u>Signatures</u>	73

## Part I

### Item 1. Business

We are the largest owner and operator of short stay ambulatory surgery centers (“ASC”s) in the United States with 240 ASCs in 35 states and the District of Columbia, in partnership with over 2,000 physicians. Our company was formed in 1992 for the purpose of acquiring, developing and operating ASCs in partnership with physicians. Our surgery centers are typically located adjacent to or in close proximity to the medical practices of our partner physicians. We generally own a 51% interest in the facilities we operate. Our surgical facilities primarily provide non-elective, high volume, lower-risk surgical procedures across multiple specialties, including among others gastroenterology, ophthalmology, and orthopedics. For the year ended December 31, 2012, approximately 1.5 million surgical procedures were performed in our ASCs. Our ASCs are designed with a cost structure that creates significant savings to patients and government and commercial payors when compared to surgical services performed in hospital outpatient departments (“HOPD”).

We acquire, develop and operate ASCs through the formation of strategic partnerships with physicians to better serve the communities in our markets. Since physicians are critical to the delivery of healthcare, we have developed our operating model to encourage physicians to affiliate with us. We believe we attract physicians because we design our facilities and adopt staffing, scheduling and clinical systems and protocols with the goal of increasing physician efficiency. We believe that our focus on physician satisfaction combined with providing safe, high quality healthcare in a friendly and convenient environment for patients, will continue to make our ASCs an attractive alternative to HOPDs for physicians, patients and payors.

We focus on providing high-quality surgical facilities that meet the needs of patients, physicians and payors. We believe our facilities (1) enhance the quality of care for our patients, (2) provide significant administrative, clinical and efficiency benefits to physicians, and (3) offer a low cost alternative for patients and payors.

We file reports with the Securities and Exchange Commission, or SEC, including annual reports on Form 10-K, quarterly reports on Form 10-Q and other reports from time to time. The public may read and copy any materials we file with the SEC at the SEC’s Public Reference Room at 100 F. Street, N.E., Room 1580, Washington, DC 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. We are an electronic filer and the SEC maintains an Internet site at <http://www.sec.gov> that contains the reports, proxy and information statements and other information filed electronically. Our website address is: <http://www.amsurg.com>. We make available free of charge through our website our annual report on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. The information provided on our website is not part of this report, and is therefore not incorporated by reference unless such information is otherwise specifically referenced elsewhere in this report. Our principal executive offices are located at 20 Burton Hills Boulevard, Nashville, Tennessee 37215, and our telephone number is 615-665-1283.

### Industry Overview

For many years, government programs, private insurance companies, managed care organizations and self-insured employers have implemented cost containment measures intended to limit the growth of healthcare expenditures. These cost-containment measures, together with technological advances, have contributed to the significant shift in the delivery of healthcare services away from traditional inpatient hospital settings to more cost-effective alternate sites, including ASCs. ASCs have been widely viewed as a successful way to increase efficiency by improving the quality of, and access to, healthcare and increasing patient satisfaction, while simultaneously reducing costs. According to data from the Centers for Medicare and Medicaid Services (“CMS”), there were approximately 5,300 Medicare-certified ASCs as of December 31, 2012. We believe that of those ASCs, approximately 65% performed procedures in a single specialty and 35% performed procedures in more than one specialty. Among the single specialty centers, we believe over 2,000 are in our preferred specialties of gastroenterology, ophthalmology, orthopaedic, ear, nose and throat, or ENT, and urology, while the remainder are in specialties such as plastic surgery, podiatry and pain management. We believe more than 50% of single specialty ASCs and 25% of multi-specialty ASCs are independently owned.

We believe the following factors have contributed to the increased migration of procedures to outpatient surgical facilities:

*Cost-Effective Alternative.* Ambulatory surgery is generally less expensive than hospital-based surgery for a number of reasons, including lower facility development costs, more efficient staffing and space utilization, and a specialized operating environment focused on cost containment. Accordingly, charges to patients and payors by ASCs are generally less than hospital charges.

*Physician and Patient Preference.* We believe many physicians prefer ASCs because these surgery centers enhance physicians’ productivity by providing them with greater scheduling flexibility, more consistent nurse staffing and faster turnaround time between cases, allowing them to perform more surgeries in a defined period of time. In contrast, HOPDs generally serve a broader group of physicians, including those involved with emergency procedures, which can result in postponed or delayed surgeries for non-emergency procedures. Many patients prefer ambulatory surgical facilities as a result of more convenient locations, shorter waiting times and more convenient scheduling and registration than HOPDs.

## Item 1. Business – (continued)

*New Technology.* New technology and advances in anesthesia, which have been increasingly accepted by physicians and payors, have significantly expanded the types of surgical procedures that can be performed in ASCs. Lasers, enhanced endoscopic techniques and fiber optics have reduced the trauma and recovery time associated with surgical procedures. Improved anesthesia has also shortened recovery time by minimizing postoperative side effects thereby avoiding overnight hospitalization.

### Our Competitive Strengths

We believe we are distinguished by the following competitive strengths:

*Market leading ASC provider with broad geographic presence.* We are currently the largest outpatient surgical facility operator in the United States based upon the total number of facilities. We operate 240 surgery centers in 35 states and the District of Columbia. We believe our geographic diversification provides us with a strong competitive position within the highly fragmented ASC industry, and our national scale and position as a large, public company ASC operator makes us an attractive partner for physicians.

*Attractive demographic trends.* We are the market leader in the specialties of gastroenterology and ophthalmology, and more gastroenterology and ophthalmology procedures are performed in our surgery centers than any other ASC operator. These specialties in particular have a higher concentration of older patients (50 years and older) than other specialties, such as orthopedics or ENT. We believe the aging demographics of the United States population will continue to act as a source of growth for gastroenterology and ophthalmology procedures at our ASCs. Additionally, we believe the growing overweight and obese population in the United States will drive procedure growth in gastroenterology, ophthalmology, and orthopedic cases. We believe we are well positioned to take advantage of these favorable demographic trends.

*Diversified procedure and payor mix.* At our 240 ASCs, our physician partners perform a number of different types of surgical procedures. For the year ended December 31, 2012, 55% of our revenues were generated at our gastroenterology centers, 32% of our revenues were generated at our multi-specialty centers and 13% of our revenues were generated at our ophthalmology centers. For the year ended December 31, 2012, we derived approximately 73% of our revenues from commercial and private payors. Over the same period, we derived approximately 27% of our revenues from governmental healthcare programs, primarily Medicare. Medicaid represents less than 2% of our revenues. We do not enter into national payor contracts, and each of our ASCs contracts individually with the payors in its market area. This contracting diversification reduces our risk with respect to the termination of payor contracts. Because of our payor mix and the non-emergent nature of procedures performed in our ASCs, our bad debt expense has averaged less than 2.5% of our revenues over the last three years.

While we cannot predict how changes in reimbursement trends will impact our business, we believe we are well positioned with respect to possible changes in Medicare reimbursement for several reasons:

- *Low Cost Provider:* The delivery of healthcare will continue to be directed to low cost venues, including ASCs. As such, we believe governmental healthcare programs will favor ASCs compared to hospitals because of the lower reimbursement rates for the procedures performed in our surgery centers.
- *Reimbursement of procedures performed in ASCs comprise a small percentage of the overall Medicare budget:* Reimbursement for procedures performed in ASCs make up less than 1% of the overall Medicare budget, and any future Medicare ASC rate cuts would not likely generate meaningful savings for governmental healthcare programs.

*Proven ability to identify and rapidly integrate acquisitions.* We pursue acquisitions of ASCs through transactions involving single ASCs as well as acquisitions of companies that own and manage ASCs. Over the last five years, we have successfully acquired an ownership interest in 82 ASCs for a combined acquisition price of \$788.2 million. A majority of these ASCs were acquired in individual transactions, however we also pursue the acquisition of companies that own and operate multiple ASCs, as we did in 2011 with the acquisition of 17 ASCs from National Surgical Care, Inc., or NSC.

We use experienced teams of operations and financial personnel to conduct a review of all aspects of a target center's operations, including (1) the quality and reputation of the physicians affiliated with the center, (2) the market position of the center and the physicians affiliated with the center, (3) the center's payor contracts and case mix, (4) competition and growth opportunities in the market, (5) the center's staffing and supply policies, (6) an assessment of the center's equipment, and (7) opportunities for operational efficiencies. We also have a dedicated team responsible for the integration of acquired centers. This team is responsible for converting acquired facilities to our reporting, staffing, and performance measurement systems and other operating systems. Once an acquisition is consummated, it is generally fully integrated within 60 days.

*Conservative leverage profile.* We have consistently maintained a leverage profile significantly lower than our comparably sized competitors. We view our conservative financial profile and policies as a competitive advantage, as they provide us with significant access to capital and greater financial flexibility to execute growth initiatives, including opportunistic acquisitions of facilities and multi-facility companies and selective de novo developments. We also believe our conservative leverage profile compared to other ASC owners is a differentiating factor to physicians in selecting a partner.

*Long-tenured, experienced management team.* Our senior management has, on average, over 25 years of experience in the healthcare industry and has extensive knowledge of our industry and the regulatory environment in which we operate. Additionally, many of our senior management team

have extensive experience working for our company. With this experience, our management team has successfully built our company into the largest ASC owner and operator in the U.S.

## Item 1. Business – (continued)

### Strategy

We believe we are a leader in the acquisition, development and operation of ASCs. The key components of our strategy are to:

- attract and retain physicians that are leaders in their specialty and market;
- increase same-center revenue growth and profitability at our existing surgery centers;
- expand our national network of ASCs by selectively acquiring both single-specialty ASCs and multi-specialty ASCs, and developing new ASCs in partnership with physicians; and
- pursue the acquisition of companies that own and operate multiple ASCs.

*Attract and retain physicians that are leaders in their specialty and market.* Physicians are critical to the delivery of healthcare and are a valuable component of our operating model. We currently operate 240 ASCs with over 2,000 physician partners. We typically structure partnerships with physicians in a 51% / 49% ownership relationship, which we believe is mutually beneficial to us and our physician partners. Under our partnership structure, physicians gain a partner in AmSurg who provides management services, including clinical and regulatory support, financial reporting, performance measurement, group purchasing, contracting, and marketing services. According to Syndics Research Corporation, our net promoter score, as defined by their survey to measure overall physician satisfaction, was 87% and exceeded industry benchmarks for physician satisfaction. We believe our focus on physician satisfaction, combined with providing safe, high quality healthcare in a patient friendly and convenient environment, helps us attract and retain physician partners.

*Increase same-center revenue growth.* We grow revenues in our existing facilities primarily through increasing procedure volume by (1) increasing the number of physicians performing procedures at our centers, (2) marketing our centers to referring physicians, payors and patients, and (3) achieving efficiencies in center operations. For the year ended December 31, 2012, we achieved same-center revenue growth of 3%.

*Growth in the number of physicians performing procedure.* The most effective way to increase procedure volume and revenues at our ASCs is to increase the number of physicians who use our centers through:

- the physicians affiliated with the ASCs recruiting new physicians to their practices;
- identifying additional physicians to join the partnerships that own the ASCs; and
- recruiting non-partner physicians in the same or other specialties to use excess capacity at the ASCs.

*Marketing our centers to referring physicians, payors and patients.* We market our ASCs to referring physicians and payors by emphasizing the quality, high patient satisfaction and lower cost at our ASCs. We have a dedicated business development team that is responsible for negotiating contracts with third party payors. They are responsible for obtaining new contracts for our ASCs with payors that do not currently contract with us and negotiating increases to reimbursement rates pursuant to existing contracts. We also increase awareness of the benefits of our ASCs with employers and patients through public awareness programs, health fairs and screening programs, including programs designed to educate employers and patients as to the health and cost benefits of our services.

*Achieving efficiencies in center operations:* We have dedicated teams with business and clinical expertise that are responsible for implementing best practices within our ASCs. The implementation of these best practices allows the ASCs to improve operating efficiencies through:

- physician scheduling enhancements;
- improved patient flow; and
- improved operating room turnover.

We also enhance the profitability of our ASCs through benefits we receive through economies of scale such as group purchasing, staffing and clinical efficiencies, and cost containment initiatives. We also track facility performance relative to certain benchmarks in order to maximize center-level revenue and profitability. The information we gather and collect from our ASCs and operations team members allows us to develop best practices and identify those ASCs that could most benefit from improved operating efficiency techniques and cost containment measures.

*Expand our national network of ASCs.* While we have been an active acquirer of ASCs historically, the market remains fragmented, providing many opportunities for additional acquisitions. We target ownership in single-specialty ASCs that perform gastrointestinal endoscopy, ophthalmology and orthopedic procedures, as well as multi-specialty ASCs that are equipped and staffed to perform surgical procedures in more than one specialty. Currently, approximately 77% of our revenues are from single-specialty centers that perform gastroenterology or ophthalmology procedures. These specialties have a higher concentration of older patients than other specialties, such as orthopaedics or ENT. We believe the aging demographics of the U.S. population will be a source of procedure growth for gastroenterology and ophthalmology ASCs. We will also opportunistically pursue the acquisition of companies that own and operate multiple ASCs.

We typically look to acquire ASCs that meet the following criteria:

- *Diversified physician group:* ASCs that have eight to ten (or more) physicians. In order to manage succession planning, we look to acquire

ASCs where physicians vary in age in order to limit the risk of several physicians exiting the practice in a short period of time.

- *Market leader*: ASCs that are market leaders for the procedures performed in that facility.

## Item 1. Business – (continued)

- *Contracts with payors:* ASCs that contract with all or most of the major commercial payors in their market.
- *History of growth:* ASCs with a track record of consistent case and revenue growth.

Our development staff identifies existing centers that are potential acquisition candidates and physicians who are potential partners for new center development. We begin our acquisition process with a due diligence review of the target center and its market. We use experienced teams of operations and financial personnel to conduct a review of all aspects of the center's operations, including the following:

- quality and reputation of the physicians affiliated with the center;
- market position of the center and the physicians affiliated with the center;
- payor and case mix;
- competition and growth opportunities in the market;
- staffing and supply review;
- equipment assessment; and
- opportunities for operational efficiencies.

In presenting the advantages to physicians of developing a new ASC in partnership with us, our development staff emphasizes the proximity of a surgery center to a physician's office, the simplified administrative procedures, the ability to schedule consecutive cases without preemption by inpatient or emergency procedures, the rapid turnaround time between cases, the high technical competency of the center's clinical staff and the state-of-the-art surgical equipment. We also focus on our expertise in developing and operating centers, including contracting with vendors and third-party payors. In a development project, we provide services, such as financial feasibility pro forma analysis, site selection, financing for construction, equipment and build out, and architectural oversight. Capital contributed by the physicians and AmSurg plus debt financing provides the funds necessary to construct and equip a new surgery center and initial working capital.

As part of each acquisition or development transaction, we form a limited partnership or limited liability company and enter into a limited partnership agreement or operating agreement with our physician partners. We generally own 51% of the limited partnerships or limited liability companies. Under these agreements, we receive a percentage of the net income and cash distributions of the entity equal to our percentage ownership interest in the entity and have the right to the same percentage of the proceeds of a sale or liquidation of the entity. In the limited partnership structure, as the sole general partner, one of our affiliates is generally liable for the debts of the limited partnership. However, the physician partners are generally required to guarantee their pro rata share of any indebtedness or lease agreements to which the limited partnership is a party in proportion to their ownership interest in the limited partnership.

We manage each limited partnership and limited liability company and oversee the business office, contracting, marketing, financial reporting, accreditation, clinical, regulatory and administrative operations of the surgery center. The physician partners provide the center with a medical director and performance improvement chairman and may provide certain other specified services such as billing and collections, transcription and accounts payable processing. In addition, the limited partnership or limited liability company may lease the services of certain non-physician personnel from entities affiliated with the physician partners, who will provide services at the center. Certain significant aspects of the limited partnership's or limited liability company's governance are overseen by an operating board, which is comprised of equal representation by AmSurg and our physician partners. We work closely with our physician partners to increase the likelihood of a successful partnership.

A majority of the limited partnership and operating agreements provide that, if certain regulatory changes take place, we will be obligated to purchase some or all of the noncontrolling interests of our physician partners. The regulatory changes that could trigger such obligations include changes that: (i) make the referral of Medicare and other patients to our surgery centers by physicians affiliated with us illegal; (ii) create the substantial likelihood that cash distributions from the limited partnerships or limited liability companies to the affiliated physicians will be illegal; or (iii) cause the ownership by the physicians of interests in the limited partnerships or limited liability companies to be illegal. There can be no assurance that our existing capital resources would be sufficient for us to meet the obligations, if they arise, to purchase these noncontrolling interests held by physicians. The determination of whether a triggering event has occurred generally would be made by the concurrence of our legal counsel and counsel for the physician partners or, in the absence of such concurrence, by independent counsel having expertise in healthcare law chosen by both parties. Such determination therefore would not be within our control. The triggering of these obligations could have a material adverse effect on our financial condition and results of operations. See "– Government Regulation."

### Surgery Center Operations

The size of our typical single-specialty ASC is approximately 3,000 to 6,000 square feet. The size of our typical multi-specialty ASC is approximately 5,000 to 17,000 square feet. Each center typically has two to three operating or procedure rooms with areas for reception, preparation, recovery and administration. Each surgery center is specifically tailored to meet the needs of its physician partners. Our surgery centers perform an average of approximately 6,800 procedures per year, though there is a wide range among centers from a low of approximately 1,200 procedures per year to a high of 33,000 procedures per year. The cost of developing a typical surgery center is approximately \$3 million. Constructing, equipping and licensing a surgery center generally takes 12 to 15 months. As of December 31, 2012, 149 of our centers performed gastrointestinal endoscopy procedures, 48 centers were multi-specialty centers, 36 centers performed ophthalmology surgery procedures and seven centers performed orthopaedic procedures. The procedures performed at our centers generally do not require an extended recovery period. Our centers are staffed with approximately 10 to 15 clinical professionals and administrative personnel, including nurses and surgical technicians, some of whom may be leased on a full or part-time basis from entities affiliated with our physician partners.



**Item 1. Business – (continued)**

The types of procedures performed at each center depend on the specialty of the practicing physicians. The procedures most commonly performed at our surgery centers are:

- gastroenterology - colonoscopy and other endoscopy procedures;
- ophthalmology - cataracts and retinal laser surgery; and
- orthopaedic - knee and shoulder arthroscopy and carpal tunnel repair.

We market our surgery centers directly to patients, referring physicians and third-party payors, including health maintenance organizations, or HMOs, preferred provider organizations, or PPOs, other managed care organizations, and employers. Marketing activities conducted by our management and center administrators emphasize the high quality of care, cost advantages and convenience of our surgery centers and are focused on making each center an approved provider under local managed care plans.

**Accreditation**

Managed care organizations in certain markets will only contract with a facility that is accredited by either the Accreditation Association for Ambulatory Health Care, or AAAHC, or The Joint Commission. We generally seek accreditation for all of our ASCs. Currently, 230 of our 240 surgery centers are accredited by AAAHC or The Joint Commission, and six of our surgery centers are scheduled for initial accreditation surveys during 2013. All of the accredited centers received three-year certifications.

**Item 1. Business – (continued)**

**Surgery Center Locations**

The following table sets forth certain information relating to our surgery centers as of December 31, 2012:

Location	Specialty	Acquisition/ Opening Date	Operating or Procedure Rooms
<i>Acquired Centers:</i>			
Knoxville, Tennessee	Gastroenterology	November 1992	8
Topeka, Kansas	Gastroenterology	November 1992	3
Nashville, Tennessee	Gastroenterology	November 1992	3
Washington, D.C.	Gastroenterology	November 1993	3
Torrance, California	Gastroenterology	February 1994	2
Maryville, Tennessee	Gastroenterology	January 1995	3
Panama City, Florida	Gastroenterology	July 1996	3
Ocala, Florida	Gastroenterology	August 1996	3
Columbia, South Carolina	Gastroenterology	October 1996	4
Wichita, Kansas	Orthopaedic	November 1996	3
Crystal River, Florida	Gastroenterology	January 1997	3
Abilene, Texas	Ophthalmology	March 1997	2
Fayetteville, Arkansas	Gastroenterology	May 1997	3
Independence, Missouri	Gastroenterology	September 1997	1
Kansas City, Missouri	Gastroenterology	September 1997	1
Phoenix, Arizona	Ophthalmology	February 1998	2
Denver, Colorado	Gastroenterology	April 1998	4
Sun City, Arizona	Ophthalmology	May 1998	5
Baltimore, Maryland	Gastroenterology	November 1998	3
Boca Raton, Florida	Ophthalmology	December 1998	2
Indianapolis, Indiana	Gastroenterology	June 1999	4
Chattanooga, Tennessee	Gastroenterology	July 1999	3
Mount Dora, Florida	Ophthalmology	September 1999	2
Oakhurst, New Jersey	Gastroenterology	September 1999	2
La Jolla, California	Gastroenterology	December 1999	2
Burbank, California	Ophthalmology	December 1999	1
Waldorf, Maryland	Gastroenterology	December 1999	2
Glendale, California	Ophthalmology	January 2000	1
Las Vegas, Nevada	Ophthalmology	May 2000	2

Hutchinson, Kansas	Multispecialty	June 2000	2
New Orleans, Louisiana	Ophthalmology	July 2000	2
Kingston, Pennsylvania	Ophthalmology, Pain Management	December 2000	3
Inverness, Florida	Gastroenterology	December 2000	3
Columbia, Tennessee	Multispecialty	February 2001	2
Bel Air, Maryland	Gastroenterology	February 2001	2
Dover, Delaware	Multispecialty	February 2001	3
Sarasota, Florida	Ophthalmology	February 2001	2
Ft. Lauderdale, Florida	Ophthalmology	March 2001	3
Bloomfield, Connecticut	Ophthalmology	July 2001	1
Lawrenceville, New Jersey	Multispecialty	October 2001	3
Newark, Delaware	Gastroenterology	October 2001	5
Alexandria, Louisiana	Ophthalmology	December 2001	2
Paducah, Kentucky	Ophthalmology	May 2002	2
Columbia, Tennessee	Gastroenterology	June 2002	2
Tulsa, Oklahoma	Ophthalmology	July 2002	3
Peoria, Arizona	Multispecialty	October 2002	3
Lewes, Delaware	Gastroenterology	December 2002	2
Rogers, Arkansas	Ophthalmology	December 2002	2
Winter Haven, Florida	Ophthalmology	December 2002	2
Voorhees, New Jersey	Gastroenterology	March 2003	4
St. George, Utah	Gastroenterology	July 2003	2
San Antonio, Texas	Gastroenterology	July 2003	4

**Item 1. Business – (continued)**

<b>Location</b>	<b>Specialty</b>	<b>Acquisition/ Opening Date</b>	<b>Operating or Procedure Rooms</b>
Pueblo, Colorado	Ophthalmology	September 2003	2
Reno, Nevada	Gastroenterology	December 2003	4
Edina, Minnesota	Ophthalmology	December 2003	1
Gainesville, Florida	Orthopaedic	February 2004	5
West Palm, Florida	Gastroenterology	March 2004	2
Raleigh, North Carolina	Gastroenterology	April 2004	4
Sun City, Arizona	Gastroenterology	September 2004	2
Casper, Wyoming	Gastroenterology	October 2004	2
Rockville, Maryland	Gastroenterology	October 2004	5
Overland Park, Kansas	Gastroenterology	October 2004	3
Lake Bluff, Illinois	Gastroenterology	November 2004	3
San Luis Obispo, California	Gastroenterology	December 2004	2
Templeton, California	Gastroenterology	December 2004	2
Lutherville, Maryland	Gastroenterology	January 2005	2
Tacoma, Washington	Gastroenterology	March 2005	5
Tacoma, Washington	Gastroenterology	March 2005	2
Tacoma, Washington	Gastroenterology	March 2005	2
Tacoma, Washington	Gastroenterology	March 2005	2
Orlando, Florida	Gastroenterology	June 2005	1
Orlando, Florida	Gastroenterology	June 2005	4
Scranton, Pennsylvania	Gastroenterology	August 2005	3
Towson, Maryland	Gastroenterology	August 2005	4
Yuma, Arizona	Gastroenterology	October 2005	3
St. Louis, Missouri	Orthopaedic	November 2005	2
Salem, Oregon	Ophthalmology	December 2005	2
West Orange, New Jersey	Gastroenterology	December 2005	3
St. Cloud, Minnesota	Ophthalmology	December 2005	2
Tulsa, Oklahoma	Gastroenterology	December 2005	3
Laurel, Maryland	Gastroenterology	December 2005	3
Torrance, California	Multispecialty	February 2006	4
Nashville, Tennessee	Ophthalmology	February 2006	2
Arcadia, California	Gastroenterology	March 2006	2
Woodlands, Texas	Gastroenterology	September 2006	2

Bala Cynwyd, Pennsylvania	Gastroenterology	September 2006	2
Malvern, Pennsylvania	Gastroenterology	September 2006	3
Oakland, California	Gastroenterology	October 2006	3
South Bend, Indiana	Gastroenterology	January 2007	4
Lancaster, Pennsylvania	Gastroenterology	January 2007	3
Silver Spring, Maryland	Gastroenterology	January 2007	2
Rockville, Maryland	Gastroenterology	January 2007	3
New Orleans, Louisiana	Gastroenterology	January 2007	2
Marrero, Louisiana	Gastroenterology	January 2007	3
Metairie, Louisiana	Gastroenterology	January 2007	3
Tom's River, New Jersey	Gastroenterology	May 2007	2
Pottsville, Pennsylvania	Gastroenterology	June 2007	3
Kissimmee, Florida	Gastroenterology	July 2007	2
Glendora, California	Gastroenterology	August 2007	4
Mesquite, Texas	Gastroenterology	August 2007	2
Conroe, Texas	Gastroenterology	August 2007	4
Altamonte Springs, Florida	Gastroenterology	September 2007	3
New Port Richey, Florida	Multispecialty	October 2007	6
Glendale, Arizona	Gastroenterology	October 2007	3
San Diego, California	Orthopaedic	November 2007	4
Poway, California	Multispecialty	November 2007	2
Baton Rouge, Louisiana	Gastroenterology	December 2007	10
Baltimore, Maryland	Gastroenterology	January 2008	4
Glen Burnie, Maryland	Gastroenterology	January 2008	2
St. Clair Shores, Michigan	Ophthalmology	May 2008	2
Orlando, Florida	Gastroenterology	May 2008	4
Greenbrae, California	Gastroenterology	August 2008	3
Pomona, California	Multispecialty	September 2008	5
Akron, Ohio	Gastroenterology	November 2008	3

**Item 1. Business – (continued)**

<b>Location</b>	<b>Specialty</b>	<b>Acquisition/ Opening Date</b>	<b>Operating or Procedure Rooms</b>
Redding, California	Gastroenterology	December 2008	2
Phoenix, Arizona	Gastroenterology	December 2008	3
Silver Spring, Maryland	Ophthalmology	December 2008	1
Phoenix, Arizona	Orthopaedic	December 2008	8
Bryan, Texas	Gastroenterology	December 2008	3
Westminster, Maryland	Gastroenterology	December 2008	2
McKinney, Texas	Multispecialty	December 2008	2
Durham, North Carolina	Gastroenterology	December 2008	4
Dayton, Ohio	Gastroenterology	December 2008	1
Kettering, Ohio	Gastroenterology	December 2008	3
Huber Heights, Ohio	Gastroenterology	December 2008	1
Springboro, Ohio	Gastroenterology	December 2008	3
North Charleston, South Carolina	Gastroenterology	January 2009	3
North Knoxville, Tennessee	Gastroenterology	January 2009	2
West Bridgewater, Massachusetts	Gastroenterology	February 2009	2
Canon City, Colorado	Multispecialty	June 2009	2
Media, Pennsylvania	Gastroenterology	July 2009	1
Hermitage, Tennessee	Gastroenterology	October 2009	3
Phoenix, Arizona	Orthopaedic	December 2009	4
Dallas, Texas	Gastroenterology	December 2009	4
Dallas, Texas	Gastroenterology	December 2009	3
Bedford, Texas	Gastroenterology	December 2009	3
Plano, Texas	Gastroenterology	December 2009	4
North Richland Hills, Texas	Gastroenterology	December 2009	4
Waltham, Massachusetts	Orthopaedic	March 2010	4
Boynton Beach, Florida	Multispecialty	May 2010	3
Waco, Texas	Gastroenterology	July 2010	3
Port St. Lucie, Florida	Ophthalmology	August 2010	2
Port Orange, Florida	Multispecialty	October 2010	6
Phoenix, Arizona	Gastroenterology	November 2010	3
Columbus, Ohio	Ophthalmology	December 2010	3
Phoenix North Valley, AZ	Gastroenterology	February 2011	3
Springfield, MA	Multispecialty	April 2011	6

Pioneer Valley, MA	Multispecialty	April 2011	6
Phoenix East Valley, AZ	Gastroenterology	April 2011	3
Edison, New Jersey	Gastroenterology	May 2011	2
Meridian, Idaho	Ophthalmology	July 2011	4
Bend, Oregon	Urology	August 2011	4
Coral Springs, Florida	Multispecialty	September 2011	8
Davis, California	Multispecialty	September 2011	3
Fullerton, California	Multispecialty	September 2011	5
Kenwood, Ohio	Multispecialty	September 2011	4
Long Beach, California	Multispecialty	September 2011	3
Pinellas Park, Florida	Multispecialty	September 2011	3
San Antonio, Texas	Multispecialty	September 2011	6
South Austin, Texas	Multispecialty	September 2011	5
Torrance Crenshaw, California	Multispecialty	September 2011	4
Towson, Maryland	Multispecialty	September 2011	3
Twin Falls, Idaho	Multispecialty	September 2011	5
West Palm Beach, Florida	Multispecialty	September 2011	8
Weston, Florida	Multispecialty	September 2011	9
Wilton, Connecticut	Multispecialty	September 2011	1
Austin, Texas	Gastroenterology	September 2011	3
Austin, Texas	Gastroenterology	September 2011	3
Norwood, Massachusetts	Multispecialty	December 2011	4
Fresno, California	Multispecialty	December 2011	7
Newington, New Hampshire	Multispecialty	December 2011	1
Acton, Massachusetts	Gastroenterology	February 2012	3
Newark, New Jersey	Gastroenterology	July 2012	3
Lakeside, Arizona	Multispecialty	October 2012	4
Glenview, Illinois	Gastroenterology	November 2012	3
Herndon, California	Multispecialty	November 2012	1

**Item 1. Business – (continued)**

<b>Location</b>	<b>Specialty</b>	<b>Acquisition/ Opening Date</b>	<b>Operating or Procedure Rooms</b>
Wellesley Hills, Massachusetts	Gastroenterology	December 2012	4
Milford, Connecticut	Ophthalmology	December 2012	3
Shreveport, Louisiana	Multispecialty	December 2012	2
Joplin, Missouri	Multispecialty	December 2012	2
Harvey, Louisiana	Multispecialty	December 2012	1
Norwich, Connecticut	Gastroenterology	December 2012	3
Millburn, New Jersey	Multispecialty	December 2012	8
Fort Lee, New Jersey	Multispecialty	December 2012	6
Allentown, Pennsylvania	Multispecialty	December 2012	1
Springfield, Oregon	Gastroenterology	December 2012	2
Colton, California	Multispecialty	December 2012	1

***Developed Centers:***

Santa Fe, New Mexico	Gastroenterology	May 1994	3
Beaumont, Texas	Gastroenterology	October 1994	4
Abilene, Texas	Gastroenterology	December 1994	3
Knoxville, Tennessee	Ophthalmology	June 1996	2
Sidney, Ohio	Multispecialty	December 1996	4
Montgomery, Alabama	Ophthalmology	May 1997	2
Willoughby, Ohio	Gastroenterology	July 1997	2
Milwaukee, Wisconsin	Gastroenterology	July 1997	3
Chevy Chase, Maryland	Gastroenterology	July 1997	4
Melbourne, Florida	Gastroenterology	August 1997	2
Hialeah, Florida	Gastroenterology	December 1997	3
Flourtown, Pennsylvania	Gastroenterology	October 1997	4
Cincinnati, Ohio	Gastroenterology	January 1998	3
Evansville, Indiana	Ophthalmology	February 1998	2
Shawnee, Kansas	Gastroenterology	April 1998	3
Salt Lake City, Utah	Gastroenterology	April 1998	2
Oklahoma City, Oklahoma	Gastroenterology	May 1998	4
El Paso, Texas	Gastroenterology	December 1998	4
Toledo, Ohio	Gastroenterology	December 1998	3

Florham Park, New Jersey	Gastroenterology	December 1999	3
Minneapolis, Minnesota	Ophthalmology	June 2000	2
Crestview Hills, Kentucky	Gastroenterology	September 2000	3
Louisville, Kentucky	Gastroenterology	September 2000	3
Louisville, Kentucky	Ophthalmology	September 2000	2
Ft. Myers, Florida	Gastroenterology	October 2000	3
Sarasota, Florida	Gastroenterology	December 2000	2
Inglewood, California	Gastroenterology	May 2001	3
Clemson, South Carolina	Multispecialty	September 2002	3
Middletown, Ohio	Gastroenterology	October 2002	3
Troy, Michigan	Gastroenterology	August 2003	2
Kingsport, Tennessee	Ophthalmology	October 2003	2
Columbia, South Carolina	Gastroenterology	November 2003	2
Greenville, South Carolina	Gastroenterology	August 2004	4
Sebring, Florida	Ophthalmology	November 2004	2
Temecula, California	Gastroenterology	November 2004	2
Escondido, California	Gastroenterology	December 2004	2
Tampa, Florida	Gastroenterology	January 2005	8
Rockledge, Florida	Gastroenterology	May 2005	3
Lakeland, Florida	Gastroenterology	May 2005	4
Liberty, Missouri	Gastroenterology	June 2005	1
Knoxville, Tennessee	Gastroenterology	September 2005	2
Sun City, Arizona	Multispecialty	November 2005	3
Port Huron, Michigan	Orthopaedic	March 2006	2
Hanover, New Jersey	Gastroenterology	October 2006	3
Raleigh, North Carolina	Gastroenterology	December 2006	3
San Antonio, Texas	Gastroenterology	May 2007	4
Cary, North Carolina	Gastroenterology	November 2007	4

**Item 1. Business – (continued)**

Location	Specialty	Acquisition/ Opening Date	Operating or Procedure Rooms
El Dorado, Arkansas	Multispecialty	December 2007	2
Greensboro, North Carolina	Gastroenterology	August 2008	2
Puyallup, Washington	Gastroenterology	May 2009	3
Blaine, Minnesota	Multispecialty	November 2009	3
Miami Kendall, Florida	Gastroenterology	June 2011	4
San Antonio, Texas	Gastroenterology	June 2012	3
			731

Our limited partnerships and limited liability companies lease the real property on which our surgery centers operate, either from entities affiliated with our physician partners or from unaffiliated parties.

**Revenues**

Our revenues are derived from facility fees charged for surgical procedures performed in our surgery centers and, at certain of our surgery centers (primarily ASCs at which gastrointestinal procedures are performed), charges for anesthesia services delivered by medical professionals employed or contracted by our centers. These fees vary depending on the procedure, but usually include all charges for operating room usage, special equipment usage, supplies, recovery room usage, nursing staff and medications. Facility fees do not include professional fees charged by the physician that performs the surgical procedure. Revenue is recorded at the time of the patient encounter and billings for such procedures are made on or about that same date. At the majority of our centers, it is our policy to collect patient co-payments and deductibles at the time the surgery is performed. Our revenues are recorded net of estimated contractual adjustments from third-party medical service payors. Our billing and accounting systems provide us historical trends of the surgery centers' cash collections and contractual write-offs, accounts receivable agings and established fee adjustments from third-party payors. These estimates are recorded and monitored monthly for each of our surgery centers as revenue is recognized. Our ability to accurately estimate contractual adjustments is dependent upon and supported by the fact that our surgery centers perform and bill for limited types of procedures, the range of reimbursement for those procedures within each surgery center specialty is very narrow and payments are typically received within 15 to 45 days of billing. These estimates are not, however, established from billing system generated contractual adjustments based on fee schedules for the patient's insurance plan for each patient encounter.

ASCs depend upon third-party reimbursement programs, including governmental and private insurance programs, to pay for substantially all of the services rendered to patients. We derived approximately 27%, 29% and 31% of our revenues in the years ended December 31, 2012, 2011 and 2010, respectively, from governmental healthcare programs, primarily Medicare and managed Medicare programs, and the remainder from a wide mix of commercial payors and patient co-pays and deductibles. The Medicare program currently pays ASCs in accordance with predetermined fee schedules. Our surgery centers are not required to file cost reports and, accordingly, we have no unsettled amounts from governmental third-party payors.

Effective January 1, 2008, CMS revised the payment system for services provided in ASCs, and the phase-in of the revised rates was completed in 2011. Under the revised payment system, ASCs are paid based upon a percentage of the payments to hospital outpatient departments pursuant to the hospital outpatient prospective payment system and reimbursement rates for ASCs are increased annually based on increases in the consumer price index, or CPI. The revised payment system resulted in a significant reduction in the reimbursement rates for gastroenterology procedures, which comprise approximately 75% of the procedures performed by our surgery centers, and certain ophthalmology and pain procedures. We estimate that our net earnings per share were negatively impacted by the revised payment system by \$0.05 in 2008, an additional \$0.07 in 2009, an additional \$0.06 in 2010 and an additional \$0.05 in 2011.

Effective for fiscal year 2011 and subsequent years, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, or the Health Reform Law, provides for the annual CPI increases applicable to ASCs to be reduced by a productivity adjustment, which will be based on historical nationwide productivity gains. In 2012, reimbursement rates increased by 1.6%, which we estimate positively impacted our 2012 revenues by approximately \$5.0 million and our net earnings per share by \$0.05. The reimbursement rates announced by CMS for 2013 reflect a 0.6% net increase, which we estimate will positively impact our 2013 revenue by approximately \$2.5 million and our 2013 earnings per share by \$0.02. There can be no assurance that CMS will not further revise the payment system, or that any annual CPI increases will be material.

The Budget Control Act of 2011, or BCA, requires automatic spending reductions of \$1.2 trillion for federal fiscal years 2013 through 2021, minus any deficit reductions enacted by Congress and debt service costs. The percentage reduction for Medicare may not be more than 2% for a fiscal year, with a uniform percentage reduction across all Medicare programs. The BCA-mandated spending reductions were delayed until March 1, 2013 by the enactment of the American Taxpayer Relief Act of 2012. The President and Congress continue to negotiate federal government spending reductions, but if action is not taken by March 1, 2013, the BCA-mandated spending reductions will occur. It is possible that these negotiations will result only in another temporary compromise or will result in greater spending reductions than required by the BCA. We are unable to predict how these spending reductions will be structured or how they would impact the Company, what other deficit reduction initiatives may be proposed by Congress or whether Congress will attempt to suspend or restructure the automatic budget cuts. If implemented under current legislation, we estimate the BCA-mandated spending reductions would reduce our revenue and net earnings per share on an annualized basis by approximately \$6.0 million and \$0.06, respectively.

## Item 1. Business – (continued)

In September 2012, the State of California enacted legislation that reduced the reimbursement rate beginning in 2013 for patients receiving care through the state's workers' compensation program. We estimate that the impact of the reduced rates will negatively impact our 2013 earnings per share by approximately \$0.06.

The Health Reform Law represents significant change across the healthcare industry. The Health Reform Law contains a number of provisions designed to reduce Medicare program spending, including the annual productivity adjustment discussed above that reduces payment updates to ASCs effective since fiscal year 2011. However, the Health Reform Law also expands coverage of uninsured individuals through a combination of public program expansion and private sector health insurance reforms. For example, the Health Reform Law expands eligibility under existing Medicaid programs, imposes financial penalties on individuals who fail to carry insurance coverage, creates affordability credits for those not enrolled in an employer-sponsored health plan, requires establishment of, or participation in, a health insurance exchange for each state and permits states to create federally funded, non-Medicaid plans for low-income residents not eligible for Medicaid. The Health Reform Law also establishes a number of private health insurance market reforms, including a ban on lifetime limits and pre-existing condition exclusions, new benefit mandates, and increased dependent coverage.

Many health plans are required to cover, without cost-sharing, certain preventive services designated by the U.S. Preventive Services Task Force, including screening colonoscopies. Medicare must now also cover these preventive services without cost-sharing, and, beginning in 2013, states that provide Medicaid coverage of these preventive services without cost-sharing will receive a one percentage point increase in their federal medical assistance percentage for these services.

Health insurance market reforms that expand insurance coverage may result in an increased volume for certain procedures at our centers. However, many of these provisions of the Health Reform Law will not become effective until 2014 or later, and these provisions may be amended or repealed or their impact could be offset by reductions in reimbursement under the Medicare program. On June 28, 2012, the United States Supreme Court upheld the constitutionality of the Health Reform Law except for provisions that would have allowed the Department of Health and Human Services, or HHS, to penalize states that do not implement the Medicaid expansion provisions of the law with the loss of existing federal Medicaid funding. It is unclear how many states will decline to implement the Medicaid expansion and what the resulting impact will be on the number of uninsured individuals.

Because of the many variables involved, including the law's complexity, lack of definitive implementing regulations or interpretive guidance, gradual implementation, and possible amendment or repeal, we are unable to predict the net effect of the reductions in Medicare spending, the expected increases in revenues from increased procedure volumes, and numerous other provisions in the law that may affect the Company. We are further unable to foresee how individuals and employers will respond to the choices afforded them by the Health Reform Law. Thus, we cannot predict the full impact of the Health Reform Law on the Company at this time.

CMS is increasing its administrative audit efforts through the nationwide expansion of the recovery audit contractor, or RAC, program. RACs are private contractors that conduct post-payment reviews of providers and suppliers that bill Medicare to detect and correct improper payments for services. The Health Reform Law expands the RAC program's scope to include Medicaid claims. In addition to RACs, other contractors, such as Medicaid Integrity Contractors, perform payment audits to identify and correct improper payments. We could incur costs associated with appealing any alleged overpayments and be required to repay any alleged overpayments identified by these or other administrative audits.

We expect value-based purchasing programs, including programs that condition reimbursement on patient outcome measures, to become more common and to involve a higher percentage of reimbursement amounts. CMS has promulgated three national coverage determinations that prevent Medicare from paying for certain serious, preventable medical errors performed in any healthcare facility, such as surgery performed on the wrong patient or the wrong site. Several commercial payors also do not reimburse providers for certain preventable adverse events. CMS established a quality reporting program for ASCs under which ASCs that fail to report on five quality measures beginning on October 1, 2012 will receive a 2% reduction in reimbursement for calendar year 2014. We have implemented programs and procedures at each of our centers to comply with the quality reporting program prescribed by CMS. Further, as required by the Health Reform Law, HHS has reported to Congress on its plan for implementing a value-based purchasing program for ASCs that would tie Medicare payments to quality and efficiency measures. The Health Reform Law also requires HHS to study whether to expand to ASCs its current policy of not paying additional amounts for care provided to treat conditions acquired during an inpatient hospital stay.

In addition to payment from governmental programs, ASCs derive a significant portion of their revenues from private healthcare insurance plans. These plans include both standard indemnity insurance programs as well as managed care programs, such as PPOs and HMOs. The strengthening of managed care systems nationally has resulted in substantial competition among providers of surgery center services that contract with these systems. Exclusion from participation in a managed care network could result in material reductions in patient volume and revenue. Some of our competitors have greater financial resources and market penetration than we do. We believe that all payors, both governmental and private, will continue their efforts over the next several years to reduce healthcare costs and that their efforts will generally result in a less stable market for healthcare services. While no assurances can be given concerning the ultimate success of our efforts to contract with healthcare payors, we believe that our position as a low-cost alternative for certain surgical procedures should enable our surgery centers to compete effectively in the evolving healthcare marketplace.

**Item 1. Business -- (continued)**

## Competition

We encounter competition in three separate areas: competition with other providers for physicians to utilize our centers, patients and managed care contracts; competition with other companies for acquisitions; and competition for joint venture development of new centers.

*Competition for Physicians to Utilize Our Centers, Patients and Managed Care Contracts.* We compete with hospitals and other surgery centers in recruiting physicians to utilize our surgery centers, for patients and for the opportunity to contract with payors. In some of the markets in which we operate, there are shortages of physicians in certain specialties, including gastroenterology. In several of the markets in which we operate, hospitals are recruiting physicians or groups of physicians to become employed by the hospitals, including primary care physicians and physicians in certain specialties, including gastroenterology. In many cases the hospitals have restricted those physicians' ability to refer patients to physicians and facilities not affiliated with the hospital. In addition, physicians, hospitals, payors and other providers may form integrated delivery systems that restrict the physicians who may treat certain patients or the facilities at which patients may be treated. Competition with hospitals and other surgery centers may limit our ability to contract with payors or negotiate favorable payment rates.

*Competition for Acquisitions.* There are several public and private companies that compete with us for the acquisition of existing ASCs and companies that own and manage ASCs. We may also compete with local hospitals in certain transactions. Some of these competitors may have greater resources than we have. The principal competitive factors that affect our and our competitors' ability to complete acquisitions are price, experience and reputation, and access to capital.

*Competition for Joint Venture Development of Centers.* We believe that we do not have a direct corporate competitor in the development of single-specialty ASCs across the specialties of gastroenterology and ophthalmology. There are, however, several publicly and privately held companies that develop multi-specialty surgery centers, and these companies may compete with us in the development of multi-specialty centers. Further, many physicians develop surgery centers without a corporate partner, utilizing consultants who typically perform these services for a fee and who take a small equity interest or no equity interest in the ongoing operations of the center.

## Government Regulation

The healthcare industry is subject to extensive regulation by a number of governmental entities at the federal, state and local level. Government regulation affects our business activities by controlling our growth, requiring licensure and certification for our facilities, regulating the use of our properties and controlling reimbursement to us for the services we provide.

*Certification.* We depend on third-party programs, including governmental and private health insurance programs, to reimburse us for services rendered to patients in our ASCs. In order to receive Medicare reimbursement, each surgery center must meet the applicable conditions of coverage set forth by HHS, relating to the type of facility, its equipment, personnel and standard of medical care, as well as compliance with state and local laws and regulations, all of which are subject to change from time to time. ASCs undergo periodic on-site Medicare certification surveys. Each of our existing centers is certified as a Medicare provider. Although we intend for our centers to participate in Medicare and other government reimbursement programs, there can be no assurance that these centers will continue to qualify for participation.

*Medicare-Medicaid Fraud and Abuse Provisions.* The federal anti-kickback statute prohibits healthcare providers and others from soliciting, receiving, offering or paying, directly or indirectly, any remuneration (including any kickback, bribe or rebate) with the intent of generating referrals or orders for services or items covered by a federal healthcare program. The anti-kickback statute is very broad in scope, and many of its provisions have not been uniformly or definitively interpreted by case law or regulations. Courts have found a violation of the anti-kickback statute if just one purpose of the remuneration is to generate referrals, even if there are other lawful purposes. Furthermore, the Health Reform Law provides that knowledge of the law or intent to violate the law is not required to establish a violation of the anti-kickback statute. Violations may result in criminal penalties or fines of up to \$25,000 or imprisonment for up to five years, or both. Violations of the anti-kickback statute may also result in substantial civil penalties, including penalties of up to \$50,000 for each violation, plus three times the amount claimed, and exclusion from participation in the Medicare and Medicaid programs. Exclusion from these programs would result in significant reductions in revenue and would have a material adverse effect on our business. The Health Reform Law provides that submission of a claim for services or items generated in violation of the anti-kickback statute constitutes a false or fraudulent claim and may be subject to additional penalties under the federal False Claims Act.

HHS has published final safe harbor regulations that outline categories of activities that are deemed protected from prosecution under the anti-kickback statute. Two of the safe harbor regulations relate to investment interests in general: the first concerning investment interests in large publicly traded companies (\$50,000,000 in net tangible assets) and the second for investments in smaller entities. The safe harbor regulations also include safe harbors for investments in certain types of ASCs. The limited partnerships and limited liability companies that own our surgery centers do not meet all of the criteria of either of the investment interests safe harbors or the surgery center safe harbor. Thus, they do not qualify for safe harbor protection from government review or prosecution under the anti-kickback statute. However, a business arrangement that does not substantially comply with a safe harbor is not necessarily illegal under the anti-kickback statute.

The HHS Office of Inspector General, or OIG, is authorized to issue advisory opinions regarding the interpretation and applicability of the federal anti-kickback statute, including whether an activity constitutes grounds for the imposition of civil or criminal sanctions. We have not sought such an opinion regarding any of our arrangements. Although advisory opinions are not binding on any entity other than the parties who submitted the requests, advisory opinions provide some guidance as to how the OIG would analyze joint ventures involving surgeons such as our physician partners. We believe our arrangements are structured to be consistent with OIG guidance.



## Item 1. Business – (continued)

While several federal court decisions have aggressively applied the restrictions of the anti-kickback statute, they provide little guidance as to the application of the anti-kickback statute to our limited partnerships and limited liability companies. We believe that we are in compliance with the current requirements of applicable federal and state law because, among other factors:

- the limited partnerships and limited liability companies exist to effect legitimate business purposes, including the ownership, operation and continued improvement of high quality, cost-effective and efficient services to the patients served;
- the limited partnerships and limited liability companies function as an extension of the group practices of physicians who are affiliated with the surgery centers and the surgical procedures are performed personally by these physicians without referring the patients outside of their practice;
- our physician partners have a substantial investment at risk in the limited partnerships and limited liability companies;
- terms of the investment do not take into account volume of the physician partners' past or anticipated future services provided to patients of the centers;
- the physician partners are not required or encouraged as a condition of the investment to treat Medicare or Medicaid patients at the centers or to influence others to refer such patients to the centers for treatment;
- the limited partnerships, the limited liability companies, our subsidiaries and our affiliates will not loan any funds to or guarantee any debt on behalf of the physician partners with respect to their investment; and
- distributions by the limited partnerships and limited liability companies are allocated uniformly in proportion to ownership interests.

The safe harbor regulations also set forth a safe harbor for personal services and management contracts. Certain of our limited partnerships and limited liability companies have entered into ancillary services agreements with our physician partners' group practices, pursuant to which the practice may provide the center with billing and collections, transcription, payables processing, payroll and other ancillary services. The consideration payable by a limited partnership or limited liability company for certain of these services may be based on the volume of services provided by the practice, which is measured by the limited partnership's or limited liability company's revenues. Although these relationships do not meet all of the criteria of the personal services and management contracts safe harbor, we believe that the ancillary services agreements are in compliance with the current requirements of applicable federal and state law because, among other factors, the fees payable to the physician practices are equal to the fair market value of the services provided thereunder.

In addition, certain of our limited partnership and limited liability companies have entered into certain arrangements for professional services, including arrangements for anesthesia services. In May 2012, the OIG issued an advisory opinion in which it concluded that two proposed arrangements between an anesthesia group and physician-owned ASCs could result in prohibited remuneration under the federal anti-kickback statute. We believe our arrangements for anesthesia services are unlike those described in the OIG advisory opinion and are in compliance with the requirements of the federal anti-kickback statute.

Many of the states in which we operate also have adopted laws that prohibit payments to physicians in exchange for referrals similar to the federal anti-kickback statute, some of which apply regardless of the source of payment for care. These statutes typically provide criminal and civil penalties as well as loss of licensure.

Notwithstanding our belief that the relationship of physician partners to our surgery centers should not constitute illegal remuneration under the federal anti-kickback statute or similar laws, we cannot assure you that a federal or state agency charged with enforcement of the anti-kickback statute and similar laws might not assert a contrary position or that new federal or state laws might not be enacted that would cause the physician partners' ownership interests in our centers to become illegal, or result in the imposition of penalties on us or certain of our facilities. Even the assertion of a violation could have a material adverse effect upon us.

In addition to the anti-kickback statute, the Health Insurance Portability and Accountability Act of 1996, or HIPAA, provides for criminal penalties for healthcare fraud offenses that apply to all health benefit programs, including the payment of inducements to Medicare and Medicaid beneficiaries in order to influence those beneficiaries to order or receive services from a particular provider or practitioner. Federal enforcement officials have numerous enforcement mechanisms to combat fraud and abuse, including the Medicare Integrity Program and an incentive program under which individuals can receive up to \$1,000 for providing information on Medicare fraud and abuse that leads to the recovery of at least \$100 of Medicare funds. In addition, federal enforcement officials have the ability to exclude from Medicare and Medicaid any investors, officers and managing employees associated with business entities that have committed healthcare fraud.

Evolving interpretations of current, or the adoption of new, federal or state laws or regulations could affect many of our arrangements. Law enforcement authorities, including the OIG, the courts and Congress, are increasing their scrutiny of arrangements between healthcare providers and potential referral sources to ensure that the arrangements are not designed as a mechanism to exchange remuneration for patient care referrals or opportunities. Investigators also have demonstrated a willingness to look behind the formalities of a business transaction to determine the underlying purposes of payments between healthcare providers and potential referral sources.

*Prohibition on Certain Self-Referrals and Physician Ownership of Healthcare Facilities.* The federal physician self-referral law, commonly referred to as the Stark Law, prohibits a physician from making a referral for a designated health service to an entity if the physician or a member of the physician's immediate family has a financial relationship with the entity. Sanctions for violating the Stark Law include denial of payment, refunding amounts received for services provided pursuant to prohibited referrals, civil money penalties of up to \$15,000 per prohibited service provided and exclusion from the federal healthcare programs. The Stark Law applies to referrals involving the following services under the definition of

“designated health services”: clinical laboratory services; physical therapy services; occupational therapy services; radiology and imaging services;

## Item 1. Business – (continued)

radiation therapy services and supplies; durable medical equipment and supplies; parenteral and enteral nutrients, equipment and supplies; prosthetics, orthotics and prosthetic devices and supplies; home health services; outpatient prescription drugs; and inpatient and outpatient hospital services.

Through a series of rulemakings, CMS has issued final regulations interpreting the Stark Law. While the regulations help clarify the requirements of the exceptions to the Stark Law, it is difficult to determine the full effect of the regulations. Under these regulations, services that would otherwise constitute a designated health service, but that are paid by Medicare as a part of the surgery center payment rate, are not a designated health service for purposes of the Stark Law. In addition, the Stark Law contains an exception covering implants, prosthetics, implanted prosthetic devices and implanted durable medical equipment provided in a surgery center setting under certain circumstances. Therefore, we believe the Stark Law does not prohibit physician ownership or investment interests in our surgery centers to which they refer patients.

Effective January 1, 2008, CMS expanded the so-called ASC exemption to the Stark Law by excluding from the definition of “radiology and certain other imaging services” any radiology and imaging procedures that are integral to a covered ASC surgical procedure and that are performed immediately before, during, or immediately following the surgical procedure (that is, on the same day). Similarly, CMS has excluded from the Stark Law definition of “outpatient prescription drugs” any drugs that are “covered as ancillary services” under the revised ASC payment system. These drugs include those furnished during the immediate postoperative recovery period to a patient to reduce suffering from nausea or pain. CMS cautioned, however, that only those radiology, imaging and outpatient prescription drug items and services that are integral to an ASC procedure and performed on the same day as the covered surgical procedure will qualify for the ASC exemption. The Stark Law prohibition continues to prohibit a physician-owned ASC from furnishing outpatient prescription drugs for use in a patient’s home. In addition, several states in which we operate have self-referral statutes similar to the Stark Law. We believe that physician ownership of surgery centers is not prohibited by these state self-referral statutes. However, the Stark Law and similar state statutes are subject to different interpretations. Violations of any of these self-referral laws may result in substantial civil or criminal penalties, including large civil monetary penalties and exclusion from participation in the Medicare and Medicaid programs. Exclusion of our surgery centers from these programs could result in significant loss of revenues and could have a material adverse effect on us. We can give you no assurances that further judicial or agency interpretations of existing laws or further legislative restrictions on physician ownership or investment in healthcare entities will not be issued that could have a material adverse effect on us.

*The Federal False Claims Act and Similar Federal and State Laws.* We are subject to state and federal laws that govern the submission of claims for reimbursement. These laws generally prohibit an individual or entity from knowingly and willfully presenting a claim (or causing a claim to be presented) for payment from Medicare, Medicaid or other third-party payors that is false or fraudulent. The standard for “knowing and willful” often includes conduct that amounts to a reckless disregard for whether accurate information is presented by claims processors. Penalties under these statutes include substantial civil and criminal fines, exclusion from the Medicare program, and imprisonment. One of the most prominent of these laws is the federal False Claims Act, which may be enforced by the federal government directly, or by a qui tam plaintiff (or whistleblower) on the government’s behalf. When a private plaintiff brings a qui tam action under the False Claims Act, the defendant often will not be made aware of the lawsuit until the government commences its own investigation or makes a determination whether it will intervene. The Fraud Enforcement and Recovery Act of 2009 expanded the scope of the False Claims Act by, among other things, creating liability for knowingly or improperly avoiding repayment of an overpayment received from the government and broadening protections for whistleblowers. Under the Health Reform Law, civil penalties may be imposed for failure to report and return an overpayment within 60 days of identifying the overpayment. In some cases, qui tam plaintiffs and the federal government have taken the position, and some courts have held, that providers who allegedly have violated other statutes, such as the anti-kickback statute or the Stark Law, have thereby submitted false claims under the False Claims Act. The Health Reform Law clarifies this issue with respect to the anti-kickback statute by providing that submission of claims for services or items generated in violation of the anti-kickback statute constitutes a false or fraudulent claim under the False Claims Act. When a defendant is determined by a court of law to be liable under the False Claims Act, the defendant may be required to pay three times the amount of the alleged false claim, plus mandatory civil penalties of between \$5,500 and \$11,000 for each separate false claim. The private plaintiff may receive a share of any settlement or judgment. We believe that we have procedures in place to ensure the accurate completion of claims forms and requests for payment. However, the laws and regulations defining proper Medicare or Medicaid billing are complex and have not been subjected to extensive judicial or agency interpretation. Billing errors can occur despite our best efforts to prevent or correct them, and we cannot assure you that the government will regard such errors as inadvertent and not in violation of the False Claims Act or related statutes.

Under the Deficit Reduction Act of 2005, or DEFRA, every entity that receives at least \$5.0 million annually in Medicaid payments must have written policies for all employees, contractors or agents, providing detailed information about false claims, false statements and whistleblower protections under certain federal laws, including the federal False Claims Act, and similar state laws.

A number of states, including states in which we operate, have adopted their own false claims provisions as well as their own qui tam provisions whereby a private party may file a civil lawsuit in state court. DEFRA creates an incentive for states to enact false claims laws that are comparable to the federal False Claims Act.

*Healthcare Industry Investigations.* Both federal and state government agencies have heightened and coordinated civil and criminal enforcement efforts as part of numerous ongoing investigations of healthcare companies, as well as their executives and managers. These investigations relate to a wide variety of topics, including referral and billing practices. The Health Reform Law includes additional federal funding of \$350 million over the next 10 years to fight healthcare fraud, waste and abuse, including \$40 million for federal fiscal year 2013. From time to time, the OIG and the Department of Justice have established national enforcement initiatives that focus on specific billing practices or other suspected areas of abuse. Some of our activities could become the subject of governmental investigations or inquiries. For example, we have significant Medicare billings and

we have joint venture arrangements involving physician investors. In addition, our executives and managers, many of whom have worked at other healthcare companies that are or may become the subject of federal and state investigations and private litigation, could be included in governmental

## Item 1. Business – (continued)

investigations or named as defendants in private litigation. We are not aware of any governmental investigations involving any of our facilities, our executives or our managers. A future adverse investigation of us, our executives or our managers could result in significant expense to us, as well as adverse publicity.

*Privacy and Security Requirements.* There are currently numerous legislative and regulatory initiatives at the state and federal levels addressing the privacy and security of patient health and other identifying information. The privacy and security regulations promulgated pursuant to HIPAA extensively regulate the use and disclosure of individually identifiable health information and require healthcare providers to implement administrative, physical and technical safeguards to protect the security of such information. Violations of the regulations may result in civil and criminal penalties. The American Recovery and Reinvestment Act of 2009, or ARRA, strengthened the requirements of the HIPAA privacy and security regulations and significantly increased the penalties for violations, with penalties of up to \$50,000 per violation and a maximum civil penalty of \$1.5 million in a calendar year for violations of the same requirement. ARRA authorizes State Attorneys General to bring civil actions seeking either injunction or damages in response to violations of HIPAA privacy and security regulations that threaten the privacy of state residents. ARRA also extends the application of certain provisions of the security and privacy regulations to business associates (entities that handle identifiable health information on behalf of covered entities) and subjects business associates to civil and criminal penalties for violation of the regulations. On January 25, 2013, HHS published a final rule implementing many of the ARRA requirements. As required by ARRA, HHS conducted compliance audits of 115 covered entities in 2012 and has announced its intent to conduct additional audits of covered entities and their business associates.

As required by ARRA, covered entities must report breaches of unsecured protected health information to affected individuals without unreasonable delay, but not to exceed 60 days following discovery of the breach by the covered entity or its agents. Notification must also be made to HHS and, in certain situations involving large breaches, to the media. On January 25, 2013, HHS published a final rule that modifies this breach notification requirement by creating a presumption that all non-permitted uses or disclosures of unsecured protected health information are breaches unless the covered entity or business associate establishes that there is a low probability the information has been compromised.

Our facilities remain subject to any state laws that relate to privacy or the reporting of security breaches that are more restrictive than the regulations issued under HIPAA and the requirements of ARRA. For example, various state laws and regulations may require us to notify affected individuals in the event of a data breach involving certain individually identifiable health or financial information.

*HIPAA Administrative Simplification Requirements.* Pursuant to HIPAA, HHS has adopted regulations establishing electronic data transmission standards that all healthcare providers must use when submitting or receiving certain healthcare transactions electronically. HIPAA also requires that each provider use a National Provider Identifier. In addition, CMS has published a final rule regarding updated standard code sets for certain diagnoses and procedures known as ICD-10 code sets and related changes to the formats used for certain electronic transactions. While use of the ICD-10 code sets is not mandatory until October 1, 2014, we will be modifying our payment systems and processes to prepare for the implementation. Use of the ICD-10 code sets will require significant administrative changes. In addition to these upfront costs of transition to ICD-10, it is possible that our ASCs could experience disruption or delays in payment due to technical or coding errors or other implementation issues involving our systems or the systems and implementation efforts of health plans and their business partners. Further, the transition to the more detailed ICD-10 coding system could result in decreased reimbursement if the use of ICD-10 codes results in conditions being reclassified with lower levels of reimbursement than assigned under the previous system, however, we believe that the cost of compliance with these regulations has not had and is not expected to have a material adverse effect on our business, financial position or results of operations.

*Obligations to Buy Out Physician Partners.* Under many of our agreements with physician partners, we are obligated to purchase the interests of the physicians at an amount as determined by a predefined formula, as specified in the limited partnership and operating agreements, in the event that their continued ownership of interests in the limited partnerships and limited liability companies becomes prohibited by the statutes or regulations described above. The determination of such a prohibition generally is required to be made by our counsel in concurrence with counsel of the physician partners or, if they cannot concur, by a nationally recognized law firm with expertise in healthcare law jointly selected by us and the physician partners. The interest we are required to purchase will not exceed the minimum interest required as a result of the change in the law or regulation causing such prohibition.

*CONs and State Licensing.* Certificate of Need, or CON, statutes and regulations control the development of ASCs in certain states. CON statutes and regulations generally provide that, prior to the expansion of existing centers, the construction of new centers, the acquisition of major items of equipment or the introduction of certain new services, approval must be obtained from the designated state health planning agency. In giving approval, a designated state health planning agency must determine that a need exists for expanded or additional facilities or services. Our development of ASCs focuses on states that do not require CONs. Acquisitions of existing surgery centers usually do not require CON approval.

State licensing of ASCs is generally a prerequisite to the operation of each center and to participation in federally funded programs, such as Medicare and Medicaid. Once a center becomes licensed and operational, it must continue to comply with federal, state and local licensing and certification requirements, as well as local building and safety codes. In addition, every state imposes licensing requirements on individual physicians, and many states impose licensing requirements on facilities and services operated and owned by physicians. Physician practices are also subject to federal, state and local laws dealing with issues such as occupational safety, employment, medical leave, insurance regulations, civil rights and discrimination and medical waste and other environmental issues.

*Corporate Practice of Medicine.* The laws of several states in which we operate or may operate in the future do not permit business corporations to practice medicine, exercise control over physicians who practice medicine or engage in various business practices, such as fee-splitting with

physicians. The physicians who perform procedures at the surgery centers are individually licensed to practice medicine. In most instances, the physicians and physician group practices are not affiliated with us other than through the physicians' ownership in the limited partnerships and

**Item 1. Business – (continued)**

limited liability companies that own the surgery centers and through the service agreements we have with some physicians. The laws in most states regarding the corporate practice of medicine have been subjected to limited judicial and regulatory interpretation, and interpretation and enforcement of these laws vary significantly from state to state. Therefore, we cannot provide assurances that our activities, if challenged, will be found to be in compliance with these laws.

**Employees**

As of December 31, 2012, we and our affiliated entities employed approximately 6,100 persons, approximately 4,000 of whom were full-time employees and 2,100 of whom were part-time employees. Of our employees, approximately 420 are corporate employees, primarily based at our headquarters in Nashville, Tennessee. In addition, we lease the services of approximately 1,000 full-time employees and 650 part-time employees from entities affiliated with our physician partners. None of these employees are represented by a union. We believe our relationships with our employees to be good.

**Legal Proceedings and Insurance**

From time to time, we may be named a party to legal claims and proceedings in the ordinary course of business. We are not aware of any claims or proceedings against us or our limited partnerships and limited liability companies that we believe will have a material financial impact on us. Each of our surgery centers maintains separate medical malpractice insurance in amounts deemed adequate for its business. We also maintain insurance for general liability, director and officer liability and property. Certain policies are subject to deductibles.

## EXECUTIVE OFFICERS OF THE REGISTRANT

The following table sets forth certain information regarding the persons serving as our executive officers. Our executive officers serve at the pleasure of the Board of Directors.

Name	Age	Experience
Christopher A. Holden	48	Chief Executive Officer and Director since October 2007; Senior Vice President and a Division President of Triad Hospitals Inc. from May 1999 to July 2007; President – West Division of the Central Group of Columbia/HCA Healthcare Corporation from January 1998 to May 1999.
Claire M. Gulmi	59	Executive Vice President since February 2006; Chief Financial Officer since September 1994; Director since May 2004; Senior Vice President from March 1997 to February 2006; Secretary since December 1997; Vice President from September 1994 through March 1997.
David L. Manning	63	Executive Vice President and Chief Development Officer since February 2006; Senior Vice President of Development from April 1992 to February 2006.
Phillip A. Clendenin	48	Executive Vice President-Operations since February 2013; Senior Vice President of Corporate Services from March 2009 to February 2013; Chief Executive Officer of River Region Health System, a hospital located in Vicksburg, Mississippi, from July 2001 to July 2008; Chief Executive Officer of Greenview Regional Hospital, a hospital located in Bowling Green, Kentucky, from November 1997 to June 2001.
Kevin D. Eastridge	47	Senior Vice President of Finance since July 2008; Vice President of Finance from April 1998 to July 2008; Chief Accounting Officer since July 2004; Controller from March 1997 to June 2004.
Billie A. Payne	61	Senior Vice President of Operations since December 2007; Vice President of Operations from March 1998 to December 2007. On August 14, 2012, Ms. Payne announced her intention to retire from her position with the Company effective August 13, 2013.
Shawn G. Strash	50	Senior Vice President of Corporate Services since February 2013; Chief Executive Officer of Paradise Valley Hospital, a hospital located in Phoenix, Arizona from July 2011 to September 2012; Chief Executive Officer of Oro Valley Hospital, a hospital in Tucson, Arizona from 2007 to 2011.

## Item 1A. Risk Factors

The following factors affect our business and the industry in which we operate. The risks and uncertainties described below are not the only ones facing our company. Additional risks and uncertainties not presently known to us or that we currently consider immaterial may also have an adverse effect on us. If any of the matters discussed in the following risk factors were to occur, our business, financial condition, results of operations, cash flows or prospects could be materially adversely affected.

*We depend on payments from third-party payors, including government healthcare programs. If these payments decrease or do not increase as our costs increase, our operating margins and profitability would be adversely affected.* We depend on private and governmental third-party sources of payment for the services provided to patients in our surgery centers. We derived approximately 27% of our revenues in 2012 from U.S. government healthcare programs, primarily Medicare. The amount our surgery centers receive for their services may be adversely affected by market and cost factors as well as other factors over which we have no control, including future changes to the Medicare and Medicaid payment systems and the cost containment and utilization decisions of third-party payors. Although the Health Reform Law expands coverage of preventive care and the number of individuals with healthcare coverage, the law also provides for reductions to Medicare and Medicaid program spending. It is impossible to predict how the various components of the Health Reform Law, many of which do not take effect until 2014 or later, will affect our business and the businesses of our physician partners. Several states are also considering healthcare reform measures. This focus on healthcare reform at the federal and state levels may increase the likelihood of significant changes affecting government healthcare programs in the future.

The Budget Control Act of 2011 requires automatic spending reductions of \$1.2 trillion for federal fiscal years 2013 through 2021, minus any deficit reductions enacted by Congress and debt service costs. The percentage reduction for Medicare may not be more than 2% for a fiscal year, with a uniform percentage reduction across all Medicare programs. The BCA-mandated spending reductions were delayed until March 1, 2013 by the enactment of the American Taxpayer Relief Act of 2012. The President and Congress continue to negotiate federal government spending reductions, but if action is not taken by March 1, 2013, the BCA-mandated spending reductions will occur. It is possible that these negotiations will result only in another temporary compromise or will result in greater spending reductions than required by the BCA. We are unable to predict how these spending reductions will be structured or how they would impact us, what other deficit reduction initiatives may be proposed by Congress or whether Congress will attempt to suspend or restructure the automatic budget cuts.

Managed care plans have increased their market share in some areas in which we operate, which has resulted in substantial competition among healthcare providers for inclusion in managed care contracting and may limit the ability of healthcare providers to negotiate favorable payment rates. In addition, managed care payors may lower reimbursement rates in response to increased obligations on payors imposed by the Health Reform Law or future reductions in Medicare reimbursement rates. We can give you no assurances that future changes to reimbursement rates by government healthcare programs, cost containment measures by private third-party payors, including fixed fee schedules and capitated payment arrangements, or other factors affecting payments for healthcare services will not adversely affect our future revenues, operating margins or profitability.

*Our business may be adversely affected by changes to the medical practices of our physician partners or if we fail to maintain good relationships with the physician partners who use our surgery centers.* Our business depends on, among other things, the efforts and success of the physician partners who perform procedures at our surgery centers and the strength of our relationship with these physicians. The medical practices of our physician partners may be negatively impacted by general economic conditions, changes in payment rates or systems by payors (including Medicare), actions taken by referring physicians, other providers and payors, and other factors impacting their practices. Adverse economic conditions, including high unemployment rates, could cause patients of our physician partners and our ASCs to cancel or delay procedures. Our physician partners may perform procedures at other facilities and are not required to use our surgery centers. From time to time, we may have disputes with physicians who use or own interests in our surgery centers. Our revenues and profitability would be adversely affected if a key physician or group of physicians stopped using or reduced their use of our surgery centers as a result of changes in their physician practice, changes in payment rates or systems, or a disagreement with us. In addition, if the physicians who use our surgery centers do not provide quality medical care or follow required professional guidelines at our facilities or there is damage to the reputation of a physician or group of physicians who use our surgery centers, our business and reputation could be damaged.

*If we are unable to effectively compete for physician partners, managed care contracts, patients and strategic relationships, our business would be adversely affected.* The healthcare business is highly competitive. We compete with other healthcare providers, primarily hospitals and other surgery centers, in recruiting physicians to utilize our surgery centers, for patients and in contracting with managed care payors. In some of the markets in which we operate, there are shortages of physicians in our targeted specialties. In several of the markets in which we operate, hospitals are recruiting physicians or groups of physicians to become employed by the hospitals, including primary care physicians and physicians in our targeted specialties, and restricting those physicians' ability to refer patients to physicians and facilities not affiliated with the hospital. In addition, physicians, hospitals, payors and other providers may form integrated delivery systems that restrict the physicians who may treat certain patients or the facilities at which patients may be treated. These restrictions may impact our surgery centers and the medical practices of our physician partners. Some of our competitors may have greater resources than we do, including financial, marketing, staff and capital resources, have or may develop new technologies or services that are attractive to physicians or patients, or have established relationships with physicians and payors.

We compete with public and private companies in the development and acquisition of ASCs. Further, many physician groups develop ASCs without a corporate partner. We can give you no assurances that we will be able to compete effectively in any of these areas or that our results of operations will not be adversely impacted.

## Item 1A. Risk Factors – (continued)

*If we fail to acquire and develop additional surgery centers on favorable terms, our future growth and operating results could be adversely affected.* Our growth strategy includes increasing our revenues and earnings by acquiring existing surgery centers and developing new surgery centers. Our efforts to execute our acquisition and development strategy may be affected by our ability to identify suitable acquisition and development opportunities and negotiate and close transactions in a timely manner and on favorable terms. The surgery centers we develop typically incur losses during the initial months of operation. We can give you no assurances that we will be successful in acquiring and developing additional surgery centers, that the surgery centers we acquire and develop will achieve satisfactory operating results or that newly developed centers will not incur greater than anticipated operating losses.

*If we are unable to increase procedure volume at our existing centers, our operating margins and profitability could be adversely affected.* Our growth strategy includes increasing our revenues and earnings primarily by increasing the number of procedures performed at our surgery centers. We seek to increase procedure volume at our surgery centers by increasing the number of physicians performing procedures at our centers, obtaining new or more favorable managed care contracts, improving patient flow at our centers, increasing the capacity at our centers, promoting screening programs and increasing patient and physician awareness of our centers. Procedure volume at our centers may be adversely impacted by economic conditions, high unemployment rates and other factors that may cause patients to delay or cancel procedures. We can give you no assurances that we will be successful at increasing or maintaining procedure volumes, revenues and operating margins at our centers.

*If we are unable to manage the growth in our business and integrate acquired businesses, our operating results could be adversely affected.* To accommodate our past and anticipated future growth, we will need to continue to implement and improve our management, operational and financial information systems and to expand, train, manage and motivate our workforce. We can give you no assurances that our personnel, systems, procedures or controls will be adequate to support our operations in the future or that the costs and management attention related to the expansion of our operations and the integration of acquired businesses will not adversely affect our results of operations.

*If we do not have sufficient capital resources to complete acquisitions and develop new surgery centers, our growth and results of operations could be adversely affected.* We will need capital to execute our growth strategy, and may finance future acquisition and development projects through debt or equity financings. Disruptions to financial markets or other adverse economic conditions may adversely impact our ability to complete any such financing or the terms of any such financing. To the extent that we undertake these financings, our shareholders may experience ownership dilution. To the extent we incur debt, we may have significant interest expense and may be subject to covenants in the related debt agreements that affect the conduct of our business. If we do not have sufficient capital resources, our growth could be limited and our results of operations could be adversely impacted. Our debt agreements require that we comply with financial covenants and may not permit additional borrowing or other sources of debt financing if we are not in compliance with those covenants. We can give you no assurances that we will be able to obtain financing necessary for our acquisition and development strategy or that, if available, the financing will be available on terms acceptable to us.

*We may not be able to generate sufficient cash to service all of our indebtedness and may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.* Our ability to make scheduled payments on or to refinance our debt obligations depends on our financial condition and operating performance, which is subject to prevailing economic and competitive conditions and to certain financial, business, and other factors beyond our control. We may not be able to maintain a level of cash flows from operating activities sufficient to permit us to pay the principal, premium, if any, and interest on our indebtedness.

If our cash flows and capital resources are insufficient to fund our debt service obligations, we may be forced to reduce or delay investments and capital expenditures, or to sell assets, seek additional capital, or restructure or refinance our indebtedness. Our ability to restructure or refinance our debt will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations. The terms of existing or future debt instruments may restrict us from adopting some of these alternatives. In addition, any failure to make payments of interest and principal on our outstanding indebtedness on a timely basis would likely result in a reduction of our credit rating, which could harm our ability to incur additional indebtedness. These alternative measures may not be successful and may not permit us to meet our scheduled debt service obligations.

*Our surgery centers may be negatively impacted by weather and other factors beyond our control.* The results of operations of our surgery centers may be adversely impacted by adverse weather conditions, including hurricanes, or other factors beyond our control that cause disruption of patient scheduling, displacement of our patients, employees and physician partners, and force certain of our surgery centers to close temporarily. In certain geographic areas, we have a large concentration of surgery centers that may be simultaneously affected by adverse weather conditions or events. Our future financial and operating results may be adversely affected by weather and other factors that disrupt the operation of our surgery centers.

*If we fail to comply with applicable laws and regulations, we could suffer penalties or be required to make significant changes to our operations.* We are subject to many laws and regulations at the federal, state and local government levels in the jurisdictions in which we operate. These laws and regulations require that our surgery centers and our operations meet various licensing, certification and other requirements, including those relating to:

- physician ownership of our surgery centers;
- our and our surgery centers' relationships with physicians and other referral sources;
- CON approvals and other regulations affecting the construction or acquisition of centers, capital expenditures or the addition of services;
- the adequacy of medical care, equipment, personnel, and operating policies and procedures;

- qualifications of medical and support personnel;
- maintenance and protection of records;

## Item 1A. Risk Factors – (continued)

- billing for services by healthcare providers, including appropriate treatment of overpayments and credit balances;
- privacy and security of individually identifiable health information; and
- environmental protection.

If we fail to comply with applicable laws and regulations, we could suffer civil or criminal penalties, including the loss of our licenses to operate and our ability to participate in Medicare, Medicaid and other government sponsored and third-party healthcare programs. CMS has enacted additional conditions for coverage that ASCs must meet to enroll and remain enrolled in Medicare, and a number of states have adopted or are considering legislation or regulations imposing additional restrictions on or otherwise affecting ASCs, including expansion of CON requirements, restrictions on ownership, taxes on gross receipts, data reporting requirements and restrictions on the enforceability of covenants not to compete affecting physicians. Different interpretations or enforcement of existing or new laws and regulations could subject our current practices to allegations of impropriety or illegality, or require us to make changes in our operations, facilities, equipment, personnel, services, capital expenditure programs or operating expenses. We can give you no assurances that current or future legislative initiatives, government regulation or judicial or regulatory interpretations thereof will not have a material adverse effect on us, subject us to fines or penalties, or reduce the demand for our services.

*If a federal or state agency asserts a different position or enacts new laws or regulations regarding illegal remuneration or other forms of fraud and abuse, we could suffer penalties or be required to make significant changes to our operations.* The federal anti-kickback statute prohibits healthcare providers and others from soliciting, receiving, offering or paying, directly or indirectly, any remuneration with the intent of generating referrals or orders for services or items covered by a federal healthcare program. The anti-kickback statute is very broad in scope and many of its provisions have not been uniformly or definitively interpreted by case law or regulations. Courts have found a violation of the anti-kickback statute if just one purpose of the remuneration is to generate referrals, even if there are other lawful purposes. Furthermore, the Health Reform Law provides that knowledge of the law or intent to violate the law is not required to establish a violation of the anti-kickback statute. Violations of the anti-kickback statute may result in substantial civil or criminal penalties and exclusion from participation in the Medicare and Medicaid programs. Exclusion from these programs would result in significant reductions in revenue and would have a material adverse effect on our business.

HHS has published regulations that outline categories of activities that are deemed protected from prosecution under the anti-kickback statute. Three of the safe harbors apply to business arrangements similar to those used in connection with our surgery centers: the "surgery centers," "investment interest" and "personal services and management contracts" safe harbors. The structure of the limited partnerships and limited liability companies operating our surgery centers, as well as our various business arrangements involving physician group practices, are unlikely to satisfy all of the requirements of any safe harbor. Nevertheless, a business arrangement that does not substantially comply with a safe harbor is not necessarily illegal under the anti-kickback statute. In addition, many of the states in which we operate also have adopted laws, similar to the anti-kickback statute, that prohibit payments to physicians in exchange for referrals, some of which apply regardless of the source of payment for care. These statutes typically impose criminal and civil penalties as well as loss of license.

In addition to the anti-kickback statute, HIPAA provides for criminal penalties for healthcare fraud offenses that apply to all health benefit programs, including the payment of inducements to Medicare and Medicaid beneficiaries in order to influence those beneficiaries to order or receive services from a particular provider or practitioner. Federal enforcement officials have numerous enforcement mechanisms to combat fraud and abuse, including the Medicare Integrity Program and an incentive program under which individuals can receive up to \$1,000 for providing information on Medicare fraud and abuse that leads to the recovery of at least \$100 of Medicare funds. In addition, DEFRA creates an incentive for states to enact false claims laws that are comparable to the federal False Claims Act. Federal enforcement officials have the ability to exclude from Medicare and Medicaid any investors, officers and managing employees associated with business entities that have committed healthcare fraud.

*Providers in the healthcare industry have been the subject of federal and state investigations, and we may become subject to investigations in the future.* Both federal and state government agencies have heightened and coordinated civil and criminal enforcement efforts as part of numerous ongoing investigations of healthcare companies, as well as their executives and managers. These investigations relate to a wide variety of topics, including referral and billing practices. Further, the federal False Claims Act permits private parties to bring "qui tam" whistleblower lawsuits against companies. Some states have adopted similar state whistleblower and false claims provisions.

From time to time, the OIG and the Department of Justice have established national enforcement initiatives that focus on specific billing practices or other suspected areas of abuse. Some of our activities could become the subject of governmental investigations or inquiries. For example, we have significant Medicare billings and we have joint venture arrangements involving physician investors. In addition, our executives and managers, some of whom have worked at other healthcare companies that are or may become the subject of federal and state investigations and private litigation, could be included in governmental investigations or named as defendants in private litigation. A governmental investigation of us, our executives or our managers could result in significant expense to us, as well as adverse publicity.

*We are unable to predict the impact of the Health Reform Law, which represents significant change across the healthcare industry.* The Health Reform Law represents significant change to the healthcare industry. It will change how healthcare services are covered, delivered, and reimbursed through expanded coverage of previously uninsured individuals and reduced government healthcare spending, reform certain aspects of health insurance, expand existing efforts to tie Medicare and Medicaid payments to performance and quality and strengthen fraud and abuse enforcement. On June 28, 2012, the United States Supreme Court upheld the constitutionality of key provisions of the Health Reform Law but struck down provisions that would have allowed the Department of Health and Human Services to penalize states that do not implement the Medicaid expansion provisions of the law with the loss of existing federal Medicaid funding. It is unclear how many states will decline to implement the Medicaid expansion and what the resulting impact will be on the number of uninsured individuals. Implementation of the Health Reform Law could be delayed

or even blocked due to efforts to repeal or amend the law, and the law remains subject to court challenges on certain issues. Thus, it is not clear at

## Item 1A. Risk Factors – (continued)

this time what all of the impacts of the Health Reform Law will be and what effect the legislation will have on ASCs or the healthcare industry as a whole.

*If regulations or regulatory interpretations change, we may be obligated to buy out interests of physicians who are minority owners of the surgery centers.* A majority of our limited partnership and operating agreements provide that if certain regulations or regulatory interpretations change, we will be obligated to purchase some or all of the noncontrolling interests of our physician partners. The regulatory changes that could trigger such obligations include changes that:

- make the referral of Medicare and other patients to our surgery centers by physicians affiliated with us illegal;
- create the substantial likelihood that cash distributions from the limited partnerships or limited liability companies to the affiliated physicians will be illegal; or
- cause the ownership by the physicians of interests in the limited partnerships or limited liability companies to be illegal.

The cost of repurchasing these noncontrolling interests would be substantial if a triggering event were to result in simultaneous purchase obligations at a substantial number or at all of our surgery centers. The purchase price to be paid in such event would be determined by a predefined formula, as specified in each of the limited partnership and operating agreements, which also provide for the payment terms, generally over four years. There can be no assurance, however, that our existing capital resources would be sufficient for us to meet the obligations, if they arise, to purchase these noncontrolling interests held by physicians. The determination of whether a triggering event has occurred generally would be made by the concurrence of our legal counsel and counsel for the physician partners or, in the absence of such concurrence, by a nationally recognized law firm having an expertise in healthcare law jointly selected by both parties. Such determinations therefore would not be within our control. The triggering of these obligations could have a material adverse effect on our financial condition and results of operations. While we believe physician ownership of ASCs as structured within our limited partnerships and limited liability companies is in compliance with applicable law, we can give no assurances that legislative or regulatory changes would not have an adverse impact on us. From time to time, the issue of physician ownership in ASCs is considered by some state legislatures and federal and state regulatory agencies.

*We are liable for the debts and other obligations of the limited partnerships that own and operate certain of our surgery centers.* In the limited partnerships in which one of our affiliates is the general partner, our affiliate is liable for 100% of the debts and other obligations of the limited partnership; however, the physician partners are generally required to guarantee their pro rata share of any indebtedness or lease agreements to which the limited partnership is a party in proportion to their ownership interest in the limited partnership. We also have primary liability for the bank debt that may be incurred for the benefit of the limited liability companies, and in turn, lend funds to these limited liability companies, although the physician members also guarantee this debt. There can be no assurance that a third-party lender or lessor would seek performance of the guarantees rather than seek repayment from us of any obligation of the limited partnership or limited liability company if there is a default, or that the physician partners or members would have sufficient assets to satisfy their guarantee obligations.

*We may be subject to liabilities for claims brought against our facilities.* We are subject to litigation related to our business practices, including claims and legal actions by patients and others in the ordinary course of business alleging malpractice, product liability or other legal theories. See “Business – Legal Proceedings.” These actions could involve large claims and significant defense costs. If payments for claims exceed our insurance coverage or are not covered by insurance or our insurers fail to meet their obligations, our results of operations and financial position could be adversely affected.

*We have a legal responsibility to the minority owners of the entities through which we own our surgery centers, which may conflict with our interests and prevent us from acting solely in our own best interests.* As the owner of majority interests in the limited partnerships and limited liability companies that own our surgery centers, we owe a fiduciary duty to the noncontrolling interest holders in these entities and may encounter conflicts between our interests and that of the minority holders. In these cases, our representatives on the governing board of each joint venture are obligated to exercise reasonable, good faith judgment to resolve the conflicts and may not be free to act solely in our own best interests. In our role as manager of the limited partnership or limited liability company, we generally exercise our discretion in managing the business of the surgery center. Disputes may arise between us and the physician partners regarding a particular business decision or the interpretation of the provisions of the limited partnership agreement or limited liability company operating agreement. The agreements provide for arbitration as a dispute resolution process in some circumstances. We cannot assure you that any dispute will be resolved or that any dispute resolution will be on terms satisfactory to us.

*We may write-off intangible assets, such as goodwill.* As a result of purchase accounting for our various acquisition transactions, our balance sheet at December 31, 2012 contained an intangible asset designated as goodwill totaling approximately \$1.7 billion. Additional purchases of interests in surgery centers that result in the recognition of additional intangible assets would cause an increase in these intangible assets. On an ongoing basis, we evaluate whether facts and circumstances indicate any impairment of the value of intangible assets. As circumstances change, we cannot assure you that the value of these intangible assets will be realized by us. If we determine that a significant impairment has occurred, we will be required to write-off the impaired portion of intangible assets, which could have a material adverse effect on our results of operations in the period in which the write-off occurs.

*The IRS may challenge tax deductions for certain acquired goodwill.* For federal income tax purposes, goodwill and other intangibles acquired as part of the purchase of a business after August 10, 1993 are deductible over a 15-year period. We have been claiming and continue to take tax deductions for goodwill obtained in our acquisition of assets of and ownership interests in ASCs. In 1997, the IRS published proposed regulations that applied “anti-churning” rules to call into question the deductibility of goodwill purchased in transactions structured similarly to some of our

acquisitions. The anti-churning rules are designed to prevent taxpayers from converting existing goodwill for which a deduction would not have been allowable prior to 1993 into an asset that could be deducted over 15 years, such as by selling a business some of the value of which arose prior to

### Item 1A. Risk Factors – (continued)

1993 to a related party. On January 25, 2000, the IRS issued final regulations that continue to call into question the deductibility of goodwill purchased in transactions structured similarly to some of our acquisitions. This uncertainty applies only to goodwill that arose in part prior to 1993, so the tax deductions we have taken with respect to interests acquired in surgery centers that were formed after August 10, 1993 are not affected. In response to these final regulations, in 2000 we changed our methods of acquiring interests in ASCs so as to comply with guidance found in the final regulations. There is a risk that the IRS could challenge tax deductions for pre-1993 goodwill in acquisitions we completed prior to changing our approach. Loss of these tax deductions would increase the amount of our tax payments and could subject us to interest and penalties.

### Item 1B. Unresolved Staff Comments

Not applicable.

### Item 2. Properties

Our principal executive offices are located in Nashville, Tennessee and contain an aggregate of approximately 90,000 square feet of office space, which we lease from a third-party pursuant to an agreement that expires in February 2015. On December 27, 2012, the Company entered into a lease agreement pursuant to which the Company has agreed to lease an approximately 110,000 square foot building to be constructed in Nashville, Tennessee. The Company intends that the building will serve as its principal executive offices beginning in 2015. Prior to taking possession, the Company may terminate the agreement if the landlord fails to satisfy certain construction milestones. We also lease office space for our regional offices in Miami, Florida, Tempe, Arizona, Dallas, Texas, and Conshohocken, Pennsylvania. Our affiliated limited partnerships and limited liability companies lease space for their surgery centers ranging from 1,000 to 24,000 square feet, with expected remaining lease terms ranging from one to 20 years.

### Item 3. Legal Proceedings

Not applicable.

### Item 4. Mine Safety Disclosures

Not applicable.

## PART II

### Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Our common stock trades under the symbol "AMSG" on the Nasdaq Global Select Market. The following table sets forth the high and low sales prices per share for the common stock for each of the quarters in 2011 and 2012, as reported on the Nasdaq Global Select Market:

	<u>1<sup>st</sup></u> <u>Quarter</u>	<u>2<sup>nd</sup></u> <u>Quarter</u>	<u>3<sup>rd</sup></u> <u>Quarter</u>	<u>4<sup>th</sup></u> <u>Quarter</u>
2011:				
High	\$ 25.60	\$ 28.00	\$ 27.96	\$ 26.87
Low	\$ 20.34	\$ 24.32	\$ 19.08	\$ 21.31
2012:				
High	\$ 28.29	\$ 30.00	\$ 32.17	\$ 30.50
Low	\$ 24.80	\$ 26.31	\$ 27.24	\$ 25.00

At January 31, 2013, there were approximately 5,700 holders of our common stock, including 127 shareholders of record. We have never declared or paid a cash dividend on our common stock. We intend to retain our earnings to finance the growth and development of our business and do not expect to declare or pay any cash dividends in the foreseeable future. The declaration of dividends is within the discretion of our Board of Directors.

**Item 6. Selected Financial Data**
**Year Ended December 31,**

	2012	2011	2010	2009	2008
	(In thousands, except per share data)				
<b>Consolidated Statement of Earnings Data:</b>					
Revenues	\$ 928,509	\$ 777,587	\$ 692,571	\$ 639,087	\$ 566,705
Operating expenses	648,128	538,344	469,390	424,535	369,227
Equity in earnings of unconsolidated affiliates	1,564	613	-	-	-
Operating income	281,945	239,856	223,181	214,552	197,478
Interest expense	16,972	15,330	13,476	7,752	9,909
Earnings from continuing operations before income taxes	264,973	224,526	209,705	206,800	187,569
Income tax expense	42,627	35,254	32,991	33,457	30,053
Net earnings from continuing operations	222,346	189,272	176,714	173,343	157,516
Discontinued operations:					
Earnings from operations of discontinued interests in surgery centers, net of income tax expense	1,272	2,385	6,514	8,709	10,183
Gain (loss) on disposal of discontinued interests in surgery centers, net of income tax	25	(1,543)	(2,732)	(702)	(1,773)
Net earnings from discontinued operations	1,297	842	3,782	8,007	8,410
Net earnings	223,643	190,114	180,496	181,350	165,926
Less net earnings attributable to noncontrolling interests	161,080	140,117	130,671	129,202	118,880
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825	\$ 52,148	\$ 47,046
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of tax	\$ 62,585	\$ 50,394	\$ 49,998	\$ 49,466	\$ 45,935
Discontinued operations, net of tax	(22)	(397)	(173)	2,682	1,111
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825	\$ 52,148	\$ 47,046
Basic earnings per common share:					
Net earnings from continuing operations attributable					

to AmSurg Corp. common shareholders	\$	2.03	\$	1.65	\$	1.65	\$	1.62	\$	1.46
Net earnings attributable to AmSurg Corp. common shareholders	\$	2.03	\$	1.64	\$	1.65	\$	1.71	\$	1.49
Diluted earnings per common share:										
Net earnings from continuing operations attributable to AmSurg Corp. common shareholders	\$	1.98	\$	1.61	\$	1.63	\$	1.60	\$	1.44
Net earnings attributable to AmSurg Corp. common shareholders	\$	1.98	\$	1.60	\$	1.62	\$	1.69	\$	1.47
Weighted average number of shares and share equivalents outstanding:										
Basic		30,773		30,452		30,255		30,576		31,503
Diluted		31,608		31,211		30,689		30,862		31,963

**Operating and Other Financial  
Data:**

Continuing centers at end of year		240		224		198		191		177
Procedures performed during year		1,526,053		1,370,421		1,246,875		1,184,152		1,049,544
Same-center revenue increase (decrease)		3%		1%		(2%)		0%		3%
Cash flows provided by operating activities	\$	295,652	\$	243,423	\$	230,575	\$	232,584	\$	209,696
Cash flows used in investing activities		(298,943)		(254,367)		(72,905)		(112,792)		(131,780)
Cash flows provided by (used in) financing activities		8,971		17,515		(152,900)		(121,963)		(76,321)

**At December 31,**

	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	<u>2008</u>
--	-------------	-------------	-------------	-------------	-------------

(In thousands)

**Consolidated Balance Sheet  
Data:**

Cash and cash equivalents	\$	46,398	\$	40,718	\$	34,147	\$	29,377	\$	31,548
Working capital		107,768		109,561		89,393		80,161		85,497
Total assets		2,044,586		1,573,018		1,165,878		1,066,831		905,879
Long-term debt and other long- term liabilities		646,677		476,094		307,619		318,819		288,251
Non-redeemable and redeemable noncontrolling interests (1)		486,360		302,858		160,539		128,618		66,079
AmSurg Corp. shareholders' equity		689,488		616,245		564,068		505,116		460,429

(1) See "Management's Discussion and Analysis of Financial Condition and Results of Operations – Critical Accounting Policies."

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

### Forward-Looking Statements

*This report contains certain forward-looking statements (all statements other than statements with respect to historical fact) within the meaning of the federal securities laws, which are intended to be covered by the safe harbors created thereby. Investors are cautioned that all forward-looking statements involve known and unknown risks and uncertainties including, without limitation, those described in Item 1A. Risk Factors, some of which are beyond our control. Although we believe that the assumptions underlying the forward-looking statements contained herein are reasonable, any of the assumptions could be inaccurate. Therefore, there can be no assurance that the forward-looking statements included in this report will prove to be accurate. Actual results could differ materially and adversely from those contemplated by any forward-looking statement. In light of the significant risks and uncertainties inherent in the forward-looking statements included herein, the inclusion of such information should not be regarded as a representation by us or any other person that our objectives and plans will be achieved. We undertake no obligation to publicly release any revisions to any forward-looking statements in this discussion to reflect events and circumstances occurring after the date hereof or to reflect unanticipated events. Forward-looking statements and our liquidity, financial condition and results of operations may be affected by the risks set forth in Item 1A. Risk Factors or by other unknown risks and uncertainties.*

### Overview

We acquire, develop and operate ambulatory surgery centers, or centers or ASCs, in partnership with physicians. As of December 31, 2012, we operated 240 ASCs, of which we owned a majority interest (primarily 51% or greater) in 235 ASCs and a minority interest in five ASCs (three of which are consolidated). The following table presents the number of procedures performed at our continuing centers and changes in the number of ASCs in operation, under development and under letter of intent for the years ended December 31, 2012, 2011 and 2010. An ASC is deemed to be under development when a limited partnership or limited liability company has been formed with the physician partners to develop the ASC.

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Procedures	1,526,053	1,370,421	1,246,845
Continuing centers in operation, end of year (consolidated)	238	222	198
Continuing centers in operation, end of year (unconsolidated)	2	2	-
Average number of continuing centers in operation, during year	225	208	194
New centers added during year	18	27	7
Centers merged into existing centers	2	-	-
Centers discontinued during year	4	5	5
Centers under development, end of year	-	1	1
Centers under letter of intent, end of year	2	2	8

Of the continuing centers in operation at December 31, 2012, 149 centers performed gastrointestinal endoscopy procedures, 48 centers performed procedures in multiple specialties, 36 centers performed ophthalmology surgery procedures, and seven centers performed orthopedic procedures. We intend to expand primarily through the acquisition and development of additional ASCs and through future same-center growth. During the year ended December 31, 2012, we experienced same-center revenue growth of 3%. We expect to have a 0% to 2% increase in our same-center revenue for 2013, which reflects positive rate adjustments from CMS in 2013 but is offset by a statutory decrease in reimbursement for procedures associated with worker's compensation claims at our centers in California. Our growth strategy also includes the acquisition and development of additional surgery centers, which on an annual basis would generate additional operating income of \$25 million to \$29 million. We anticipate that because the majority of these acquisitions would occur in the latter part of 2013, their contribution to our 2013 operating income would not be significant.

While we own less than 100% of each of the entities that own the centers, our consolidated statements of earnings include 100% of the results of operations of each of our consolidated entities, reduced by the noncontrolling partners' interests share of the net earnings or loss of the surgery center entities. The noncontrolling ownership interest in each limited partnership or limited liability company is generally held directly or indirectly by physicians who perform procedures at the center. Our share of the profits and losses of two non-consolidated entities are reported in equity in earnings of unconsolidated affiliates in our statement of earnings.

### Sources of Revenues

Our revenues are derived from facility fees charged for surgical procedures performed in our surgery centers and, at certain of our surgery centers (primarily centers that perform gastrointestinal endoscopy procedures), charges for anesthesia services provided by medical professionals employed or contracted by our centers. These fees vary depending on the procedure, but usually include all charges for operating room usage, special equipment usage, supplies, recovery room usage, nursing staff and medications. Facility fees do not include professional fees charged by the physicians that perform the surgical procedures. Revenue is recorded at the time of the patient encounter and billings for such procedures are made on or about that same date. At the majority of our centers, it is our policy to collect patient co-payments and deductibles at the time the surgery is performed. Our revenues are recorded net of estimated contractual adjustments from third-party medical service payors. Our billing and accounting systems provide us historical trends of the surgery centers' cash collections and contractual write-offs, accounts receivable agings and established fee adjustments from third-party payors. These estimates are recorded and monitored monthly for each of our surgery centers as revenue is recognized. Our ability to accurately estimate contractual adjustments is dependent upon and supported by the fact that our surgery centers perform and bill for limited types of procedures, the range of reimbursement for those procedures within each surgery center specialty is

very narrow and payments are typically received within 15 to 45 days of billing. These estimates are not, however, established from billing system generated contractual adjustments based on fee schedules for the patient's insurance plan for each patient encounter.

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

ASCs depend upon third-party reimbursement programs, including governmental and private insurance programs, to pay for substantially all of the services rendered to patients. We derived approximately 27%, 29% and 31% of our revenues in the years ended December 31, 2012, 2011 and 2010, respectively, from governmental healthcare programs, primarily Medicare and managed Medicare programs, and the remainder from a wide mix of commercial payors and patient co-pays and deductibles. The Medicare program currently pays ASCs in accordance with predetermined fee schedules. Our surgery centers are not required to file cost reports and, accordingly, we have no unsettled amounts from governmental third-party payors.

Effective January 1, 2008, CMS revised the payment system for services provided in ASCs, and the phase-in of the revised rates was completed in 2011. Under the revised payment system, ASCs are paid based upon a percentage of the payments to hospital outpatient departments pursuant to the hospital outpatient prospective payment system and reimbursement rates for ASCs are increased annually based on increases in the consumer price index, or CPI. The revised payment system resulted in a significant reduction in the reimbursement rates for gastroenterology procedures, which comprise approximately 75% of the procedures performed by our surgery centers, and certain ophthalmology and pain procedures. We estimate that our net earnings per share were negatively impacted by the revised payment system by \$0.05 in 2008, an additional \$0.07 in 2009, an additional \$0.06 in 2010 and an additional \$0.05 in 2011.

Effective for fiscal year 2011 and subsequent years, the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, or the Health Reform Law, provides for the annual CPI increases applicable to ASCs to be reduced by a productivity adjustment, which will be based on historical nationwide productivity gains. In 2012, reimbursement rates increased by 1.6%, which we estimate positively impacted our 2012 revenues by approximately \$5.0 million and our net earnings per share by \$0.05. The reimbursement rates announced by CMS for 2013 reflect a 0.6% net increase, which we estimate will positively impact our 2013 revenue by approximately \$2.5 million and our 2013 earnings per share by \$0.02. There can be no assurance that CMS will not further revise the payment system, or that any annual CPI increases will be material.

The Budget Control Act of 2011, or BCA, requires automatic spending reductions of \$1.2 trillion for federal fiscal years 2013 through 2021, minus any deficit reductions enacted by Congress and debt service costs. The percentage reduction for Medicare may not be more than 2% for a fiscal year, with a uniform percentage reduction across all Medicare programs. The BCA-mandated spending reductions were delayed until March 1, 2013 by the enactment of the American Taxpayer Relief Act of 2012. The President and Congress continue to negotiate federal government spending reductions, but if action is not taken by March 1, 2013, the BCA-mandated spending reductions will occur. It is possible that these negotiations will result only in another temporary compromise or will result in greater spending reductions than required by the BCA. We are unable to predict how these spending reductions will be structured or how they would impact the Company, what other deficit reduction initiatives may be proposed by Congress or whether Congress will attempt to suspend or restructure the automatic budget cuts. If implemented under current legislation, we estimate the BCA-mandated spending reductions would reduce our revenue and net earnings per share on an annualized basis by approximately \$6.0 million and \$0.06, respectively.

In September 2012, the State of California enacted legislation that reduced the reimbursement rate beginning in 2013 for patients receiving care through the state's workers' compensation program. We estimate that the impact of the reduced rates will negatively impact our 2013 earnings per share by approximately \$0.06.

The Health Reform Law represents significant change across the healthcare industry. The Health Reform Law contains a number of provisions designed to reduce Medicare program spending, including the annual productivity adjustment discussed above that reduces payment updates to ASCs effective since fiscal year 2011. However, the Health Reform Law also expands coverage of uninsured individuals through a combination of public program expansion and private sector health insurance reforms. For example, the Health Reform Law expands eligibility under existing Medicaid programs, imposes financial penalties on individuals who fail to carry insurance coverage, creates affordability credits for those not enrolled in an employer-sponsored health plan, requires establishment of, or participation in, a health insurance exchange for each state and permits states to create federally funded, non-Medicaid plans for low-income residents not eligible for Medicaid. The Health Reform Law also establishes a number of private health insurance market reforms, including a ban on lifetime limits and pre-existing condition exclusions, new benefit mandates, and increased dependent coverage.

Many health plans are required to cover, without cost-sharing, certain preventive services designated by the U.S. Preventive Services Task Force, including screening colonoscopies. Medicare must now also cover these preventive services without cost-sharing, and, beginning in 2013, states that provide Medicaid coverage of these preventive services without cost-sharing will receive a one percentage point increase in their federal medical assistance percentage for these services.

Health insurance market reforms that expand insurance coverage may result in an increased volume for certain procedures at our centers. However, many of these provisions of the Health Reform Law will not become effective until 2014 or later, and these provisions may be amended or repealed or their impact could be offset by reductions in reimbursement under the Medicare program. On June 28, 2012, the United States Supreme Court upheld the constitutionality of the Health Reform Law except for provisions that would have allowed the Department of Health and Human Services, or HHS, to penalize states that do not implement the Medicaid expansion provisions of the law with the loss of existing federal Medicaid funding. It is unclear how many states will decline to implement the Medicaid expansion and what the resulting impact will be on the number of uninsured individuals.



## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

Because of the many variables involved, including the law's complexity, lack of implementing definitive regulations or interpretive guidance, gradual implementation, and possible amendment or repeal, we are unable to predict the net effect of the reductions in Medicare spending, the expected increases in revenues from increased procedure volumes, and numerous other provisions in the law that may affect the Company. We are further unable to foresee how individuals and employers will respond to the choices afforded them by the Health Reform Law. Thus, we cannot predict the full impact of the Health Reform Law on the Company at this time.

CMS is increasing its administrative audit efforts through the nationwide expansion of the recovery audit contractor, or RAC, program. RACs are private contractors that conduct post-payment reviews of providers and suppliers that bill Medicare to detect and correct improper payments for services. The Health Reform Law expands the RAC program's scope to include Medicaid claims. In addition to RACs, other contractors, such as Medicaid Integrity Contractors, perform payment audits to identify and correct improper payments. We could incur costs associated with appealing any alleged overpayments and be required to repay any alleged overpayments identified by these or other administrative audits.

We expect value-based purchasing programs, including programs that condition reimbursement on patient outcome measures, to become more common and to involve a higher percentage of reimbursement amounts. CMS has promulgated three national coverage determinations that prevent Medicare from paying for certain serious, preventable medical errors performed in any healthcare facility, such as surgery performed on the wrong patient or the wrong site. Several commercial payors also do not reimburse providers for certain preventable adverse events. CMS established a quality reporting program for ASCs under which ASCs that fail to report on five quality measures beginning on October 1, 2012 will receive a 2% reduction in reimbursement for calendar year 2014. As of October 1, 2012, we have implemented programs and procedures at each of our centers to comply with the quality reporting program prescribed by CMS. Further, as required by the Health Reform Law, HHS reported to Congress on its plan for implementing a value-based purchasing program for ASCs that would tie Medicare payments to quality and efficiency measures. The Health Reform Law also requires HHS to study whether to expand to ASCs its current policy of not paying additional amounts for care provided to treat conditions acquired during an inpatient hospital stay.

In addition to payment from governmental programs, ASCs derive a significant portion of their revenues from private healthcare insurance plans. These plans include both standard indemnity insurance programs as well as managed care programs, such as PPOs and HMOs. The strengthening of managed care systems nationally has resulted in substantial competition among providers of surgery center services that contract with these systems. Exclusion from participation in a managed care network could result in material reductions in patient volume and revenue. Some of our competitors have greater financial resources and market penetration than we do. We believe that all payors, both governmental and private, will continue their efforts over the next several years to reduce healthcare costs and that their efforts will generally result in a less stable market for healthcare services. While no assurances can be given concerning the ultimate success of our efforts to contract with healthcare payors, we believe that our position as a low-cost alternative for certain surgical procedures should enable our surgery centers to compete effectively in the evolving healthcare marketplace.

### Critical Accounting Policies

Our accounting policies are described in note 1 of our consolidated financial statements. We prepare our consolidated financial statements in conformity with accounting principles generally accepted in the United States, which require us to make estimates and assumptions that affect the reported amounts of assets and liabilities and related disclosures at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. We consider the following policies to be most critical in understanding the judgments that are involved in preparing our financial statements and the uncertainties that could impact our results of operations, financial condition and cash flows.

*Principles of Consolidation.* The consolidated financial statements include the accounts of AmSurg and our subsidiaries and the consolidated limited partnerships and LLCs. Consolidation of such limited partnerships and LLCs is necessary as our wholly owned subsidiaries have primarily 51% or more of the financial interest, are the general partner or majority member with all the duties, rights and responsibilities thereof, are responsible for the day-to-day management of the limited partnerships and LLCs, and have control of the entities. The responsibilities of our noncontrolling partners (limited partners and noncontrolling members) are to supervise the delivery of medical services, with their rights being restricted to those that protect their financial interests, such as approval of the acquisition of significant assets or the incurrence of debt which they are generally required to guarantee on a pro rata basis based upon their respective ownership interests. Intercompany profits, transactions and balances are eliminated. We also have an ownership interest of less than 51% in five of our limited partnerships and LLC's, three of which we consolidate as we have substantive participation rights and two of which we do not consolidate as we own 20% of each entity and our rights are limited to protective rights only.

We identify and present ownership interests in subsidiaries held by noncontrolling parties in our consolidated financial statements within the equity section but separate from our equity. However, in instances in which certain redemption features that are not solely within our control are present, classification of noncontrolling interests outside of permanent equity is required. The amounts of consolidated net income attributable to us and to the noncontrolling interests are identified and presented on the face of the consolidated statements of earnings; changes in ownership interests are accounted for as equity transactions; and when a subsidiary is deconsolidated, any retained noncontrolling equity investment in the former subsidiary and the gain or loss on the deconsolidation of the subsidiary is measured at fair value. Lastly, the cash flow impact of certain transactions with noncontrolling interests is classified within financing activities.

Upon the occurrence of various fundamental regulatory changes, we would be obligated under the terms of our partnership and operating agreements to purchase the noncontrolling interests related to a majority of our partnerships. While we believe that the likelihood of a change in current law that would trigger such purchases was remote as of December 31, 2012, and the occurrence of such regulatory changes is outside of our control. As a



## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

result, these noncontrolling interests that are subject to this redemption feature are not included as part of our equity and are classified as noncontrolling interests – redeemable on our consolidated balance sheets.

Center profits and losses are allocated to our partners in proportion to their ownership percentages and reflected in the aggregate as net earnings attributable to noncontrolling interests. The partners of our center partnerships typically are organized as general partnerships, limited partnerships or limited liability companies that are not subject to federal income tax. Each partner shares in the pre-tax earnings of the center in which it is a partner. Accordingly, the earnings attributable to noncontrolling interests in each of our consolidated partnerships are generally determined on a pre-tax basis. Total net earnings attributable to noncontrolling interests are presented after net earnings. However, we consider the impact of the net earnings attributable to noncontrolling interests on earnings before income taxes in order to determine the amount of pre-tax earnings on which we must determine our tax expense. In addition, distributions from the partnerships are made to both our wholly owned subsidiaries and the partners on a pre-tax basis.

Investments in unconsolidated affiliates in which we exert significant influence but do not control or otherwise consolidate are accounted for using the equity method. These investments are included as investments in unconsolidated affiliates in our consolidated balance sheets. Our share of the profits and losses from these investments are reported in equity in earnings of unconsolidated affiliates in our consolidated statement of earnings. We monitor each investment for other-than-temporary impairment by considering factors such as current economic and market conditions and the operating performance of the company and record a reduction in carrying value when necessary.

We operate in one reportable business segment, the ownership and operation of ASCs.

*Revenue Recognition.* Center revenues consist of billing for the use of the centers' facilities, or facility fees, directly to the patient or third-party payor, and billing for anesthesia services provided by medical professionals employed or contracted by certain of our centers. Such revenues are recognized when the related surgical procedures are performed. Revenues exclude professional fees billed for physicians' surgical services, which are billed separately by the physicians to the patient or third-party payor.

*Allowance for Contractual Adjustments and Bad Debt Expense.* Our revenues are recorded net of estimated contractual adjustments from third-party medical service payors, which we estimate based on historical trends of the surgery centers' cash collections and contractual write-offs, accounts receivable agings, established fee schedules, contracts with payors and procedure statistics. In addition, we must estimate allowances for bad debt expense using similar information and analysis. These estimates are recorded and monitored monthly for each of our surgery centers as additional revenue is recognized. Our ability to accurately estimate contractual adjustments is dependent upon and supported by the fact that our surgery centers perform and bill for limited types of procedures, that the range of reimbursement for those procedures within each surgery center specialty is very narrow and that payments are typically received within 15 to 45 days of billing. In addition, our surgery centers are not required to file cost reports, and therefore, we have no risk of unsettled amounts from governmental third-party payors. Except in certain limited instances, these estimates are not, however, established from billing system-generated contractual adjustments based on fee schedules for the patient's insurance plan for each patient encounter. While we believe that our allowances for contractual adjustments and bad debt expense are adequate, if the actual contractual adjustments and write-offs are in excess of our estimates, our results of operations may be overstated. During the years ended December 31, 2012, 2011 and 2010, we had no significant adjustments to our allowances for contractual adjustments and bad debt expense related to prior periods. At December 31, 2012 and 2011, net accounts receivable reflected allowances for contractual adjustments of \$216.4 million and \$136.3 million, respectively, and allowances for bad debt expense of \$22.4 million and \$18.8 million, respectively. The increase in our contractual allowance and allowances for bad debt expense is primarily related to allowances established for new centers acquired and increases in standard rates at existing centers during 2012. At December 31, 2012 and 2011, we had 33 and 35 days outstanding, respectively, reflected in our gross accounts receivable. The decrease in our days outstanding is due in part to an increase in the use of electronic payments through electronic funds transfer from insurance providers and online payment portals created for use by our patients.

*Purchase Price Allocation.* We allocate the respective purchase price of our acquisitions by first determining the fair value of net tangible and identifiable intangible assets acquired. Secondly, the excess amount of purchase price is allocated to unidentifiable intangible assets (goodwill). The fair value of goodwill attributable to noncontrolling interests in centers acquired subsequent to December 31, 2008, is also reflected in the allocation and is based on significant inputs that are not observable in the market. Key inputs used to determine the fair value include financial multiples used in the purchase of noncontrolling interests in centers. Such multiples, based on earnings, are used as a benchmark for the discount to be applied for the lack of control or marketability. A significant portion of each surgery center's purchase price historically has been allocated to goodwill due to the nature of the businesses acquired, the pricing and structure of our acquisitions and the absence of other factors indicating any significant value that could be attributable to separately identifiable intangible assets.

*Goodwill.* We evaluate goodwill for impairment at least on an annual basis. Impairment of carrying value will also be evaluated more frequently if certain indicators are encountered. Goodwill is required to be tested at the reporting unit level, defined as an operating segment or one level below an operating segment (referred to as a component), with the fair value of the reporting unit being compared to its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to be impaired. We have determined that we have one operating, as well as one reportable, segment. For impairment testing purposes, our centers each qualify as components of that operating segment. Because they have similar economic characteristics, they are aggregated and deemed a single reporting unit. We completed our annual impairment test as required as of December 31, 2012, and have determined that it is not necessary to recognize impairment in our goodwill as our reporting unit fair value is substantially in excess of its carrying value.



**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)**

## Results of Operations

Our revenues are directly related to the number of procedures performed at our surgery centers. Our overall growth in procedure volume is impacted directly by the increase in the number of surgery centers in operation and the growth in procedure volume at existing centers. We increase our number of surgery centers through both acquisitions and developments. Procedure growth at an existing center may result from additional contracts entered into with third-party payors, increased market share of our physician partners, additional physicians utilizing the center and/or scheduling and operating efficiencies gained at the surgery center. A significant measurement of how much our revenues grow from year to year for existing centers is our same-center revenue percentage. We define our same-center group each year as those centers that contain full year-to-date operations in both comparable reporting periods, including the expansion of the number of operating centers associated with a limited partnership or limited liability company. Our 2012 same-center group, comprised of 198 centers and constituting approximately 83% of our total number of centers, had 3% revenue growth during the year ended December 31, 2012. Our same-center group in 2013 will be comprised of 223 centers, which constitutes approximately 93% of our total number of centers. We expect to have a 0% to 2% increase in our same-center revenue for 2013, which reflects positive rate adjustments from CMS in 2013, but is offset by a statutory decrease in reimbursement for procedures associated with worker's compensation claims at our centers in California.

Expenses directly and indirectly related to procedures performed at our surgery centers include clinical and administrative salaries and benefits, supply cost and other operating expenses such as linen cost, repair and maintenance of equipment, billing fees and bad debt expense. The majority of our corporate salary and benefits cost is associated directly with the number of centers we own and manage and tends to grow in proportion to the growth of our centers in operation. Our centers and corporate offices also incur costs that are more fixed in nature, such as lease expense, legal fees, property taxes, utilities and depreciation and amortization.

Surgery center profits are allocated to our noncontrolling partners in proportion to their individual ownership percentages and reflected in the aggregate as total net earnings attributable to noncontrolling interests and are presented after net earnings. The noncontrolling partners of our center limited partnerships and limited liability companies typically are organized as general partnerships, limited partnerships or limited liability companies that are not subject to federal income tax. Each noncontrolling partner shares in the pre-tax earnings of the center of which it is a partner. Accordingly, net earnings attributable to the noncontrolling interests in each of our center limited partnerships and limited liability companies are generally determined on a pre-tax basis, and pre-tax earnings are presented before net earnings attributable to noncontrolling interests have been subtracted.

Accordingly, the effective tax rate on pre-tax earnings as presented is approximately 16%. However, the effective tax rate based on pre-tax earnings attributable to AmSurg Corp. common shareholders, on an annual basis, will remain near the historical percentage of 40%. We file a consolidated federal income tax return and numerous state income tax returns with varying tax rates. Our income tax expense reflects the blending of these rates.

Our interest expense results primarily from our borrowings used to fund acquisition and development activity, as well as interest incurred on capital leases.

Net earnings from continuing operations attributable to AmSurg Corp. common shareholders are disclosed on the consolidated statements of earnings.

**Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)**

The following table shows certain statement of earnings items expressed as a percentage of revenues for the years ended December 31, 2012, 2011 and 2010:

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Revenues	100.0%	100.0%	100.0%
Operating expenses:			
Salaries and benefits	31.4	30.9	30.2
Supply cost	14.2	13.2	13.0
Other operating expenses	20.9	21.8	21.1
Depreciation and amortization	<u>3.3</u>	<u>3.3</u>	<u>3.5</u>
Total operating expenses	69.8	69.2	67.8
Equity in earnings of unconsolidated affiliates	<u>0.2</u>	<u>0.1</u>	<u>-</u>
Operating income	30.4	30.9	32.2
Interest expense	<u>1.9</u>	<u>2.0</u>	<u>1.9</u>
Earnings from continuing operations before income taxes	28.5	28.9	30.3
Income tax expense	<u>4.6</u>	<u>4.6</u>	<u>4.8</u>
Net earnings from continuing operations, net of income tax	23.9	24.3	25.5
Discontinued operations:			
Earnings from operations of discontinued interests in surgery centers, net of income tax expense	0.2	0.3	1.0
Loss on disposal of discontinued interests in surgery centers, net of income tax benefit	<u>-</u>	<u>(0.2)</u>	<u>(0.4)</u>
Net earnings from discontinued operations	<u>0.2</u>	<u>0.1</u>	<u>0.6</u>
Net earnings	24.1	24.4	26.1
Less net earnings attributable to noncontrolling interests:			
Net earnings from continuing operations	17.2	17.9	18.3
Net earnings from discontinued operations	<u>0.2</u>	<u>0.1</u>	<u>0.6</u>
Total net earnings attributable to noncontrolling interests	<u>17.4</u>	<u>18.0</u>	<u>18.9</u>
Net earnings attributable to AmSurg Corp. common shareholders	<u>6.7%</u>	<u>6.4%</u>	<u>7.2%</u>
Amounts attributable to AmSurg Corp. common shareholders:			
Earnings from continuing operations, net of income tax	6.7%	6.5%	7.2%
Discontinued operations, net of income tax	<u>-</u>	<u>(0.1)</u>	<u>-</u>
Net earnings attributable to AmSurg Corp. common shareholders	<u>6.7%</u>	<u>6.4%</u>	<u>7.2%</u>

## Year Ended December 31, 2012 Compared to Year Ended December 31, 2011

The number of procedures performed in our ASCs increased by 155,632, or 11%, to 1,526,053 in 2012 from 1,370,421 in 2011. Revenues increased \$150.9 million, or 19%, to \$928.5 million in 2012 from \$777.6 million in 2011. The increase in procedures and revenues resulted primarily from:

- centers acquired or opened in 2011, which contributed \$114.3 million of additional revenues during the year ended December 31, 2012 due to having a full period of operations in 2012;
- \$23.6 million of revenue growth for the year ended December 31, 2012, recognized by our 2012 same-center group, reflecting a 3% increase, primarily as a result of procedure growth; and
- centers acquired in 2012, which generated \$11.2 million in revenues during the year ended December 31, 2012.

The percentage increase in revenues in excess of the percentage increase in procedures is due primarily to the centers acquired in the latter half of 2011 and 2012, the majority of which are multi-specialty centers and which have a higher average net revenue per procedure than the mix of centers we operated during the full year of 2011.

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

Salaries and benefits increased in total by 21% to \$291.7 million in 2012, from \$240.4 million in 2011. Salaries and benefits as a percentage of revenues increased by 50 basis points in the year ended December 31, 2012, compared to December 31, 2011. Staff at newly acquired and developed centers, as well as the additional staffing required at existing centers, resulted in a 20% increase in salaries and benefits at our surgery centers during the year ended December 31, 2012. Furthermore, we experienced a 29% increase in salaries and benefits at our corporate offices during 2012 over 2011 due to higher bonus expense in 2012 as compared to 2011, additional equity compensation expense, additional staff employed to manage additional centers and the impact of annual salary adjustments.

Supply cost was \$132.0 million in 2012, an increase of \$29.7 million, or 29%, over supply cost in 2011. This increase was the result of additional procedure volume and an increase in our average supply cost per procedure by 16% in 2012. The increase in our average supply cost per procedure is a result of the acquisition of 17 multi-specialty centers acquired in the latter part of 2011, which generally have higher supply cost per procedure than single specialty centers and an increase in certain drug costs at our gastroenterology centers due to supply shortages.

Other operating expenses increased \$24.6 million, or 15%, to \$194.3 million during 2012, from \$169.7 million in 2011. The additional expense in the 2012 period resulted primarily from:

- centers acquired or opened during 2011, which resulted in an increase of \$23.4 million in other operating expenses during 2012;
- an increase of \$4.3 million in other operating expenses at our 2012 same-center group resulting primarily from general inflationary cost increases; and
- centers acquired during 2012, which resulted in an increase of approximately \$2.6 million in other operating expenses.

Additionally, other operating expenses for 2011 included \$3.5 million of transaction related costs associated with the acquisition of 17 centers from National Surgical Care, Inc. ("NSC").

Depreciation and amortization increased \$4.2 million, or 16%, in 2012 over 2011, primarily as a result of centers acquired during 2011 and 2012.

We anticipate further increases in operating expenses in 2013, primarily due to additional acquired centers and potential additional start-up centers. Typically, a start-up center will incur start-up losses while under development and during its initial months of operation and will experience lower revenues and operating margins than an established center. This typically continues until the case load at the center grows to a more normal operating level, which generally is expected to occur within 12 months after the center opens. During 2012, we had one center under development that commenced operations.

Interest expense increased \$1.6 million, or 11%, to \$17.0 million in 2012 from \$15.3 million during 2011 primarily due to the issuance in November 2012 of \$250.0 million principal amount of 5.625% senior unsecured notes and a 2% interest rate increase associated with our senior secured notes effective November 2012. The impact of higher interest rates on our senior unsecured notes and senior secured notes was mitigated in part due to an amendment to our revolving credit facility, which lowered the interest rate under our credit agreement by approximately 25 basis points effective June 2012. See "— Liquidity and Capital Resources."

We recognized income tax expense of \$42.6 million in 2012 compared to \$35.3 million in 2011. Our effective tax rate in 2012 was 16.1% of earnings from continuing operations before income taxes. This differs from the federal statutory income tax rate of 35.0% primarily due to the exclusion of the noncontrolling interests' share of pre-tax earnings and the impact of state income taxes. Because we deduct goodwill amortization for tax purposes only, approximately 50% to 60% of our income tax expense is deferred and our deferred tax liability continues to increase, which would only be due in part or in whole upon the disposition of a portion or all of our surgery centers.

During 2012, we classified four surgery centers in discontinued operations, of which three centers were sold and one center was closed during the year. We pursued the disposition of these centers due to our assessment of their limited growth opportunities. These centers' results of operations and gains and losses associated with their dispositions have been classified as discontinued operations in all periods presented. We recognized an after tax gain on the disposition of interests in discontinued surgery centers of \$25,000 during 2012 and an after-tax loss on disposition of discontinued interests in surgery centers of \$1.5 million in 2011. The net earnings derived from the operations of the discontinued surgery centers was \$1.3 million during the year ended December 31, 2012 and \$2.4 million during the year ended December 31, 2011.

Noncontrolling interests in net earnings for 2012 increased \$21.0 million, or 15%, from 2011, primarily as a result of noncontrolling interests in earnings at surgery centers added to operations. As a percentage of revenues, noncontrolling interests decreased to 17.4% from 18.0% during 2012 as a result of the Company owning a higher ownership percentage in centers acquired over the past year. The net earnings from discontinued operations attributable to noncontrolling interests were \$1.3 million and \$1.2 million during the years ended December 31, 2012 and 2011, respectively.

### Year Ended December 31, 2011 Compared to Year Ended December 31, 2010

The number of procedures performed in our ASCs increased by 123,546, or 10%, to 1,370,421 in 2011 from 1,246,875 in 2010. Revenues increased \$85.0 million, or 12%, to \$777.6 million in 2011 from \$692.6 million in 2010. The increase in procedure and revenue growth resulted primarily from:

- centers acquired in 2011, which generated \$58.7 million in revenues during the year ended December 31, 2011;

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

- centers acquired or opened in 2010, which contributed \$18.4 million of additional revenues during the year ended December 31, 2011 due to having a full period of operations in 2011; and
- \$6.7 million of revenue growth for the year ended December 31, 2011, recognized by our 2011 same-center group, reflecting a 1% increase, primarily as a result of procedure growth.

Salaries and benefits increased in total by 15% to \$240.4 million in 2011, from \$209.1 million in 2010. Salaries and benefits as a percentage of revenues increased by 70 basis points in the year ended December 31, 2011, compared to December 31, 2010, primarily due to the impact of low revenue growth within our same center group and increases in center and corporate salaries and benefits. Staff at newly acquired and developed centers, as well as the additional staffing required at existing centers, resulted in a 13% increase in salaries and benefits at our surgery centers during the year ended December 31, 2011. Furthermore, we experienced a 23% increase in salaries and benefits at our corporate offices during 2011 over 2010 due to higher bonus expense in 2011 as compared to 2010, additional equity compensation expense, additional staff employed to manage the additional centers added over the prior year and the impact of annual salary adjustments.

Supply cost was \$102.4 million in 2011, an increase of \$12.5 million, or 14%, over supply cost in 2010. This increase was primarily the result of additional procedure volume. Our average supply cost per procedure increased by 4% in 2011. This increase is a result of the additional multi-specialty centers acquired from NSC.

Other operating expenses increased \$23.9 million, or 16%, to \$169.7 million during 2011, from \$145.8 million in 2010. The additional expense in the 2011 period, net of certain offsets, resulted primarily from:

- centers acquired during 2011, which resulted in an increase of approximately \$13.5 million in other operating expenses;
- an increase of \$5.5 million in other operating expenses at our 2011 same-center group resulting primarily from general inflationary cost increases;
- transaction related costs associated with the NSC transaction of approximately \$3.5 million for 2011; and
- centers acquired or opened during 2010, which resulted in an increase of \$2.6 million in other operating expenses during 2011.

Depreciation and amortization increased \$1.2 million, or 5%, in 2011 over 2010, primarily as a result of centers acquired during 2010 and 2011.

Interest expense increased \$1.9 million, or 14%, to \$15.3 million in 2011 from \$13.5 million during 2010 due to the refinancing of our revolving credit facility in May 2010, which resulted in a higher interest rate, which we experienced for the full year of 2011 and due to increased borrowings related to the NSC transaction. See “— Liquidity and Capital Resources.”

We recognized income tax expense of \$35.3 million in 2011 compared to \$33.0 million in 2010. Our effective tax rate in 2011 was 15.7% of earnings from continuing operations before income taxes. This differs from the federal statutory income tax rate of 35.0% primarily due to the exclusion of the noncontrolling interests' share of pre-tax earnings and the impact of state income taxes.

During 2011, we classified five additional surgery centers in discontinued operations, of which three centers were sold and two centers were closed during the year. We pursued the disposition of these centers due to our assessment of their limited growth opportunities, with the exception of one center acquired from NSC that was sold upon the exercise of a change in control provision by the non-controlling partners of the center. These centers' results of operations and gains and losses associated with their dispositions have been classified as discontinued operations in all periods presented. We recognized an after tax loss on the disposition of discontinued interests in surgery centers of \$1.5 million during 2011 and an after-tax loss on disposition of discontinued interests in surgery centers of \$2.7 million in 2010. The net earnings derived from the operations of the discontinued surgery centers, including the 2011 results of surgery centers discontinued in 2012, was \$2.4 million during the year ended December 31, 2011 and was \$6.5 million during the year ended December 31, 2010.

Noncontrolling interests in net earnings for 2011 increased \$9.4 million, or 7%, from 2010, primarily as a result of noncontrolling interests in earnings at surgery centers recently added to operations. As a percentage of revenues, noncontrolling interests decreased to 18.0% from 18.9% during 2011 as a result of reduced center profit margins caused by lower same-center revenue growth and the Company owning a higher ownership percentage in recently acquired centers. The net earnings from discontinued operations attributable to noncontrolling interests were \$1.2 million and \$4.0 million during the years ended December 31, 2011 and 2010, respectively.

### Liquidity and Capital Resources

Cash and cash equivalents at December 31, 2012 and 2011 were \$46.4 million and \$40.7 million, respectively. At December 31, 2012, we had working capital of \$107.8 million, compared to \$109.6 million at December 31, 2011. Operating activities for 2012 generated \$295.7 million in cash flow from operations compared to \$243.4 million in 2011. The increase in operating cash flow resulted primarily from higher net earnings in the 2012 period over the comparable 2011 period. Positive operating cash flows of individual centers are the sole source of cash used to make distributions to our wholly-owned subsidiaries, as well as to the partners, which we are obligated to make on a monthly basis in accordance with each partnership's partnership or operating agreement. Distributions to noncontrolling interests, which is considered a financing activity, in the years ended December 31, 2012 and 2011, were \$162.9 million and \$138.7 million, respectively. Distributions to noncontrolling interests increased \$6.6 million, primarily as a result of additional centers in operation.

The principal source of our operating cash flow is the collection of accounts receivable from governmental payors, commercial payors and

individuals. Each of our surgery centers bills for services as delivered, usually within several days following the date of the procedure. Generally,

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

unpaid amounts that are 30 days past due are rebilled based on a standard set of procedures. If amounts remain uncollected after 60 days, our surgery centers proceed with a series of late-notice notifications until amounts are either collected, contractually written off in accordance with contracted rates or determined to be uncollectible, typically after 90 to 120 days. Receivables determined to be uncollectible are written off and such amounts are applied to our estimate of allowance for bad debts as previously established in accordance with our policy for bad debt expense. The amount of actual write-offs of account balances for each of our surgery centers is continuously compared to established allowances for bad debt to ensure that such allowances are adequate. At December 31, 2012 and 2011, our accounts receivable represented 33 and 35 days of revenue outstanding, respectively. The decrease in our days outstanding is due in part to an increase in the use of electronic payments through electronic funds transfer from insurance providers and online payment portals created for use by our patients.

During 2012, we had total acquisitions and capital expenditures of \$306.3 million, which included:

- \$277.4 million for acquisitions of interests in ASCs and related transactions;
- \$29.5 million for new or replacement property at existing centers, including \$1.1 million in new capital leases; and
- \$520,000 for centers under development.

During 2012, we had unfunded construction and equipment purchase commitments for centers under development or under renovation of approximately \$1.1 million, which we intend to fund through additional borrowings of long-term debt, operating cash flow and capital contributions by our partners. During 2012, we received \$71,000 in capital contributions by our partners.

As of December 31, 2012 and 2011, we had contingent purchase price obligations of \$2.7 million and \$5.2 million, respectively. During 2012, we funded through operating cash flow \$1.8 million of our purchase price obligations. The remaining purchase price obligations are related to our acquisition of 17 centers from NSC on September 1, 2011. We have agreed to pay as additional consideration an amount up to \$7.5 million based on a multiple of the excess earnings over the targeted earnings of the acquired centers, if any, from the period from January 1, 2012 to December 31, 2012. In addition, during 2012 the Company paid NSC \$115,000 to settle the working capital adjustment related to the transaction. At December 31, 2011, we recorded \$3.1 million in other long-term liabilities on our consolidated balance sheet related to the fair value of the potential additional consideration due to NSC. As of December 31, 2012, our estimate of the fair value of the additional consideration due to NSC is \$2.7 million. We expect to fund the contingent purchase price payable out of our revolving credit facility during the first quarter of 2013.

We received approximately \$7.3 million from the sale of our interests in three surgery centers during the year ended December 31, 2012. During 2011, we received approximately \$7.0 million from the sale of our interest in three surgery centers. Cash from the sales was used to repay long-term debt.

On June 29, 2012, we amended our revolving credit agreement which we utilize to, among other things, finance our acquisition and development projects and any future stock repurchase programs. As a result of the amendment, the availability under the credit agreement was increased \$25.0 million to \$475.0 million; the maturity date was extended from April 2016 to June 2017; and the interest rate spread on our LIBOR option was reduced to LIBOR plus 1.5% to 2.25% from LIBOR plus 1.75% to 2.75%. On November 7, 2012 we further amended our revolving credit facility and amended the note purchase agreement relating to our senior secured notes to allow for our issuance of the senior unsecured notes (discussed below) and revise certain existing covenants. In connection with the amendment of the note purchase agreement relating to our senior secured notes, the interest rate on our senior secured notes increased to 8.04% from 6.04%. We determined it was more advantageous to leave the senior secured notes in place.

On November 20, 2012, we completed a private offering of \$250.0 million aggregate principle amount of 5.625% senior unsecured notes due 2020. The net proceeds from the issuance of the senior unsecured notes were used to pay down a portion of the outstanding obligations on our credit facility. The senior unsecured notes are pari passu in right of payment with our existing and future senior debt and senior to our existing and future subordinated debt. Interest accrues at the rate of 5.625% per annum and is payable semi-annually in arrears on May 30<sup>th</sup> and November 30<sup>th</sup>, beginning on May 30, 2013 and maturing on November 30, 2020. The senior unsecured notes contain certain covenants which, among other things, limit, our ability to enter into or guarantee additional borrowing, sell preferred stock, pay dividends and repurchase stock, in each case subject to certain exceptions.

As a result of the amendments to our credit facility and the note purchase agreement relating to our senior secured notes and the issuance of the senior unsecured notes, we incurred approximately \$8.0 million of financing costs, which will be deferred and amortized over the life of the respective obligations.

During 2012, we had net borrowings on long-term debt of \$171.4 million. At December 31, 2012, we had \$279.8 million outstanding under our revolving credit agreement, \$250.0 million outstanding pursuant to our senior unsecured notes and \$75.0 million outstanding pursuant to our senior secured notes. We were in compliance with all covenants contained in our revolving credit agreement, the note purchase agreement relating to our senior secured notes and the indenture relating to our senior unsecured notes.

During the year ended December 31, 2012, we received approximately \$18.2 million from the exercise of options under our employee stock option plans. The tax benefit received from the exercise of those options was approximately \$1.8 million.

On April 24, 2012, our Board of Directors approved a stock repurchase program for up to \$40.0 million of our shares of common stock through

November 1, 2013. We intend to fund the purchase price for shares acquired under the plan using cash generated from the proceeds received when employees exercise stock options, cash generated from our operations or borrowings under our revolving credit facility. During 2012, we repurchased 415,084 shares for \$11.8 million in order to mitigate the dilutive effect of shares issued pursuant to stock option exercises. In addition,

## Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations – (continued)

we repurchased approximately 48,100 shares with a value of \$1.3 million to cover payroll withholding taxes in connection with the vesting of restricted stock awards in accordance with the restricted stock agreements.

The following schedule summarizes our contractual obligations by period as of December 31, 2012 (in thousands):

	Payments Due by Period				
	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
Long-term debt, including interest (1)	\$ 766,739	\$ 42,988	\$ 82,462	\$ 348,107	\$ 293,182
Capital lease obligations, including interest	15,989	2,674	3,242	2,136	7,937
Operating leases, including renewal option periods (2)	590,885	47,102	92,313	89,439	362,031
Construction in progress commitments	1,076	1,076	-	-	-
Liability for unrecognized tax benefits	10,113	-	10,113	-	-
Other contractual obligations (3)	2,744	2,744	-	-	-
<b>Total contractual cash obligations</b>	<b>\$ 1,387,546</b>	<b>\$ 96,584</b>	<b>\$ 188,130</b>	<b>\$ 439,682</b>	<b>\$ 663,150</b>

- (1) Our long-term debt may increase based on future acquisition activity. We will use our operating cash flow to repay existing long-term debt under our revolving credit facility, senior secured notes and senior unsecured notes prior to or on their maturity dates.
- (2) Operating lease obligations do not include common area maintenance, or CAM, insurance or tax payments for which the Company is also obligated. Total expense related to CAM, insurance and taxes for the 2012 fiscal year was approximately \$7.1 million.
- (3) Other contractual obligations consist of purchase price commitments that were contingent upon certain events.

In addition, as of February 27, 2013, we had available under our revolving credit agreement \$278.2 million for acquisition borrowings.

Based upon our current operations and anticipated growth, we believe our operating cash flow and borrowing capacity will be adequate to meet our working capital and capital expenditure requirements for the next 12 to 18 months. In addition to acquiring and developing single ASCs, we may from time to time consider other acquisitions or strategic joint ventures involving other companies, multiple-center chains or networks of ASCs. Such acquisitions, joint ventures or other opportunities may require an amendment to our current debt agreements or additional external financing. As previously discussed, we cannot assure you that any required financing will be available, or will be available on terms acceptable to us.

### Recent Accounting Pronouncements

In June 2011, the Financial Accounting Standards Board, or FASB, amended Accounting Standards Codification 220, "Presentation of Comprehensive Income." This amendment requires companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements. It eliminates the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. In December 2011, the FASB issued ASU 2011-12, which is an update to the amendment issued in June 2011. This amendment defers the specific requirements to present items that are reclassified from accumulated other comprehensive income to net income separately with their respective components of net income and other comprehensive income. The amended guidance, which must be applied retroactively, is effective for interim and annual periods beginning after December 15, 2011, with earlier adoption permitted. This Accounting Standards Update, or ASU, impacts presentation only and had no effect on our consolidated financial position, results of operations or cash flows.

In July 2011, the FASB issued ASU 2011-07, which requires healthcare organizations that perform services for patients for which the ultimate collection of all or a portion of the amounts billed or billable cannot be determined at the time services are rendered to present all bad debt expense associated with patient service revenue as an offset to the patient service revenue line item in the statement of operations. The ASU also requires qualitative disclosures about our policy for recognizing revenue and bad debt expense for patient service transactions and quantitative information about the effects of changes in the assessment of collectability of patient service revenue. This ASU is effective for fiscal years beginning after December 15, 2011. We have evaluated ASU 2011-07 and have determined that the requirements of this ASU are not applicable to us as the ultimate collection of our patient service revenue is generally determinable at the time of service, and therefore, the ASU did not have an impact on our consolidated financial position, results of operations or cash flows.

In September 2011, the FASB issued ASU 2011-08, which simplifies how entities test goodwill for impairment. Previous guidance required an entity to perform a two-step goodwill impairment test at least annually by comparing the fair value of a reporting unit with its carrying amount, including goodwill, and recording an impairment loss if the fair value is less than the carrying amount. This ASU allows an entity to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If an entity determines after that assessment that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is not required. This ASU is applicable to interim and annual goodwill impairment tests performed for fiscal years beginning after December 15, 2011, and was adopted effective January 1, 2012. The adoption of this ASU did not have an impact on our consolidated financial position, results of operations or cash flows.

## Item 7A. Quantitative and Qualitative Disclosures About Market Risk

We are subject to market risk primarily from exposure to changes in interest rates based on our financing, investing and cash management activities. We utilize a balanced mix of maturities along with both fixed rate and variable rate debt to manage our exposures to changes in interest rates. Our variable debt instruments are primarily indexed to the prime rate or LIBOR. Interest rate changes would result in gains or losses in the market value of our fixed rate debt portfolio due to differences in market interest rates and the rates at the inception of the debt agreements. Based upon our indebtedness at December 31, 2012, a 100 basis point interest rate change would impact our net earnings and cash flow by approximately \$1.7 million annually. Although there can be no assurances that interest rates will not change significantly, we do not expect changes in interest rates to have a material effect on our net earnings or cash flows in 2013.

During 2012, we issued \$250.0 million principal amount of 5.625% senior unsecured notes due 2020, which resulted in additional fees and interest rate spreads in 2012 compared to 2011. In connection with the issuance of the senior unsecured notes, it was necessary to amend our senior secured notes which resulted in an increase in the applicable interest rate from 6.04% to 8.04%.

The table below provides information as of December 31, 2012 about our long-term debt obligations based on maturity dates that are sensitive to changes in interest rates, including principal cash flows and related weighted average interest rates by expected maturity dates (in thousands, except percentage data):

	Years Ended December 31,						Total	Fair Value at December 31, 2012
	2013	2014	2015	2016	2017	Thereafter		
Fixed rate	\$ 15,879	17,129	14,044	12,025	11,832	283,196	\$ 354,105	\$ 379,036
Average interest rate	5.8%	6.7%	7.1%	7.7%	7.5%	5.9%		
Variable rate	\$ 1,528	749	635	560	280,104	431	\$ 284,007	\$ 284,007
Average interest rate	3.1%	3.4%	3.5%	3.5%	2.5%	2.5%		

The difference in maturities of long-term obligations and overall increase in total borrowings from 2011 to 2012 principally resulted from the refinancing of our revolving credit facility, our senior secured notes, and our borrowings associated with acquisitions of surgery centers. The average interest rates on these borrowings at December 31, 2012 remained consistent as compared to December 31, 2011.

**Item 8. Financial Statements and Supplementary Data**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of  
AmSurg Corp.  
Nashville, Tennessee

We have audited the accompanying consolidated balance sheets of AmSurg Corp. and subsidiaries (the "Company") as of December 31, 2012 and 2011, and the related consolidated statements of earnings, comprehensive income, changes in equity, and cash flows for each of the three years in the period ended December 31, 2012. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of AmSurg Corp. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 27, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/ DELOITTE & TOUCHE LLP

Nashville, Tennessee  
February 27, 2013

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Consolidated Balance Sheets  
December 31, 2012 and 2011  
(Dollars in thousands)**

	<u>2012</u>	<u>2011</u>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 46,398	\$ 40,718
Accounts receivable, net of allowance of \$22,379 and \$18,844, respectively	96,752	93,454
Supplies inventory	18,406	15,039
Deferred income taxes	3,088	2,129
Prepaid and other current assets	<u>27,537</u>	<u>21,875</u>
Total current assets	192,181	173,215
Property and equipment, net	166,612	144,558
Investments in unconsolidated affiliates and long-term notes receivable	11,274	10,522
Goodwill	1,652,002	1,229,298
Intangible assets, net	<u>22,517</u>	<u>15,425</u>
Total assets	<u>\$ 2,044,586</u>	<u>\$ 1,573,018</u>
<b>Liabilities and Equity</b>		
Current liabilities:		
Current portion of long-term debt	\$ 17,407	\$ 10,800
Accounts payable	23,509	19,746
Current income taxes payable	-	1,796
Accrued salaries and benefits	29,251	22,224
Other accrued liabilities	<u>14,246</u>	<u>9,088</u>
Total current liabilities	84,413	63,654
Long-term debt	620,705	447,963
Deferred income taxes	137,648	114,167
Other long-term liabilities	25,972	28,131
Commitments and contingencies		
Noncontrolling interests – redeemable	175,382	170,636
Preferred stock, no par value, 5,000,000 shares authorized, no shares issued or outstanding	-	-
Equity:		
Common stock, no par value, 70,000,000 shares authorized, 31,941,441 and 31,283,772 shares outstanding, respectively	183,867	173,187
Retained earnings	<u>505,621</u>	<u>443,058</u>
Total AmSurg Corp. equity	689,488	616,245
Noncontrolling interests – non-redeemable	<u>310,978</u>	<u>132,222</u>
Total equity	<u>1,000,466</u>	<u>748,467</u>
Total liabilities and equity	<u>\$ 2,044,586</u>	<u>\$ 1,573,018</u>

See accompanying notes to the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Consolidated Statements of Earnings**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands, except earnings per share)

	2012	2011	2010
Revenues	\$ 928,509	\$ 777,587	\$ 692,571
Operating expenses:			
Salaries and benefits	291,713	240,386	209,062
Supply cost	132,044	102,356	89,863
Other operating expenses	194,293	169,730	145,800
Depreciation and amortization	30,078	25,872	24,665
Total operating expenses	648,128	538,344	469,390
Equity in earnings of unconsolidated affiliates	1,564	613	-
Operating income	281,945	239,856	223,181
Interest expense	16,972	15,330	13,476
Earnings from continuing operations before income taxes	264,973	224,526	209,705
Income tax expense	42,627	35,254	32,991
Net earnings from continuing operations	222,346	189,272	176,714
Discontinued operations:			
Earnings from operations of discontinued interests in surgery centers, net of income tax	1,272	2,385	6,514
Gain (loss) on disposal of discontinued interests in surgery centers, net of income tax	25	(1,543)	(2,732)
Net earnings from discontinued operations	1,297	842	3,782
Net earnings	223,643	190,114	180,496
Less net earnings attributable to noncontrolling interests:			
Net earnings from continuing operations	159,761	138,878	126,716
Net earnings from discontinued operations	1,319	1,239	3,955
Total net earnings attributable to noncontrolling interests	161,080	140,117	130,671
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825
Amounts attributable to AmSurg Corp. common shareholders:			
Earnings from continuing operations, net of income tax	\$ 62,585	\$ 50,394	\$ 49,998
Discontinued operations, net of income tax	(22)	(397)	(173)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 49,997	\$ 49,825
Earnings per share-basic:			
Net earnings from continuing operations attributable to AmSurg Corp. common shareholders	\$ 2.03	\$ 1.65	\$ 1.65
Net loss from discontinued operations attributable to AmSurg Corp. common shareholders	-	(0.01)	-

Net earnings attributable to AmSurg Corp. common shareholders	\$ 2.03	\$ 1.64	\$ 1.65
Earnings per share-diluted:			
Net earnings from continuing operations attributable to AmSurg Corp. common shareholders	\$ 1.98	\$ 1.61	\$ 1.63
Net loss from discontinued operations attributable to AmSurg Corp. common shareholders	-	(0.01)	(0.01)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 1.98	\$ 1.60	\$ 1.62
Weighted average number of shares and share equivalents outstanding:			
Basic	30,773	30,452	30,255
Diluted	31,608	31,211	30,689

See accompanying notes to the consolidated financial statements.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Consolidated Statements of Comprehensive Income**  
**Years Ended December 31, 2012, 2011 and 2010**  
**(In thousands)**

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Net earnings	\$ 223,643	\$ 190,114	\$ 180,496
Other comprehensive income, net of income tax:			
Unrealized gain on interest rate swap, net of income tax	-	515	1,334
Comprehensive income, net of income tax	223,643	190,629	181,830
Less comprehensive income attributable to noncontrolling interests	<u>161,080</u>	<u>140,117</u>	<u>130,671</u>
Comprehensive income attributable to AmSurg Corp. common shareholders	<u>\$ 62,563</u>	<u>\$ 50,512</u>	<u>\$ 51,159</u>

See accompanying notes to the consolidated financial statements.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Consolidated Statements of Changes in Equity**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands)

	AmSurg Corp. Shareholders		Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Non-Controlling Interests – Non-Redeemable	Total Equity (Permanent)	Non-Controlling Interests – Redeemable (Temporary Equity)	Net Earnings
	Common Stock Shares	Common Stock Amount						
Balance at January 1, 2010	30,674	\$ 163,729	\$ 343,236	\$ (1,849)	\$ 5,255	\$ 510,371	\$ 123,363	
Issuance of restricted common stock	233	-	-	-	-	-	-	
Cancellation of restricted common stock	(25)	(15)	-	-	-	(15)	-	
Stock options exercised	158	2,583	-	-	-	2,583	-	
Share-based compensation	-	4,869	-	-	-	4,869	-	
Tax benefit related to exercise of stock options	-	71	-	-	-	71	-	
Net earnings	-	-	49,825	-	4,546	54,371	126,125	\$ 180,496
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(4,844)	(4,844)	(127,193)	
Purchase of noncontrolling interest	-	893	-	-	(137)	756	(1,046)	
Sale of noncontrolling interest	-	(608)	-	-	434	(174)	614	
Acquisitions and other transactions impacting noncontrolling interests	-	-	-	-	7,545	7,545	25,877	
Gain on interest rate swap, net of income tax expense of \$860	-	-	-	1,334	-	1,334	-	
Balance at December 31, 2010	31,040	171,522	393,061	(515)	12,799	576,867	147,740	
Issuance of restricted common stock	277	-	-	-	-	-	-	
Cancellation of restricted common stock	(1)	(9)	-	-	-	(9)	-	
Stock options exercised	374	6,872	-	-	-	6,872	-	
Stock repurchased	(406)	(10,007)	-	-	-	(10,007)	-	
Share-based compensation	-	6,178	-	-	-	6,178	-	
Tax benefit related to exercise of stock options	-	649	-	-	-	649	-	
Net earnings	-	-	49,997	-	10,181	60,178	129,936	\$ 190,114
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(9,502)	(9,502)	(129,979)	
Purchase of noncontrolling interest	-	195	-	-	(817)	(622)	(788)	
Sale of noncontrolling interest	-	(1,702)	-	-	439	(1,263)	1,771	
Acquisitions and other transactions impacting noncontrolling interests	-	-	-	-	122,276	122,276	21,390	
Disposals and other transactions impacting noncontrolling interests	-	(511)	-	-	(3,154)	(3,665)	566	
Gain on interest rate swap, net of income tax expense of \$332	-	-	-	515	-	515	-	
Balance at December 31, 2011	31,284	\$ 173,187	\$ 443,058	\$ -	\$ 132,222	\$ 748,467	\$ 170,636	

See accompanying notes to the consolidated financial statements.



Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Consolidated Statements of Changes in Equity – (continued)**  
**Years Ended December 31, 2012, 2011 and 2010**  
**(In thousands)**

	AmSurg Corp. Shareholders							
	Common Stock		Retained Earnings	Accumulated Other Comprehensive Income (Loss)	Non-Controlling Interests – Non-Redeemable	Total Equity (Permanent)	Non-Controlling Interests – Redeemable (Temporary Equity)	Net Earnings
	Shares	Amount						
Balance at December 31, 2011	31,284	\$ 173,187	\$ 443,058	\$ -	\$ 132,222	\$ 748,467	\$ 170,636	
Issuance of restricted common stock	281	-	-	-	-	-	-	
Cancellation of restricted common stock	(2)	-	-	-	-	-	-	
Stock options exercised	842	18,214	-	-	-	18,214	-	
Stock repurchased	(464)	(13,101)	-	-	-	(13,101)	-	
Share-based compensation	-	6,692	-	-	-	6,692	-	
Tax benefit related to exercise of stock options	-	1,834	-	-	-	1,834	-	
Net earnings	-	-	62,563	-	26,303	88,866	134,777	\$ 223,643
Distributions to noncontrolling interests, net of capital contributions	-	-	-	-	(26,514)	(26,514)	(136,356)	
Purchase of noncontrolling interest	-	252	-	-	(421)	(169)	(81)	
Sale of noncontrolling interest	-	(2,794)	-	-	4,352	1,558	-	
Acquisitions and other transactions impacting noncontrolling interests	-	-	-	-	175,036	175,036	7,038	
Disposals and other transactions impacting noncontrolling interests	-	(417)	-	-	-	(417)	(632)	
Balance at December 31, 2012	<u>31,941</u>	<u>\$ 183,867</u>	<u>\$ 505,621</u>	<u>\$ -</u>	<u>\$ 310,978</u>	<u>\$ 1,000,466</u>	<u>\$ 175,382</u>	

See accompanying notes to the consolidated financial statements.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2012, 2011 and 2010**  
(In thousands)

	2012	2011	2010
<b>Cash flows from operating activities:</b>			
Net earnings	\$ 223,643	\$ 190,114	\$ 180,496
Adjustments to reconcile net earnings to net cash flows provided by operating activities:			
Depreciation and amortization	30,078	25,872	24,665
Net (gain) loss on sale of long-lived assets	(1,065)	(1,518)	4,243
Share-based compensation	6,692	6,178	4,869
Excess tax benefit from share-based compensation	(1,784)	(977)	(200)
Deferred income taxes	24,558	23,623	18,247
Equity in earnings of unconsolidated affiliates	(1,564)	(613)	-
Increase (decrease) in cash and cash equivalents, net of effects of acquisitions and dispositions, due to changes in:			
Accounts receivable, net	8,061	(2,122)	713
Supplies inventory	110	168	(541)
Prepaid and other current assets	(4,651)	838	(3,364)
Accounts payable	579	(2,205)	(220)
Accrued expenses and other liabilities	7,550	2,329	168
Other, net	3,445	1,736	1,499
Net cash flows provided by operating activities	295,652	243,423	230,575
<b>Cash flows from investing activities:</b>			
Acquisition of interests in surgery centers and related transactions	(277,388)	(239,223)	(53,690)
Acquisition of property and equipment	(28,864)	(22,170)	(19,275)
Proceeds from sale of interests in surgery centers	7,309	7,026	60
Net cash flows used in investing activities	(298,943)	(254,367)	(72,905)
<b>Cash flows from financing activities:</b>			
Proceeds from long-term borrowings	565,566	288,869	176,619
Repayment on long-term borrowings	(394,164)	(129,107)	(195,960)
Distributions to noncontrolling interests	(162,941)	(138,724)	(132,110)
Proceeds from issuance of common stock upon exercise of stock options	18,214	6,872	2,583
Repurchase of common stock	(13,101)	(10,007)	-
Capital contributions and ownership transactions by noncontrolling interests	1,595	660	224
Excess tax benefit from share-based compensation	1,784	977	200
Financing cost incurred	(7,982)	(2,025)	(4,456)
Net cash flows provided by (used in) financing activities	8,971	17,515	(152,900)
Net increase in cash and cash equivalents	5,680	6,571	4,770
Cash and cash equivalents, beginning of year	40,718	34,147	29,377

Cash and cash equivalents, end of year	\$	<u>46,398</u>	\$	<u>40,718</u>	\$	<u>34,147</u>
--	----	---------------	----	---------------	----	---------------

See accompanying notes to the consolidated financial statements.

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements

#### 1. Summary of Significant Accounting Policies

##### a. Principles of Consolidation

AmSurg Corp. (the “Company”), through its wholly owned subsidiaries, owns interests, primarily 51%, in limited partnerships and limited liability companies (“LLCs”) which own and operate ambulatory surgery centers (“centers”). The Company also has majority ownership interests in other limited partnerships and LLCs formed to develop additional centers. The Company does not have an ownership interest in a limited partnership or LLC greater than 51% which it does not consolidate. The Company does have an ownership interest of less than 51% in five of its limited partnerships and LLCs, three of which it consolidates as the Company has substantive participation rights, and two of which it does not consolidate, as the Company owns 20% of each entity and the Company’s rights are limited to protective rights only. The consolidated financial statements include the accounts of the Company and its wholly owned subsidiaries and the consolidated limited partnerships and LLCs. Consolidation of such limited partnerships and LLCs is necessary as the Company’s wholly owned subsidiaries have primarily 51% or more of the financial interest, are the general partner or majority member with all the duties, rights and responsibilities thereof, are responsible for the day-to-day management of the limited partnerships and LLCs, and have control of the entities. The responsibilities of the Company’s noncontrolling partners (limited partners and noncontrolling members) are to supervise the delivery of medical services, with their rights being restricted to those that protect their financial interests, such as approval of the acquisition of significant assets or the incurrence of debt which they are generally required to guarantee on a pro rata basis based upon their respective ownership interests. Intercompany profits, transactions and balances have been eliminated. All limited partnerships and LLCs and noncontrolling partners are referred to herein as partnerships and partners, respectively.

Ownership interests in consolidated subsidiaries held by parties other than the Company are identified and generally presented in the consolidated financial statements within the equity section but separate from the Company’s equity. However, in instances in which certain redemption features that are not solely within the control of the Company are present, classification of noncontrolling interests outside of permanent equity is required. Consolidated net income attributable to the Company and to the noncontrolling interests are identified and presented on the face of the consolidated statements of earnings; changes in ownership interests are accounted for as equity transactions; and when a subsidiary is deconsolidated, any retained noncontrolling equity investment in the former subsidiary and the gain or loss on the deconsolidation of the subsidiary is measured at fair value. Certain transactions with noncontrolling interests are also classified within financing activities in the statements of cash flows.

As further described in note 14, upon the occurrence of various fundamental regulatory changes, the Company would be obligated, under the terms of certain partnership and operating agreements, to purchase the noncontrolling interests related to a substantial majority of the Company’s partnerships. While the Company believes that the likelihood of a change in current law that would trigger such purchases was remote as of December 31, 2012, the occurrence of such regulatory changes is outside the control of the Company. As a result, the noncontrolling interests that are subject to this redemption feature are not included as part of the Company’s equity and are classified as noncontrolling interests – redeemable on the Company’s consolidated balance sheets.

Center profits and losses of consolidated entities are allocated to the Company’s partners in proportion to their ownership percentages and reflected in the aggregate as net earnings attributable to noncontrolling interests. The partners of the Company’s center partnerships typically are organized as general partnerships, limited partnerships or limited liability companies that are not subject to federal income tax. Each partner shares in the pre-tax earnings of the center in which it is a partner. Accordingly, the earnings attributable to noncontrolling interests in each of the Company’s consolidated partnerships are generally determined on a pre-tax basis, and total net earnings attributable to noncontrolling interests are presented after net earnings. However, the Company considers the impact of the net earnings attributable to noncontrolling interests on earnings before income taxes in order to determine the amount of pre-tax earnings on which the Company must determine its tax expense. In addition, distributions from the partnerships are made to both the Company’s wholly owned subsidiaries and the partners on a pre-tax basis.

Investments in unconsolidated affiliates in which the Company exerts significant influence but does not control or otherwise consolidate are accounted for using the equity method. These investments are included as investments in unconsolidated affiliates in the accompanying consolidated balance sheets. The Company’s share of the profits and losses from these investments are reported in equity in earnings of unconsolidated affiliates in the accompanying consolidated statement of earnings. The Company monitors its investments for other-than-temporary impairment by considering factors such as current economic and market conditions and the operating performance of the companies and records reductions in carrying values when necessary.

The Company operates in one reportable business segment, the ownership and operation of ambulatory surgery centers.

##### b. Cash and Cash Equivalents

Cash and cash equivalents are comprised principally of demand deposits at banks and other highly liquid short-term investments with maturities of less than three months when purchased.

##### c. Supplies Inventory

Supplies inventory consists of medical and drug supplies and is recorded at cost on a first-in, first-out basis.



## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

#### d. Prepaid and Other Current Assets

At December 31, 2012, prepaid and other current assets were comprised of short-term investments of \$8,804,000, other prepaid expenses of \$6,462,000, prepaid insurance expense of \$4,963,000, other current receivables of \$5,926,000 and other current assets of \$1,382,000. At December 31, 2011, prepaid and other current assets were comprised of short-term investments of \$6,516,000, other prepaid expenses of \$5,674,000, prepaid insurance expense of \$4,185,000, other current receivables of \$4,394,000 and other current assets of \$1,106,000.

#### e. Property and Equipment, net

Property and equipment are stated at cost. Equipment held under capital leases is stated at the present value of minimum lease payments at the inception of the related leases. Depreciation for buildings and improvements is recognized under the straight-line method over 20 to 40 years or, for leasehold improvements, over the remaining term of the lease plus renewal options for which failure to renew the lease imposes a penalty on the Company in such an amount that a renewal appears, at the inception of the lease, to be reasonably assured. The primary penalty to which the Company is subject is the economic detriment associated with existing leasehold improvements which might be impaired if a decision is made not to continue the use of the leased property. Depreciation for movable equipment and software and software development costs is recognized over useful lives of three to ten years.

#### f. Goodwill

The Company evaluates goodwill for impairment at least on an annual basis and more frequently if certain indicators are encountered. Goodwill is to be tested at the reporting unit level, defined as an operating segment or one level below an operating segment (referred to as a component), with the fair value of the reporting unit being compared to its carrying amount, including goodwill. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is not considered to be impaired. The Company has determined that it has one operating, as well as one reportable, segment. For impairment testing purposes, the centers qualify as components of that operating segment. Because they have similar economic characteristics, the components are aggregated and deemed a single reporting unit. The Company completed its annual impairment test as of December 31, 2012, and determined that goodwill was not impaired.

#### g. Intangible Assets

Intangible assets consist primarily of deferred financing costs of the Company and certain amortizable and non-amortizable non-compete and customer agreements. Deferred financing costs and amortizable non-compete agreements and customer agreements are amortized over the term of the related debt as interest expense and the contractual term or estimated life (five to ten years) of the agreements as amortization expense, respectively.

#### h. Other Long-Term Liabilities

At December 31, 2012, other long-term liabilities are comprised of deferred rent of \$12,134,000, tax-effected unrecognized benefits of \$10,113,000 (see note 1(k)), unfavorable lease liability of \$3,559,000 and other long-term liabilities of \$166,000. At December 31, 2011, other long-term liabilities are comprised of deferred rent of \$10,255,000, tax-effected unrecognized benefits of \$8,356,000 (see note 1(k)), purchase price obligation of \$5,236,000, unfavorable lease liability of \$4,084,000 and other long-term liabilities of \$200,000.

#### i. Revenue Recognition

Center revenues consist of billing for the use of the centers' facilities (the "facility fee") directly to the patient or third-party payor and, at certain of our centers (primarily centers that perform gastrointestinal endoscopy procedures), billing for anesthesia services provided by medical professionals employed or contracted by our centers. Such revenues are recognized when the related surgical procedures are performed. Revenues exclude any amounts billed for physicians' surgical services, which are billed separately by the physicians to the patient or third-party payor.

Revenues from centers are recognized on the date of service, net of estimated contractual adjustments from third-party medical service payors including Medicare and Medicaid. During the years ended December 31, 2012, 2011 and 2010, the Company derived approximately 27%, 29% and 31%, respectively, of its revenues from government healthcare programs, primarily Medicare, and managed Medicare programs. Concentration of credit risk with respect to other payors is limited due to the large number of such payors.

#### j. Operating Expenses

Substantially all of the Company's operating expenses relate to the cost of revenues and the delivery of care at the Company's surgery centers. Such costs primarily include the surgery centers' clinical and administrative salaries and benefits, supply cost, rent and other variable expenses, such as linen cost, repair and maintenance of equipment, billing fees and bad debt expense. Bad debt expense was approximately \$20,073,000, \$18,449,000 and \$16,945,000 for the years ended December 31, 2012, 2011 and 2010, respectively.



**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**k. Income Taxes**

The Company files a consolidated federal income tax return. Income taxes are accounted for under the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

The Company applies recognition thresholds and measurement attributes for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return as it relates to accounting for uncertainty in income taxes. In addition, it is the Company's policy to recognize interest accrued and penalties, if any, related to unrecognized benefits as income tax expense in its statement of earnings. The Company does not expect significant changes to its tax positions or liability for tax uncertainties during the next 12 months.

The Company and its subsidiaries file income tax returns in the U.S. federal jurisdiction and various state jurisdictions. With few exceptions, the Company is no longer subject to U.S. federal or state income tax examinations for years prior to 2009.

**l. Earnings Per Share**

Basic earnings per share is computed by dividing net earnings attributable to AmSurg Corp. common shareholders by the combined weighted average number of common shares, while diluted earnings per share is computed by dividing net earnings attributable to AmSurg Corp. common shareholders by the weighted average number of such common shares and dilutive share equivalents.

**m. Share-Based Compensation**

Transactions in which the Company receives employee and non-employee services in exchange for the Company's equity instruments or liabilities that are based on the fair value of the Company's equity securities or may be settled by the issuance of these securities are accounted using a fair value method. The Company applies the Black-Scholes method of valuation in determining share-based compensation expense.

Benefits of tax deductions in excess of recognized compensation cost are reported as a financing cash flow, thus reducing the Company's net operating cash flows and increasing its financing cash flows by \$1,784,000, \$977,000 and \$200,000 for the years ended December 31, 2012, 2011 and 2010, respectively.

The Company examines its concentrations of holdings, its historical patterns of award exercises and forfeitures as well as forward-looking factors, in an effort to determine if there were any discernable employee populations. From this analysis, the Company has identified three employee populations, consisting of senior executives, officers and all other recipients. The expected volatility rate applied was estimated based on historical volatility. The expected term assumption applied is based on contractual terms, historical exercise and cancellation patterns and forward-looking factors where present for each population identified. The risk-free interest rate used is based on the U.S. Treasury yield curve in effect at the time of the grant. The pre-vesting forfeiture rate is based on historical rates and forward-looking factors for each population identified. The Company will adjust the estimated forfeiture rate to its actual experience. The Company intends to retain its earnings to finance growth and development of the business and does not expect to disclose or pay any cash dividends in the foreseeable future.

**n. Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The determination of contractual and bad debt allowances constitutes a significant estimate. Some of the factors considered by management in determining the amount of such allowances are the historical trends of the centers' cash collections and contractual and bad debt write-offs, accounts receivable agings, established fee schedules, contracts with payors and procedure statistics. Accordingly, net accounts receivable at December 31, 2012 and 2011 reflect allowances for contractual adjustments of \$216,363,000 and \$136,265,000, respectively, and allowance for bad debt expense of \$22,379,000 and \$18,844,000, respectively.

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

#### o. Recent Accounting Pronouncements

In June 2011, the Financial Accounting Standards (“FASB”) amended Accounting Standards Codification (“ASC”) 220, “Presentation of Comprehensive Income.” This amendment requires companies to present the components of net income and other comprehensive income either as one continuous statement or as two consecutive statements. It eliminates the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. In December 2011, the FASB issued Accounting Standards Update (“ASU”) 2011-12, which is an update to the amendment issued in June 2011. This amendment defers the specific requirements to present items that are reclassified from accumulated other comprehensive income to net income separately with their respective components of net income and other comprehensive income. The amended guidance, which must be applied retroactively, is effective for interim and annual periods beginning after December 15, 2011, with earlier adoption permitted. This ASU impacts presentation only and had no effect on the Company’s consolidated financial position, results of operations or cash flows.

In July 2011, the FASB issued ASU 2011-07, which requires healthcare organizations that perform services for patients for which the ultimate collection of all or a portion of the amounts billed or billable cannot be determined at the time services are rendered to present all bad debt expense associated with patient service revenue as an offset to the patient service revenue line item in the statement of operations. The ASU also requires qualitative disclosures about the Company’s policy for recognizing revenue and bad debt expense for patient service transactions and quantitative information about the effects of changes in the assessment of collectability of patient service revenue. This ASU is effective for fiscal years beginning after December 15, 2011. The Company has evaluated ASU 2011-07 and has determined that the requirements of this ASU are not applicable to the Company as the ultimate collection of patient service revenue is generally determinable at the time of service, and therefore, the ASU had no impact on the Company’s consolidated financial position, results of operations or cash flows.

In September 2011, the FASB issued ASU 2011-08, which simplifies how entities test goodwill for impairment. Previous guidance required an entity to perform a two-step goodwill impairment test at least annually by comparing the fair value of a reporting unit with its carrying amount, including goodwill, and recording an impairment loss if the fair value is less than the carrying amount. This ASU allows an entity to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not that the fair value of a reporting unit is less than its carrying amount. If an entity determines after that assessment that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then performing the two-step impairment test is not required. This ASU is applicable to interim and annual goodwill impairment tests performed for fiscal years beginning after December 15, 2011, and was adopted by the Company effective January 1, 2012. The adoption of this ASU did not have an impact on the Company’s consolidated financial position, results of operations or cash flows.

#### p. Reclassifications

Certain prior year amounts have been reclassified to reflect the impact of additional discontinued operations as further discussed in note 3.

## 2. Acquisitions

The Company accounts for its business combinations under the fundamental requirements of the acquisition method of accounting and under the premise that an acquirer be identified for each business combination. The acquirer is the entity that obtains control of one or more businesses in the business combination and the acquisition date is the date the acquirer achieves control. The assets acquired, liabilities assumed and any noncontrolling interests in the acquired business at the acquisition date are recognized at their fair values as of that date, and the direct costs incurred in connection with the business combination are recorded and expensed separately from the business combination.

As a significant part of its growth strategy, the Company primarily acquires controlling interests in centers. During 2012 and 2011, the Company, through a wholly owned subsidiary, acquired a controlling interest in 17 centers, one of which was merged into an existing center, and 24 centers, respectively. In addition, the Company acquired a non-controlling interest in two centers during 2011. The aggregate amount paid for the centers acquired and for settlement of purchase price payable obligations during 2012 and 2011 was approximately \$277,388,000 and \$239,223,000, respectively, and was paid in cash and funded by a combination of operating cash flow and borrowings under the Company’s long term debt structure.

At December 31, 2012 and 2011, the Company had contingent purchase price obligations of \$2,744,000 and \$5,236,000. During 2012, the Company funded through operating cash flow \$1,829,000 of its purchase price obligations. The remaining purchase price obligations are related to the Company’s acquisition of 17 centers from National Surgical Care, Inc. (“NSC”) on September 1, 2011. The Company agreed to pay as additional consideration an amount up to \$7,500,000 based on a multiple of the excess earnings over the targeted earnings of the acquired centers, if any, from the period of January 1, 2012 to December 31, 2012. In addition, \$3,500,000 of the purchase price was placed in an escrow fund to allow for any working capital adjustments up to \$500,000, with the remainder allocated to potential indemnity claims, if any, which must be asserted by the Company within one year of the transaction date. During 2012, the Company paid NSC \$115,000 to settle the working capital adjustment and authorized the release of \$3,500,000 from escrow. As of December 31, 2011, the Company had recorded \$3,100,000 in other long-term liabilities in the accompanying balance sheet a purchase price obligation related to the Company’s estimate of the fair value of the potential additional

consideration due to NSC. As of December 31, 2012, the Company's estimate of the fair value of the additional consideration due to NSC is approximately \$2,744,000.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

The total fair value of an acquisition includes an amount allocated to goodwill, which results from the centers' favorable reputations in their markets, their market positions and their ability to deliver quality care with high patient satisfaction consistent with the Company's business model.

The acquisition date fair value of the total consideration transferred and acquisition date fair value of each major class of consideration for the acquisitions completed during 2012 and 2011, including post acquisition date adjustments recorded to finalize purchase price allocations, are as follows (in thousands):

	<u>Individual Acquisitions</u>	<u>Acquired NSC Centers</u>	<u>Individual Acquisitions</u>
	2012		2011
Accounts receivable	\$ 11,572	\$ 16,032	\$ 7,837
Supplies inventory, prepaid and other current assets	4,750	5,744	1,888
Investment in unconsolidated subsidiaries	-	10,710	-
Property and equipment	23,546	18,208	8,350
Goodwill	429,504	167,865	169,777
Other intangible assets	800	268	1,750
Accounts payable	(3,199)	(2,612)	(2,665)
Other accrued liabilities	(2,387)	(5,233)	(415)
Long-term debt	(6,954)	(2,900)	(5,698)
Other long-term liabilities	-	(1,895)	-
<b>Total fair value</b>	<b>457,632</b>	<b>206,187</b>	<b>180,824</b>
Less: Fair value attributable to noncontrolling interests	182,073	70,502	72,050
<b>Acquisition date fair value of total consideration transferred</b>	<b>\$ 275,559</b>	<b>\$ 135,685</b>	<b>\$ 108,774</b>

Fair value attributable to noncontrolling interests is based on significant inputs that are not observable in the market. Key inputs used to determine the fair value include financial multiples used in the purchase of noncontrolling interests in centers. Such multiples, based on earnings, are used as a benchmark for the discount to be applied for the lack of control or marketability. The fair value of noncontrolling interests for acquisitions where the purchase price allocation is not finalized may be subject to adjustment as the Company completes its initial accounting for acquired intangible assets. During 2012 and 2011, respectively, approximately \$260,547,000 and \$212,576,000 of goodwill recorded was deductible for tax purposes. Goodwill deductible for tax purposes associated with the acquisition of NSC centers was approximately \$110,000,000 for the year ended December 31, 2011. Associated with the transactions discussed above, the Company incurred and expensed in other operating expenses approximately \$700,000 and \$3,783,000 in acquisition related costs during 2012 and 2011, respectively. The additional transaction costs incurred for the year ended December 31, 2011 over the year end December 31, 2012 is primarily due to the acquisition of the NSC centers in 2011.

Revenues and net earnings included in the years ended December 31, 2012 and 2011 associated with these acquisitions are as follows (in thousands):

	<u>Individual Acquisitions</u>	<u>Acquired NSC Centers</u>	<u>Individual Acquisitions</u>
	2012		2011
Revenues	\$ 11,247	\$ 35,130	\$ 23,534
Net earnings	3,441	4,982	7,251
Less: Net earnings attributable to noncontrolling interests	1,977	3,193	4,213

Net earnings attributable to AmSurg Corp. common shareholders	\$ <u>1,464</u>	\$ <u>1,789</u>	\$ <u>3,038</u>
--	-----------------	-----------------	-----------------

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

The unaudited consolidated pro forma results for the years ended December 31, 2012 and 2011, assuming all 2012 acquisitions had been consummated on January 1, 2011 and all 2011 acquisitions had been consummated on January 1, 2010, are as follows (in thousands, except per share data):

	<u>2012</u>	<u>2011</u>
Revenues	\$ 1,075,748	\$ 1,050,150
Net earnings	261,397	245,893
Amounts attributable to AmSurg Corp. common shareholders:		
Net earnings from continuing operations	72,777	67,861
Net earnings	72,755	63,274
Net earnings from continuing operations per common share:		
Basic	\$ 2.36	\$ 2.23
Diluted	\$ 2.30	\$ 2.17
Net earnings:		
Basic	\$ 2.36	\$ 2.08
Diluted	\$ 2.30	\$ 2.03
Weighted average number of shares and share equivalents:		
Basic	30,773	30,452
Diluted	31,608	31,211

**3. Dispositions**

The Company initiated the dispositions of certain of its centers primarily due to management's assessment of the limited growth opportunities at these centers and as a result of certain market driven strategies. Results of operations of the centers discontinued for the years ended December 31, 2012, 2011 and 2010, are as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Cash proceeds from disposal	\$ 7,309	\$ 7,026	\$ 60
Net earnings from discontinued operations	1,297	842	3,782
Net loss from discontinued operations attributable to AmSurg Corp.	(22)	(397)	(173)

The results of operations of discontinued centers have been classified as discontinued operations in all periods presented. Results of operations of the combined discontinued surgery centers for the years ended December 31, 2012, 2011 and 2010 are as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Revenues	\$ 5,648	\$ 13,302	\$ 28,136
Earnings before income taxes	1,538	3,059	8,240
Net earnings	1,272	2,385	6,514

**4. Property and Equipment**

Property and equipment at December 31, 2012 and 2011 were as follows (in thousands):

	<u>2012</u>	<u>2011</u>
Building and improvements	\$ 151,270	\$ 126,537
Movable equipment, software and software development costs	208,541	182,254
Construction in progress	2,313	4,824
	<u>362,124</u>	<u>313,615</u>

Less accumulated depreciation	<u>(195,512)</u>	<u>(169,057)</u>
Property and equipment, net	<u>\$ 166,612</u>	<u>\$ 144,558</u>

The Company capitalized interest in the amount of \$43,000, \$85,000 and \$54,000 for the years ended December 31, 2012, 2011 and 2010, respectively. At December 31, 2012, the Company and its partnerships had unfunded construction and equipment purchases of approximately \$1,076,000 in order to complete construction in progress. Depreciation expense for continuing and discontinued operations for the years ended December 31, 2012, 2011 and 2010 was \$30,072,000, \$26,068,000 and \$25,279,000, respectively.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
Notes to the Consolidated Financial Statements – (continued)

**5. Goodwill and Intangible Assets**

The changes in the carrying amount of goodwill for the years ended December 31, 2012 and 2011 are as follows (in thousands):

	<u>2012</u>	<u>2011</u>
Balance, beginning of period	\$ 1,229,298	\$ 894,497
Goodwill acquired, including post acquisition adjustments	429,504	344,089
Disposals	<u>(6,800)</u>	<u>(9,288)</u>
Balance, end of period	<u>\$ 1,652,002</u>	<u>\$ 1,229,298</u>

Amortizable intangible assets at December 31, 2012 and 2011 consisted of the following (in thousands):

	<u>2012</u>			<u>2011</u>		
	Gross Carrying Amount	Accumulated Amortization	Net	Gross Carrying Amount	Accumulated Amortization	Net
Deferred financing cost	\$ 14,523	\$ (3,029)	\$ 11,494	\$ 6,541	\$ (1,838)	\$ 4,703
Agreements, contracts and other intangible assets	<u>3,448</u>	<u>(2,250)</u>	<u>1,198</u>	<u>3,448</u>	<u>(2,026)</u>	<u>1,422</u>
Total amortizable intangible assets	<u>\$ 17,971</u>	<u>\$ (5,279)</u>	<u>\$ 12,692</u>	<u>\$ 9,989</u>	<u>\$ (3,864)</u>	<u>\$ 6,125</u>

Amortization of intangible assets for the years ended December 31, 2012, 2011 and 2010 was \$1,415,000, \$1,472,000 and \$1,184,000, respectively. Deferred financing costs increased approximately \$6,200,000 related to the issuance of the senior unsecured notes. Estimated amortization of intangible assets for the five years and thereafter subsequent to December 31, 2012, with a weighted average amortization period of 5.8 years, is \$2,329,000, \$2,324,000, \$2,323,000, \$2,323,000, \$1,508,000 and \$1,885,000.

At December 31, 2012 and 2011, other non-amortizable intangible assets related to restrictive covenant arrangements were \$9,825,000 and \$9,300,000, respectively.

**6. Long-term Debt**

Long-term debt at December 31, 2012 and 2011 was comprised of the following (in thousands):

	<u>2012</u>	<u>2011</u>
Revolving credit agreement (average rate of 2.5%)	\$ 279,780	\$ 351,000
Senior Unsecured Notes (5.625%)	250,000	-
Senior Secured Notes (8.04%)	75,000	75,000
Other debt at an average rate of 3.9%, due through 2019	21,350	20,052
Capitalized lease arrangements at an average rate of 5.7%, due through 2026	<u>11,982</u>	<u>12,711</u>
	638,112	458,763
Less current portion	<u>17,407</u>	<u>10,800</u>
Long-term debt	<u>\$ 620,705</u>	<u>\$ 447,963</u>

Principal payments required on long-term debt in the five years and thereafter subsequent to December 31, 2012 are \$17,407,000, \$17,878,000, \$14,679,000, \$12,585,000, \$291,936,000, and \$283,627,000.

**a. Credit Facility**

On June 29, 2012, the Company amended its revolving credit agreement to increase the borrowing capacity and adjust the interest rate spreads. On November 7, 2012, the Company further amended its revolving credit facility to allow for the Company's issuance of the 5.625% Senior Notes (discussed below), which resulted in certain adjustments to the existing covenants. The revolving credit agreement, as amended, permits the Company to borrow up to \$475,000,000 at an interest rate equal to, at the Company's option, the base rate plus 0.50% to 1.25% or LIBOR plus 1.50% to 2.25%, or a combination thereof; provides for a fee of 0.20% to 0.40% of unused commitments; and contains certain covenants relating to the ratio of debt to operating performance measurements, interest coverage ratios and minimum net worth. Borrowings under the revolving credit agreement mature in June 2017 and are secured primarily by a pledge of the stock of our wholly-owned subsidiaries and our partnership and membership interests in the limited

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

partnerships and limited liability companies. The Company was in compliance with the covenants contained in the revolving credit agreement at December 31, 2012.

#### b. Senior Unsecured Notes

On November 20, 2012, the Company completed a private offering of \$250,000,000 aggregate principal amount of 5.625% senior unsecured notes due 2020 (the “Senior Unsecured Notes”). The net proceeds from the issuance were used to reduce the outstanding indebtedness under the Company’s existing revolving credit facility, creating capacity to fund future acquisitions. The Senior Unsecured Notes are general unsecured obligations of the Company and are guaranteed by the Company and certain of its existing and subsequently acquired or organized wholly owned domestic subsidiaries, (the “Guarantors”). The Senior Unsecured Notes are pari passu in right of payment with all the existing and future senior debt of the Company and senior to all existing and future subordinated debt of the Company. Interest on the Senior Unsecured Notes accrues at the rate of 5.625% per annum and is payable semi-annually in arrears on May 30 and November 30, beginning on May 30, 2013, and ending on the maturity date of November 30, 2020.

Prior to November 30, 2015, the Company may redeem up to 35% of the aggregate principal amount of the Senior Unsecured Notes at a redemption price of 105.625% of the principal amount thereof, plus accrued and unpaid interest and liquidated damages, if any, using proceeds of one or more equity offerings. On or after November 30, 2015, the Company may redeem the Senior Unsecured Notes in whole or in part. The redemption price for such a redemption (expressed as percentages of principal amount) is set forth below, plus accrued and unpaid interest and liquidated damages, if any, if redeemed during the twelve-month period beginning on November 30 of the years indicated below:

Period	Redemption Price
2015	104.219%
2016	102.813%
2017	101.406%
2018 and thereafter	100.000%

The Senior Unsecured Notes contain certain covenants which, among other things, limit, but may not restrict the Company’s ability to enter into or guarantee additional borrowings, sell preferred stock, pay dividends and repurchase stock. The Company was in compliance with the covenants contained in the indenture relating to the Senior Unsecured Notes at December 31, 2012.

In connection with the issuance of the Senior Unsecured Notes, the Company entered into a registration rights agreement, dated November 20, 2012 (the “Registration Rights Agreement”). Under the terms of the Registration Rights Agreement, the Company and the Guarantors will use their commercially reasonable efforts to file an exchange offer registration statement with respect to the Senior Unsecured Notes with the Securities and Exchange Commission (the “SEC”) within 270 days from the date of the agreement. If the registration does not become effective within the allotted period, the Company would be obligated to pay certain liquidated damages, not to exceed a maximum amount of 1.0% per annum.

#### c. Senior Secured Notes

The senior secured notes (the “Senior Secured Notes”) were issued on May 28, 2010, pursuant to a note purchase agreement, in the principal amount of \$75,000,000 and are due May 28, 2020. The Senior Secured Notes, which were originally issued with a stated interest rate of 6.04%, were amended on November 7, 2012 to allow for the Company’s issuance of the Senior Unsecured Notes, which resulted in an increase in the annual interest rate of 2% to 8.04%, and included certain other adjustments to the existing covenants. The Senior Secured Notes are pari passu with the indebtedness under the Company’s revolving credit facility and the Senior Unsecured Notes and require payment of principal beginning in August 2013. The note purchase agreement governing the Senior Secured Notes contains covenants similar to the covenants in the revolving credit agreement and includes a make whole provision in the event of any prepayment of principle. The Company was in compliance with the covenants contained in the note purchase agreement relating to the Senior Secured Notes at December 31, 2012.

#### d. Other Debt

Certain partnerships included in the Company’s consolidated financial statements have loans with local lending institutions, included above in other debt, which are collateralized by certain assets of the centers with a book value of approximately \$89,595,000. The Company and the partners have guaranteed payment of the loans in proportion to the relative partnership interests.

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

#### 7. Derivative Instruments

The Company entered into an interest rate swap agreement in April 2006, the objective of which was to hedge exposure to the variability of the future expected cash flows attributable to the variable interest rate of a portion of the Company's outstanding balance under its revolving credit agreement. The interest rate swap matured in April 2011. Prior to April 2011, the interest rate swap had a notional amount of \$50,000,000. The Company paid to the counterparty a fixed rate of 5.365% of the notional amount of the interest rate swap and received a floating rate from the counterparty based on LIBOR. In the opinion of management and as permitted by Accounting Standards Codification Topic 815, *Derivatives and Hedging* ("ASC 815"), the interest rate swap (as a cash flow hedge) was a fully effective hedge. Payments or receipts of cash under the interest rate swap were shown as a part of operating cash flows, consistent with the interest expense incurred pursuant to the revolving credit agreement. An increase in the fair value of the interest rate swap, net of tax, of \$515,000 and \$1,334,000 was included in other comprehensive income in the years ended December 31, 2011 and 2010, respectively.

#### 8. Fair Value Measurements

The fair value of a financial instrument is the amount at which the instrument could be exchanged in an orderly transaction between market participants to sell the asset or transfer the liability. The inputs used by the Company to measure fair value are classified into the following fair value hierarchy:

Level 1: Quoted prices in active markets for identical assets or liabilities.

Level 2: Inputs other than quoted prices included in Level 1 that are observable for the asset or liability through corroboration with market data at the measurement date.

Level 3: Unobservable inputs that reflect management's best estimate of what market participants would use in pricing the asset or liability at the measurement date.

The Company adopted the updated guidance of the FASB related to fair value measurements and disclosures, which requires a reporting entity to disclose separately the amounts of significant transfers in and out of Level 1 and Level 2 fair value measurements and to describe the reasons for the transfers. In addition, in the reconciliation for fair value measurements using significant unobservable inputs, or Level 3, a reporting entity should disclose separately information about purchases, sales, issuances and settlements. The updated guidance also requires that an entity should provide fair value measurement disclosures for each class of assets and liabilities and disclosures about the valuation techniques and inputs used to measure fair value for both recurring and non-recurring fair value measurements for Level 2 and Level 3 fair value measurements. The guidance was effective for the Company January 1, 2010, except for the disclosures about purchases, sales, issuances and settlements in the roll forward activity in Level 3 fair value measurements, which was effective for the Company January 1, 2011. The adoption of the updated guidance for Level 3 fair value measurements did not have an impact on the Company's consolidated results of operations or financial condition.

In determining the fair value of assets and liabilities that are measured on a recurring basis at December 31, 2012 and 2011, with the exception of the contingent purchase price payable, the Company utilized Level 2 inputs to perform such measurements methods which were commensurate with the market approach. The Company utilized Level 3 inputs, which utilizes unobservable data, to measure the fair value of the contingent purchase price payable (in thousands):

	<u>2012</u>	<u>2011</u>
<b>Assets:</b>		
Supplemental executive retirement savings plan investments - Level 2	<u>\$ 8,804</u>	<u>\$ 6,516</u>
<b>Liabilities:</b>		
Contingent purchase price payable - Level 3 (see note 2)	<u>\$ 2,744</u>	<u>\$ 3,100</u>

The fair value of the supplemental executive retirement savings plan investments, which are included in prepaid and other current assets, was determined using the calculated net asset values obtained from the plan administrator and observable inputs of similar public mutual fund investments. The fair value of the contingent purchase price payable related to the centers acquired from NSC as of December 31, 2012 was determined utilizing the actual earnings of those centers during the earnout period, January 1, 2012 to December 31, 2012, in accordance with the purchase agreement. The fair value of the contingent purchase price payable as of December 31, 2011 was based on an estimate of the expected earnings of the centers acquired from NSC utilizing various scenarios and weighting the probable outcome of each scenario using a range of expected probability of 25% to 40%. Management discounted the results of such analysis using a discount rate of 1.6%. During the year ended December 31, 2012, the Company recognized an unrealized gain of approximately \$356,000 in the accompanying consolidated statements of earnings. The change

in fair value is a result of the completion of the earnout period and the final measurement of the excess earnings over the targeted earnings of the acquired centers. The Company expects to fund the contingent purchase price payable using its revolving credit facility during the first quarter of 2013. There were no transfers to or from Levels 1 and 2 during the year ended December 31, 2012.

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

Cash and cash equivalents, receivables and payables are reflected in the financial statements at cost, which approximates fair value. The fair value of fixed rate long-term debt, with a carrying value of \$354,105,000, was approximately \$379,036,000 at December 31, 2012. The fair value of variable-rate long-term debt approximates its carrying value of \$284,007,000 at December 31, 2012. The fair value of fixed rate long-term debt, with a carrying value of \$101,188,000, was approximately \$105,302,000 at December 31, 2011. The fair value of variable-rate long-term debt approximates its carrying value of \$357,575,000 at December 31, 2011. With the exception of the Company's Senior Unsecured Notes, the fair value of fixed rate debt (Level 2) is determined based on an estimation of discounted future cash flows of the debt at rates currently quoted or offered to the Company for similar debt instruments of comparable maturities by its lenders. The fair value of the Company's Senior Unsecured Notes (Level 1) is determined based on quoted prices in an active market.

## 9. Leases

The Company has entered into various building and equipment capital and operating leases for its surgery centers in operation and under development and for office space, expiring at various dates through 2031. Future minimum lease payments, including payments during expected renewal option periods, at December 31, 2012 were as follows (in thousands):

<u>Year Ended December 31,</u>	<u>Capitalized Equipment Leases</u>	<u>Operating Leases</u>
2013	\$ 2,674	\$ 47,102
2014	1,859	46,568
2015	1,383	45,745
2016	1,125	44,973
2017	1,011	44,466
Thereafter	7,937	362,031
<b>Total minimum rentals</b>	<b>15,989</b>	<b>\$ 590,885</b>
Less amounts representing interest at rates ranging from 3.8% to 11.8%	4,007	
<b>Capital lease obligations</b>	<b>\$ 11,982</b>	

At December 31, 2012, buildings and equipment with a cost of approximately \$16,219,000 and accumulated depreciation of approximately \$4,243,000 were held under capital leases. The Company and the partners in the partnerships have guaranteed payment of certain of these leases. Rental expense for operating leases for the years ended December 31, 2012, 2011 and 2010 was approximately \$47,278,000, \$42,413,000 and \$37,301,000, respectively.

## 10. Shareholders' Equity

### a. Common Stock

On October 20, 2010, the Company's Board of Directors authorized a stock repurchase program for up to \$40,000,000 of the Company's shares of common stock to be purchased over the following 18 months. On April 24, 2012, the Board of Directors authorized a new stock purchase program for up to \$40,000,000 of the Company's shares of common stock through November 1, 2013.

During the year ended 2012, the Company purchased 415,084 shares of the Company's common stock for approximately \$11,838,000, at an average price of \$28.50 per share, in order to mitigate the dilutive effect of shares issued upon the exercise of stock options pursuant to the Company's stock incentive plans. During the year ended 2011, the Company purchased 344,100 shares of the Company's common stock for approximately \$8,584,000, at an average price of \$24.92 per share. In addition, during 2012 and 2011, the Company repurchased 48,139 shares and 62,700 shares, respectively, of common stock for approximately \$1,263,000 and \$1,423,000 to cover payroll withholding taxes in connection with the vesting of restricted stock awards in accordance with the restricted stock agreements.

### b. Stock Incentive Plans

In May 2006, the Company adopted the AmSurg Corp. 2006 Stock Incentive Plan. The Company also has options outstanding under the AmSurg Corp. 1997 Stock Incentive Plan, under which no additional options may be granted. Under these plans, the Company has granted restricted stock and non-qualified options to purchase shares of common stock to employees and outside directors from its authorized but unissued common stock.

At December 31, 2012, 2,760,250 shares were authorized for grant under the 2006 Stock Incentive Plan and 1,069,084 shares were available for future equity grants, including 906,972 shares available for issuance as restricted stock. Restricted stock granted to outside directors prior to 2010 is fully vested but is restricted from trading for five years from the date of grant. Restricted stock granted to outside directors in 2011 and 2012 vests over a two and one year period, respectively, and is subject to certain holding restrictions. Restricted stock granted to employees during 2010 and thereafter vests over four years in three equal installments beginning on the second anniversary of the date of grant. Restricted stock granted to

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

employees prior to 2010 vests at the end of four years from the date of grant. In addition, shares held by the Company's senior management are subject to certain holding restrictions. The fair value of restricted stock is determined based on the closing bid price of the Company's common stock on the grant date.

Options are granted at market value on the date of the grant and vest over four years. No options have been issued subsequent to 2008 and all outstanding options are fully vested. Outstanding options have a term of ten years from the date of grant.

Other information pertaining to share-based activity for the years ended December 31, 2012, 2011 and 2010 was as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Share-based compensation expense	\$ 6,692	\$ 6,178	\$ 4,869
Fair value of shares vested	6,425	7,356	1,647
Cash received from option exercises	18,214	6,872	2,583
Tax benefit from option exercises	1,784	977	200

As of December 31, 2012, the Company had total unrecognized compensation cost of approximately \$6,382,000 related to non-vested awards, which the Company expects to recognize through 2016 and over a weighted-average period of 1.1 years.

Average outstanding share-based awards to purchase approximately 20,000, 923,000 and 2,400,000 shares of common stock that had an exercise price in excess of the average market price of the common stock during the years ended December 31, 2012, 2011 and 2010, respectively, were not included in the calculation of diluted securities under the treasury method for purposes of determining diluted earnings per share due to their anti-dilutive impact.

A summary of the status of and changes for non-vested restricted shares for the three years ended December 31, 2012, is as follows:

	<u>Number of Shares</u>	<u>Weighted Average Grant Price</u>
Non-vested shares at January 1, 2010	466,387	\$ 22.29
Shares granted	233,460	21.83
Shares vested	(8,973)	20.45
Shares forfeited	<u>(25,965)</u>	22.21
Non-vested shares at December 31, 2010	664,909	\$ 22.16
Shares granted	276,869	21.78
Shares vested	(208,949)	23.11
Shares forfeited	<u>(417)</u>	24.75
Non-vested shares at December 31, 2011	732,412	\$ 21.91
Shares granted	281,429	26.78
Shares vested	(183,019)	25.98
Shares forfeited	<u>(2,136)</u>	26.26
Non-vested shares at December 31, 2012	<u>828,686</u>	\$ 22.50

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

A summary of stock option activity for the three years ended December 31, 2012 is summarized as follows:

	<u>Number of Shares</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted Average Remaining Contractual Term (in years)</u>
Outstanding at January 1, 2010	3,151,052	\$ 22.22	5.0
Options exercised with total intrinsic value of \$511,000	(157,750)	16.38	
Options terminated	<u>(91,313)</u>	23.73	
Outstanding at December 31, 2010	2,901,989	\$ 22.49	4.5
Options exercised with total intrinsic value of \$2,482,000	(374,350)	18.36	
Options terminated	<u>(17,585)</u>	25.42	
Outstanding at December 31, 2011	2,510,054	\$ 23.09	3.4
Options exercised with total intrinsic value of \$6,287,000	(841,599)	21.64	
Options terminated	<u>(5,625)</u>	21.85	
Outstanding at December 31, 2012 with aggregate intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9
Vested or expected to vest at December 31, 2012 with total intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9
Exercisable at December 31, 2012 with total intrinsic value of \$10,289,000	<u>1,662,830</u>	\$ 23.82	2.9

The aggregate intrinsic value represents the total pre-tax intrinsic value received by the option holders on the exercise date or that would have been received by the option holders had all holders of in-the-money outstanding options at December 31, 2012 exercised their options at the Company's closing stock price on December 31, 2012.

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**d. Earnings per Share**

The following is a reconciliation of the numerator and denominators of basic and diluted earnings per share (in thousands, except per share amounts):

	<u>Earnings (Numerator)</u>	<u>Shares (Denominator)</u>	<u>Per Share Amount</u>
<b>For the year ended December 31, 2012:</b>			
Net earnings from continuing operations attributable to			
AmSurg Corp. per common share (basic)	\$ 62,585	30,773	\$ 2.03
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>835</u>	
Net earnings from continuing operations attributable to			
AmSurg Corp. per common share (diluted)	<u>\$ 62,585</u>	<u>31,608</u>	\$ 1.98
Net earnings attributable to AmSurg Corp. per common share (basic)	\$ 62,563	30,773	\$ 2.03
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>835</u>	
Net earnings attributable to AmSurg Corp. per common share (diluted)	<u>\$ 62,563</u>	<u>31,608</u>	\$ 1.98
<b>For the year ended December 31, 2011:</b>			
Net earnings from continuing operations attributable to			
AmSurg Corp. per common share (basic)	\$ 50,394	30,452	\$ 1.65
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>759</u>	
Net earnings from continuing operations attributable to			
AmSurg Corp. per common share (diluted)	<u>\$ 50,394</u>	<u>31,211</u>	\$ 1.61
Net earnings attributable to AmSurg Corp. per common share (basic)	\$ 49,997	30,452	\$ 1.64
Effect of dilutive securities options and non-vested shares	<u>-</u>	<u>759</u>	
Net earnings attributable to AmSurg Corp. per common share (diluted)	<u>\$ 49,997</u>	<u>31,211</u>	\$ 1.60
<b>For the year ended December 31, 2010:</b>			
Net earnings from continuing operations attributable to			
AmSurg Corp. per common share (basic)	\$ 49,998	30,255	\$ 1.65

Effect of dilutive securities options and non-vested shares		-	434		
Net earnings from continuing operations attributable to					
AmSurg Corp. per common share (diluted)	\$	49,998	30,689	\$	1.63
Net earnings attributable to AmSurg Corp. per common share (basic)	\$	49,825	30,255	\$	1.65
Effect of dilutive securities options and non-vested shares		-	434		
Net earnings attributable to AmSurg Corp. per common share (diluted)	\$	49,825	30,689	\$	1.62

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

**11. Income Taxes**

Total income taxes expense (benefit) for the years ended December 31, 2012, 2011 and 2010 was included within the following sections of the consolidated financial statements as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Income from continuing operations	\$ 42,627	\$ 35,254	\$ 32,991
Discontinued operations	1,311	2,751	207
Shareholders' equity	(1,581)	(649)	(71)
Other comprehensive income	-	332	860
<b>Total</b>	<u>\$ 42,357</u>	<u>\$ 37,688</u>	<u>\$ 33,987</u>

Income tax expense from continuing operations for the years ended December 31, 2012, 2011 and 2010 was comprised of the following (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
<b>Current:</b>			
Federal	\$ 15,313	\$ 11,643	\$ 10,959
State	4,971	3,534	3,263
<b>Deferred:</b>			
Federal	19,135	17,693	16,422
State	3,208	2,384	2,347
<b>Income tax expense</b>	<u>\$ 42,627</u>	<u>\$ 35,254</u>	<u>\$ 32,991</u>

Income tax expense from continuing operations for the years ended December 31, 2012, 2011 and 2010 differed from the amount computed by applying the U.S. federal income tax rate of 35% to earnings before income taxes as a result of the following (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Statutory federal income tax	\$ 92,741	\$ 78,514	\$ 73,397
Less federal income tax assumed directly by noncontrolling interests	(55,916)	(48,607)	(44,351)
State income taxes, net of federal income tax benefit	5,309	3,629	3,470
Increase in valuation allowances	419	1,622	441
Interest related to unrecognized tax benefits	(109)	(83)	(151)
Other	183	179	185
<b>Income tax expense</b>	<u>\$ 42,627</u>	<u>\$ 35,254</u>	<u>\$ 32,991</u>

The Company recognizes interest and penalties related to unrecognized tax benefits in income tax expense. Decreases in interest obligations of \$132,000, \$109,000 and \$191,000 were recognized in the consolidated statement of earnings for the years ended December 31, 2012, 2011 and 2010, respectively, resulting in a total recognition of interest obligations of approximately \$1,132,000 and \$1,264,000 in the consolidated balance sheet at December 31, 2012 and 2011, respectively. No amounts for penalties have been recorded.

The Company primarily has unrecognized tax benefits that represent an amortization deduction which is temporary in nature. A reconciliation of the beginning and ending amount of the liability associated with unrecognized tax benefits for the years ended December 31, 2012, 2011 and 2010 is as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
--	-------------	-------------	-------------

Balance at beginning of year	\$ 7,252	\$ 7,144	\$ 6,766
Additions for tax positions of current year	119	342	378
Increases (decreases) for tax positions taken during a prior period	1,985	(190)	-
Lapse of statute of limitations	(121)	(44)	-
Balance at end of year	<u>\$ 9,235</u>	<u>\$ 7,252</u>	<u>\$ 7,144</u>

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

The Company believes that it is reasonably possible that the total amount of unrecognized tax benefits will increase \$188,000 within the next 12 months due to continued amortization deductions. The total amount of unrecognized tax benefits that would affect our effective tax rate if recognized is approximately \$150,000.

The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities at December 31, 2012 and 2011 were as follows (in thousands):

	<b>2012</b>	<b>2011</b>
<b>Deferred tax assets:</b>		
Allowance for uncollectible accounts	\$ 884	\$ 841
Accrued assets and other	5,212	3,562
Valuation allowances	(2,084)	(1,491)
Total current deferred tax assets	4,012	2,912
Share-based compensation	9,500	9,138
Interest on unrecognized tax benefits	363	456
Accrued liabilities and other	3,077	2,951
Operating and capital loss carryforwards	9,169	7,624
Valuation allowances	(7,265)	(6,133)
Total non-current deferred tax assets	14,844	14,036
Total deferred tax assets	18,856	16,948
<b>Deferred tax liabilities:</b>		
Prepaid expenses	925	783
Property and equipment, principally due to differences in depreciation	3,997	4,143
Goodwill, principally due to differences in amortization	148,494	124,060
Total deferred tax liabilities	153,416	128,986
Net deferred tax liabilities	\$ 134,560	\$ 112,038

The net deferred tax liabilities at December 31, 2012 and 2011 were recorded as follows (in thousands):

	<b>2012</b>	<b>2011</b>
Current deferred income tax assets	\$ 3,088	\$ 2,129
Non-current deferred income tax liabilities	137,648	114,167
Net deferred tax liabilities	\$ 134,560	\$ 112,038

The Company has provided valuation allowances on its gross deferred tax assets to the extent that management does not believe that it is more likely than not that such asset will be realized. Capital loss carryforwards will begin to expire in 2013, and state net operating losses will begin to expire in 2015.

## 12. Related Party Transactions

Certain surgery centers lease space from entities affiliated with their physician partners at negotiated rates that management believes were equal to fair market value at the inception of the leases based on relevant market data. Certain surgery centers reimburse their physician partners for salaries and benefits and billing fees related to time spent by employees of their practices on activities of the centers at current market rates. In addition, certain centers compensate at market rates their physician partners for physician advisory services provided to the surgery centers, including medical director and performance improvement services.

## Item 8. Financial Statements and Supplementary Data – (continued)

### AmSurg Corp. Notes to the Consolidated Financial Statements – (continued)

Related party payments for the years ended December 31, 2012, 2011 and 2010 were as follows (in thousands):

	2012	2011	2010
Operating leases	\$ 29,079	\$ 29,137	\$ 26,373
Salaries and benefits	65,908	64,830	61,524
Billing fees	11,126	11,240	11,387
Medical advisory services	2,671	2,575	2,245

The Company also reimburses their physician partners for operating expenses paid by the physician partners to third party providers on the behalf of the surgery center. For the years ended December 31, 2012, 2011 and 2010, reimbursed expenses were approximately 5% of other operating expenses as reported in the accompanying consolidated statement of earnings. The Company believes that the foregoing transactions are in its best interests.

It is the Company's policy that all transactions by the Company with officers, directors, five percent shareholders and their affiliates be entered into only if such transactions are on terms no less favorable to the Company than could be obtained from unaffiliated third parties, are reasonably expected to benefit the Company and are approved by the Nominating and Corporate Governance Committee of the Company's Board of Directors.

### 13. Employee Benefit Programs

As of January 1, 1999, the Company adopted the AmSurg 401(k) Plan and Trust. This plan is a defined contribution plan covering substantially all employees of the Company and provides for voluntary contributions by these employees, subject to certain limits. Company contributions are based on specified percentages of employee compensation. The Company funds contributions as accrued. The Company's contributions for the years ended December 31, 2012, 2011 and 2010 were approximately \$1,031,000, \$594,000 and \$561,000, respectively, and vest immediately or incrementally over five years, depending on the tenures of the respective employees for which the contributions were made.

As of January 1, 2000, the Company adopted the Supplemental Executive and Director Retirement Savings Plan. This plan is a defined contribution plan covering all officers of the Company and provides for voluntary contributions of up to 50% of employee annual compensation. Company contributions are at the discretion of the Compensation Committee of the Board of Directors and vest incrementally over five years. The employee and employer contributions are placed in a Rabbi Trust and recorded in the accompanying consolidated balance sheets in prepaid and other current assets. Employer contributions to this plan for the years ended December 31, 2012, 2011 and 2010 were approximately \$1,693,000, \$915,000 and \$234,000, respectively. On December 30, 2011, this plan was amended to allow non-employee directors to voluntarily contribute up to 100% of annual director cash compensation to the plan.

### 14. Commitments and Contingencies

The Company and its partnerships are insured with respect to medical malpractice risk on a claims-made basis. The Company also maintains insurance for general liability, director and officer liability and property. Certain policies are subject to deductibles. In addition to the insurance coverage provided, the Company indemnifies its officers and directors for actions taken on behalf of the Company and its partnerships. Management is not aware of any claims against it or its partnerships which would have a material financial impact on the Company.

Certain of the Company's wholly owned subsidiaries, as general partners in the limited partnerships, are responsible for all debts incurred but unpaid by the limited partnership. As manager of the operations of the limited partnerships, the Company has the ability to limit potential liabilities by curtailing operations or taking other operating actions.

In the event of a change in current law that would prohibit the physicians' current form of ownership in the partnerships, the Company would be obligated to purchase the physicians' interests in a majority of the Company's partnerships. The purchase price to be paid in such event would be determined by a predefined formula, as specified in the partnership agreements. The Company believes the likelihood of a change in current law, which would trigger such purchases, was remote as of December 31, 2012.

On September 1, 2011, the Company acquired interests in 17 centers from NSC and agreed to pay as additional consideration an amount up to \$7,500,000 based on a multiple of the excess earnings over the targeted earnings of the acquired centers (as defined), if any, from the period of January 1, 2012 to December 31, 2012. The Company has recorded \$2,744,000 in other accrued liabilities in the accompanying consolidated balance sheet which represents the fair value of such liability at December 31, 2012. Funding of such contingency is expected to occur during the first quarter of 2013.

On December 27, 2012, the Company entered into a lease agreement with an initial term of 15 years plus renewal options, pursuant to which the Company has agreed to lease an approximately 110,000 square foot building to be constructed in Nashville, Tennessee. The Company intends that the property will serve as its corporate headquarters beginning in 2015. Prior to taking possession, the Company may terminate the agreement if the landlord fails to satisfy certain construction milestones. The Company's annual rental obligation at the inception of the lease is approximately \$2,300,000 and increases by 1.9% annually thereafter during the initial term. In addition to base rent, the Company will pay additional rent consisting of, among other

**Item 8. Financial Statements and Supplementary Data – (continued)****AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

things, operating expenses, real estate taxes and insurance costs. The landlord will provide the Company with an allowance of approximately \$4,400,000 for certain interior tenant improvements.

**15. Supplemental Cash Flow Information**

Supplemental cash flow information for the years ended December 31 2012, 2011 and 2010 is as follows (in thousands):

	<u>2012</u>	<u>2011</u>	<u>2010</u>
Cash paid during the period for:			
Interest	\$ 14,786	\$ 13,815	\$ 12,219
Income taxes, net of refunds	19,615	10,232	16,776
Non-cash investing and financing activities:			
Increase in accounts payable associated with acquisition of property and equipment	248	659	164
Capital lease obligations	1,096	466	4,057
Restricted stock vested	4,835	4,476	48
Effect of acquisitions and related transactions:			
Assets acquired, net of cash and adjustments	470,172	408,429	94,686
Liabilities assumed and noncontrolling interests	(194,613)	(163,970)	(37,101)
Notes payable and other obligations	1,829	(5,236)	(3,895)
Payment for interests in surgery centers and related transactions	<u>\$ 277,388</u>	<u>\$ 239,223</u>	<u>\$ 53,690</u>

**16. Financial Information for the Company and Its Subsidiaries**

In 2012, the Company issued the Senior Unsecured Notes in the aggregate principal amount of \$250,000,000. The Senior Unsecured Notes are senior unsecured obligations of the Company and are guaranteed by the Company and certain of its existing and subsequently acquired or organized wholly owned domestic subsidiaries. The Senior Unsecured Notes are guaranteed on a full and unconditional and joint and several basis, with limited exceptions considered customary for such guarantees, including the release of the guarantee when a subsidiary's assets are sold. The following condensed consolidating financial statements present the Company (as parent issuer), the subsidiary guarantors, the subsidiary non-guarantors and consolidating adjustments. These condensed consolidating financial statements have been prepared and presented in accordance with SEC Regulation S-X Rule 3-10 "Financial Statements of Guarantors and Issuers of Guaranteed Securities Registered or Being Registered." The operating and investing activities of the separate legal entities are fully interdependent and integrated. Accordingly, the results of the separate legal entities are not representative of what the operating results would be on a stand-alone basis.

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

Consolidating Balance Sheet - December 31, 2012 (Dollars in thousands)

	Parent Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
<b>Assets</b>					
Current assets:					
Cash and cash equivalents	\$ 7,259	\$ -	\$ 39,139	\$ -	\$ 46,398
Accounts receivable, net	-	-	96,752	-	96,752
Supplies inventory	-	-	18,406	-	18,406
Deferred income taxes	3,088	-	-	-	3,088
Prepaid and other current assets	19,342	-	13,160	(4,965)	27,537
Total current assets	29,689	-	167,457	(4,965)	192,181
Property and equipment, net	9,199	-	157,413	-	166,612
Investments in unconsolidated affiliates and long-term notes receivable	1,413,061	1,381,596	-	(2,783,383)	11,274
Goodwill and other intangible assets, net	21,311	-	1,206	1,652,002	1,674,519
Total assets	<u>\$ 1,473,260</u>	<u>\$ 1,381,596</u>	<u>\$ 326,076</u>	<u>\$ (1,136,346)</u>	<u>\$ 2,044,586</u>
<b>Liabilities and Equity</b>					
Current liabilities:					
Current portion of long-term debt	\$ 5,357	\$ -	\$ 12,050	\$ -	\$ 17,407
Accounts payable	1,379	-	26,035	(3,905)	23,509
Other accrued liabilities	29,380	-	15,177	(1,060)	43,497
Total current liabilities	36,116	-	53,262	(4,965)	84,413
Long-term debt	599,423	-	52,747	(31,465)	620,705
Deferred income taxes	137,648	-	-	-	137,648
Other long-term liabilities	10,585	-	15,387	-	25,972
Noncontrolling interests – redeemable	-	-	61,939	113,443	175,382
Equity:					
Total AmSurg Corp. equity	689,488	1,381,596	108,412	(1,490,008)	689,488
Noncontrolling interests – non-redeemable	-	-	34,329	276,649	310,978
Total equity	689,488	1,381,596	142,741	(1,213,359)	1,000,466
Total liabilities and equity	<u>\$ 1,473,260</u>	<u>\$ 1,381,596</u>	<u>\$ 326,076</u>	<u>\$ (1,136,346)</u>	<u>\$ 2,044,586</u>

Consolidating Balance Sheet - December 31, 2011 (Dollars in thousands)

	Parent Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
<b>Assets</b>					
Current assets:					
Cash and cash equivalents	\$ 8,530	\$ -	\$ 32,188	\$ -	\$ 40,718
Accounts receivable, net	-	-	93,454	-	93,454
Supplies inventory	-	-	15,039	-	15,039
Deferred income taxes	2,129	-	-	-	2,129
Prepaid and other current assets	13,339	-	11,286	(2,750)	21,875
Total current assets	23,998	-	151,967	(2,750)	173,215
Property and equipment, net	8,574	-	135,984	-	144,558
Investments in unconsolidated affiliates and long-term notes receivable	1,145,683	1,113,430	-	(2,248,591)	10,522
Goodwill and other intangible assets, net	13,989	-	1,436	1,229,298	1,244,723
Total assets	<u>\$ 1,192,244</u>	<u>\$ 1,113,430</u>	<u>\$ 289,387</u>	<u>\$ (1,022,043)</u>	<u>\$ 1,573,018</u>
<b>Liabilities and Equity</b>					
Current liabilities:					

Current portion of long-term debt	\$ -	\$ -	\$ 10,800	\$ -	\$ 10,800
Accounts payable	2,347	-	21,489	(2,294)	21,542
Other accrued liabilities	19,485	-	12,283	(456)	31,312
Total current liabilities	21,832	-	44,572	(2,750)	63,654
Long-term debt	426,000	-	50,762	(28,799)	447,963
Deferred income taxes	114,167	-	-	-	114,167
Other long-term liabilities	14,000	-	14,131	-	28,131
Noncontrolling interests – redeemable	-	-	64,150	106,486	170,636
Equity:					
Total AmSurg Corp. equity	616,245	1,113,430	95,081	(1,208,511)	616,245
Noncontrolling interests – non-redeemable	-	-	20,691	111,531	132,222
Total equity	616,245	1,113,430	115,772	(1,096,980)	748,467
Total liabilities and equity	\$ 1,192,244	\$ 1,113,430	\$ 289,387	\$ (1,022,043)	\$ 1,573,018

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.  
Notes to the Consolidated Financial Statements – (continued)**

Consolidating Statement of Earnings - Year Ended December 31, 2012 (In thousands)

	Parent Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 19,907	\$ -	\$ 923,503	\$ (14,901)	\$ 928,509
Operating expenses:					
Salaries and benefits	54,895	-	237,268	(450)	291,713
Supply cost	-	-	132,044	-	132,044
Other operating expenses	20,499	-	188,245	(14,451)	194,293
Depreciation and amortization	2,860	-	27,218	-	30,078
Total operating expenses	78,254	-	584,775	(14,901)	648,128
Equity in earnings of unconsolidated affiliates	178,137	178,137	-	(354,710)	1,564
Operating income	119,790	178,137	338,728	(354,710)	281,945
Interest expense	14,803	-	2,169	-	16,972
Earnings from continuing operations before income taxes	104,987	178,137	336,559	(354,710)	264,973
Income tax expense	41,059	-	1,568	-	42,627
Net earnings from continuing operations	63,928	178,137	334,991	(354,710)	222,346
Net earnings from discontinued operations	(1,365)	-	2,662	-	1,297
Net earnings	62,563	178,137	337,653	(354,710)	223,643
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	159,761	-	159,761
Net earnings from discontinued operations	-	-	1,319	-	1,319
Total net earnings attributable to noncontrolling interests	-	-	161,080	-	161,080
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 63,928	\$ 178,137	\$ 175,230	\$ (354,710)	\$ 62,585
Discontinued operations, net of income tax	(1,365)	-	1,343	-	(22)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563
Net earnings and comprehensive income, net of tax	\$ 62,563	\$ 178,137	\$ 337,653	\$ (354,710)	\$ 223,643
Less comprehensive income attributable to noncontrolling interests	-	-	161,080	-	161,080
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 62,563	\$ 178,137	\$ 176,573	\$ (354,710)	\$ 62,563

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

Consolidating Statement of Earnings - Year Ended December 31, 2011 (In thousands)

	Parent Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 11,253	\$ -	\$ 774,335	\$ (8,001)	\$ 777,587
Operating expenses:					
Salaries and benefits	42,739	-	198,006	(359)	240,386
Supply cost	-	-	102,356	-	102,356
Other operating expenses	19,468	-	157,904	(7,642)	169,730
Depreciation and amortization	2,487	-	23,385	-	25,872
Total operating expenses	64,694	-	481,651	(8,001)	538,344
Equity in earnings of unconsolidated affiliates	152,409	152,409	-	(304,205)	613
Operating income	98,968	152,409	292,684	(304,205)	239,856
Interest expense	13,195	-	2,135	-	15,330
Earnings from continuing operations before income taxes	85,773	152,409	290,549	(304,205)	224,526
Income tax expense	34,072	-	1,182	-	35,254
Net earnings from continuing operations	51,701	152,409	289,367	(304,205)	189,272
Net earnings from discontinued operations	(1,704)	-	2,546	-	842
Net earnings	49,997	152,409	291,913	(304,205)	190,114
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	138,878	-	138,878
Net earnings from discontinued operations	-	-	1,239	-	1,239
Total net earnings attributable to noncontrolling interests	-	-	140,117	-	140,117
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,997	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 49,997
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 51,701	\$ 152,409	\$ 150,489	\$ (304,205)	\$ 50,394
Discontinued operations, net of income tax	(1,704)	-	1,307	-	(397)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,997	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 49,997
Net earnings	\$ 49,997	\$ 152,409	\$ 291,913	\$ (304,205)	\$ 190,114
Other comprehensive income, net of income tax:					
Unrealized gain on interest rate swap, net of income tax	515	-	-	-	515
Comprehensive income, net of income tax	50,512	152,409	291,913	(304,205)	190,629
Less comprehensive income attributable to noncontrolling interests	-	-	140,117	-	140,117
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 50,512	\$ 152,409	\$ 151,796	\$ (304,205)	\$ 50,512

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

Consolidating Statement of Earnings - Year Ended December 31, 2010 (In thousands)

	Parent Issuer	Guarantor Subsidiaries	Non-Guarantor Subsidiaries	Consolidating Adjustments	Total Consolidated
Revenues	\$ 6,267	\$ -	\$ 690,492	\$ (4,188)	\$ 692,571
Operating expenses:					
Salaries and benefits	34,872	-	174,527	(337)	209,062
Supply cost	-	-	89,863	-	89,863
Other operating expenses	13,502	-	136,149	(3,851)	145,800
Depreciation and amortization	2,108	-	22,557	-	24,665
Total operating expenses	50,482	-	423,096	(4,188)	469,390
Equity in earnings of unconsolidated affiliates	141,456	141,456	-	(282,912)	-
Operating income	97,241	141,456	267,396	(282,912)	223,181
Interest expense	11,269	-	2,207	-	13,476
Earnings from continuing operations before income taxes	85,972	141,456	265,189	(282,912)	209,705
Income tax expense	31,783	-	1,208	-	32,991
Net earnings from continuing operations	54,189	141,456	263,981	(282,912)	176,714
Net earnings from discontinued operations	(4,364)	-	8,146	-	3,782
Net earnings	49,825	141,456	272,127	(282,912)	180,496
Less net earnings attributable to noncontrolling interests:					
Net earnings from continuing operations	-	-	126,716	-	126,716
Net earnings from discontinued operations	-	-	3,955	-	3,955
Total net earnings attributable to noncontrolling interests	-	-	130,671	-	130,671
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,825	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 49,825
Amounts attributable to AmSurg Corp. common shareholders:					
Earnings from continuing operations, net of income tax	\$ 54,189	\$ 141,456	\$ 137,265	\$ (282,912)	\$ 49,998
Discontinued operations, net of income tax	(4,364)	-	4,191	-	(173)
Net earnings attributable to AmSurg Corp. common shareholders	\$ 49,825	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 49,825
Net earnings	\$ 49,825	\$ 141,456	\$ 272,127	\$ (282,912)	\$ 180,496
Other comprehensive income, net of income tax:					
Unrealized gain on interest rate swap, net of income tax	1,334	-	-	-	1,334
Comprehensive income, net of income tax	51,159	141,456	272,127	(282,912)	181,830
Less comprehensive income attributable to noncontrolling interests	-	-	130,671	-	130,671
Comprehensive income attributable to AmSurg Corp. common shareholders	\$ 51,159	\$ 141,456	\$ 141,456	\$ (282,912)	\$ 51,159

**Item 8. Financial Statements and Supplementary Data – (continued)**

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Cash Flows - Year Ended December 31, 2012 (In thousands)**

	<u>Parent Issuer</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>	<u>Consolidating Adjustments</u>	<u>Total Consolidated</u>
<b>Cash flows from operating activities:</b>					
Net cash flows \$ provided by (used in) operating activities	(83,605)	\$ 182,851	\$ 379,257	\$ (182,851)	\$ 295,652
<b>Cash flows from investing activities:</b>					
Acquisition of interests in surgery centers and related transactions	(90,029)	(280,189)	-	92,830	(277,388)
Acquisition of property and equipment	(3,681)	-	(25,183)	-	(28,864)
Proceeds from sale of interests in surgery centers	-	7,309	-	-	7,309
Net cash flows used in investing activities	(93,710)	(272,880)	(25,183)	92,830	(298,943)
<b>Cash flows from financing activities:</b>					
Proceeds from long-term borrowings	560,000	-	5,566	-	565,566
Repayment on long-term borrowings	(381,220)	-	(12,944)	-	(394,164)
Distributions to owners, including noncontrolling interests	-	-	(345,792)	182,851	(162,941)
Capital contributions	-	90,029	-	(90,029)	-
Changes in intercompany balances with affiliates, net	(2,666)	-	2,666	-	-
Other financing activities, net	(70)	-	3,381	(2,801)	510
Net cash flows provided by (used in) financing activities	176,044	90,029	(347,123)	90,021	8,971
Net increase (decrease) in cash and cash equivalents	(1,271)	-	6,951	-	5,680
Cash and cash equivalents, beginning of year	8,530	-	32,188	-	40,718

Cash and cash equivalents, end of year	\$	7,259	\$	-	\$	39,139	\$	-	\$	46,398
--	----	-------	----	---	----	--------	----	---	----	--------

**Consolidating Statement of Cash Flows - Year Ended December 31, 2011 (In thousands)**

	<u>Parent Issuer</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>	<u>Consolidating Adjustments</u>	<u>Total Consolidated</u>
<b>Cash flows from operating activities:</b>					
Net cash flows \$ provided by (used in) operating activities	(67,911)	\$ 151,558	\$ 311,334	\$ (151,558)	\$ 243,423
<b>Cash flows from investing activities:</b>					
Acquisition of interests in surgery centers and related transactions	(84,597)	(243,429)	-	88,803	(239,223)
Acquisition of property and equipment	(2,858)	-	(19,312)	-	(22,170)
Proceeds from sale of interests in surgery centers	-	7,274	(248)	-	7,026
Net cash flows used in investing activities	(87,455)	(236,155)	(19,560)	88,803	(254,367)
<b>Cash flows from financing activities:</b>					
Proceeds from long-term borrowings	281,100	-	7,769	-	288,869
Repayment on long-term borrowings	(118,100)	-	(11,007)	-	(129,107)
Distributions to owners, including noncontrolling interests	-	-	(290,282)	151,558	(138,724)
Capital contributions	-	84,597	-	(84,597)	-
Changes in intercompany balances with affiliates, net	(178)	-	178	-	-
Other financing activities, net	(3,609)	-	4,292	(4,206)	(3,523)
Net cash flows provided by (used in) financing activities	159,213	84,597	(289,050)	62,755	17,515
Net increase in cash and cash equivalents	3,847	-	2,724	-	6,571
Cash and cash equivalents, beginning of year	4,683	-	29,464	-	34,147
Cash and cash equivalents, end of year	\$ 8,530	\$ -	\$ 32,188	\$ -	\$ 40,718

Item 8. Financial Statements and Supplementary Data – (continued)

**AmSurg Corp.**  
**Notes to the Consolidated Financial Statements – (continued)**

**Consolidating Statement of Cash Flows - Year Ended December 31, 2010 (In thousands)**

	<u>Parent Issuer</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>	<u>Consolidating Adjustments</u>	<u>Total Consolidated</u>
<b>Cash flows from operating activities:</b>					
Net cash flows \$ provided by operating activities	20,905	\$ 143,049	\$ 298,359	\$ (231,738)	\$ 230,575
<b>Cash flows from investing activities:</b>					
Acquisition of interests in surgery centers and related transactions	-	(54,420)	-	730	(53,690)
Acquisition of property and equipment	(2,138)	-	(17,137)	-	(19,275)
Proceeds from sale of interests in surgery centers	-	60	-	-	60
Net cash flows used in investing activities	(2,138)	(54,360)	(17,137)	730	(72,905)
<b>Cash flows from financing activities:</b>					
Proceeds from long-term borrowings	173,800	-	2,819	-	176,619
Repayment on long-term borrowings	(187,100)	-	(8,860)	-	(195,960)
Distributions to owners, including noncontrolling interests	-	(88,689)	(275,159)	231,738	(132,110)
Changes in intercompany balances with affiliates, net	(799)	-	799	-	-
Other financing activities, net	(1,573)	-	854	(730)	(1,449)
Net cash flows used in financing activities	(15,672)	(88,689)	(279,547)	231,008	(152,900)
Net increase in cash and cash equivalents	3,095	-	1,675	-	4,770
Cash and cash equivalents, beginning of year	1,588	-	27,789	-	29,377
Cash and cash equivalents, end of year	\$ 4,683	\$ -	\$ 29,464	\$ -	\$ 34,147

**17. Subsequent Events**

The Company assessed events occurring subsequent to December 31, 2012 for potential recognition and disclosure in the consolidated financial

statements. No events have occurred that would require adjustment to or disclosure in the consolidated financial statements.

**Item 8. Financial Statements and Supplementary Data – (continued)**  
**Quarterly Statement of Earnings Data (Unaudited)**

The following table presents certain quarterly statement of earnings data for the years ended December 31, 2012 and 2011. The quarterly statement of earnings data set forth below was derived from our unaudited financial statements and includes all adjustments, consisting of normal recurring adjustments, which we consider necessary for a fair presentation thereof. Results of operations for any particular quarter are not necessarily indicative of results of operations for a full year or predictive of future periods.

	2012				2011			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
	(In thousands, except per share data)							
Revenues	\$ 228,899	\$ 230,326	\$ 225,124	\$ 244,160	\$ 176,531	\$ 186,292	\$ 193,616	\$ 221,148
Earnings from continuing operations								
before income taxes	66,342	67,024	63,504	68,103	51,903	55,814	55,574	61,235
Net earnings from continuing operations	55,526	55,862	53,374	57,584	43,744	47,026	47,249	51,253
Net earnings (loss) from discontinued operations	(587)	(317)	391	1,810	884	(649)	368	239
Net earnings	54,939	55,545	53,765	59,394	44,628	46,377	47,617	51,492
Net earnings (loss) attributable to AmSurg Corp. common shareholders:								
Continuing	15,554	16,060	15,281	15,690	11,460	12,535	12,847	13,552
Discontinued	(778)	(524)	156	1,124	233	(905)	279	(4)
Net earnings	\$ 14,776	\$ 15,536	\$ 15,437	\$ 16,814	\$ 11,693	\$ 11,630	\$ 13,126	\$ 13,548
Diluted net earnings from continuing operations per common share	\$ 0.50	\$ 0.51	\$ 0.48	\$ 0.49	\$ 0.37	\$ 0.40	\$ 0.41	\$ 0.43
Diluted net earnings per common share	\$ 0.47	\$ 0.49	\$ 0.49	\$ 0.53	\$ 0.38	\$ 0.37	\$ 0.42	\$ 0.43

## Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure

Not applicable.

### Item 9A. Controls and Procedures

#### Management's Report on Internal Control Over Financial Reporting

We are responsible for the preparation and integrity of the consolidated financial statements appearing in our Annual Report. The consolidated financial statements were prepared in conformity with United States generally accepted accounting principles and include amounts based on management's estimates and judgments. All other financial information in this report has been presented on a basis consistent with the information included in the consolidated financial statements.

We are also responsible for establishing and maintaining adequate internal controls over financial reporting. We maintain a system of internal controls that is designed to provide reasonable assurance as to the fair and reliable preparation and presentation of the consolidated financial statements, as well as to safeguard assets from unauthorized use or disposition. The design of a control system must reflect the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs.

Our control environment is the foundation for our system of internal controls over financial reporting and is embodied in our Code of Conduct. It sets the tone of our organization and includes factors such as integrity and ethical values. Our internal controls over financial reporting are supported by formal policies and procedures which are reviewed, modified and improved as changes occur in business conditions and operations.

We conducted an evaluation of effectiveness of our internal controls over financial reporting based on the framework in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. This evaluation included review of the documentation of controls, effectiveness of controls and a conclusion on this evaluation. Although there are inherent limitations in the effectiveness of any system of internal controls over financial reporting, based on our evaluation, we have concluded that our internal controls over financial reporting were effective as of December 31, 2012.

The effectiveness of the Company's internal control over financial reporting has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, and they have issued an attestation report on the Company's internal control over financial reporting which is set forth in the Report of Independent Registered Public Accounting Firm in Part II, Item 9A of this Annual Report on Form 10-K.

/s/ Christopher A. Holden

Christopher A. Holden  
President and Chief Executive Officer

/s/ Claire M. Gulmi

Claire M. Gulmi  
Executive Vice President and Chief Financial Officer

**Item 9A. Controls and Procedures – (continued)**

**Report of Independent Registered Public Accounting Firm**

To the Board of Directors and Shareholders of  
AmSurg Corp.  
Nashville, Tennessee

We have audited the internal control over financial reporting of AmSurg Corp. and subsidiaries (the "Company") as of December 31, 2012, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedule as of and for the year ended December 31, 2012 of the Company and our reports dated February 27, 2013 expressed an unqualified opinion on those financial statements and financial statement schedule.

/s/ DELOITTE & TOUCHE LLP

Nashville, Tennessee

February 27, 2013

## **Item 9A. Controls and Procedures – (continued)**

### **Evaluation of Disclosure Controls and Procedures**

Under the supervision and with the participation of our management team, including our chief executive officer and chief financial officer, we conducted an evaluation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended, or the Exchange Act) as of December 31, 2012. Based on that evaluation, our chief executive officer (principal executive officer) and chief financial officer (principal accounting officer) have concluded that our disclosure controls and procedures are effective.

### **Changes in Internal Control Over Financial Reporting**

During the fourth fiscal quarter of the period covered by this report, there has been no change in our internal control over financial reporting that has materially affected or is reasonably likely to materially affect our internal control over financial reporting.

### **Item 9B. Other Information**

Not applicable.

## **Part III**

### **Item 10. Directors, Executive Officers and Corporate Governance**

Information with respect to our directors, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Election of Directors,” is incorporated herein by reference. Pursuant to General Instruction G(3), information concerning our executive officers is included in Part I of this Annual Report on Form 10-K under the caption “Executive Officers of the Registrant.”

Information with respect to compliance with Section 16(a) of the Securities Exchange Act of 1934, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Section 16(a) Beneficial Ownership Reporting Compliance,” is incorporated herein by reference.

Information with respect to our code of ethics, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Code of Conduct” and “Code of Ethics,” is incorporated herein by reference.

Information with respect to our audit committee and audit committee financial experts, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Election of Directors,” is incorporated herein by reference.

### **Item 11. Executive Compensation**

Information required by this caption, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Executive Compensation,” is incorporated herein by reference.

### **Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters**

Information with respect to security ownership of certain beneficial owners and management and related stockholder matters, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Stock Ownership” and information with respect to our equity compensation plans at December 31, 2012, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Equity Compensation Plan Information,” is incorporated herein by reference.

### **Item 13. Certain Relationships and Related Transactions, and Director Independence**

Information with respect to certain relationships and related transactions, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Certain Relationships and Related Transactions,” is incorporated herein by reference.

Information with respect to the independence of our directors, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Corporate Governance,” is incorporated herein by reference.

### **Item 14. Principal Accounting Fees and Services**

Information with respect to the fees paid to and services provided by our principal accountant, set forth in our Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 23, 2013, under the caption “Fees Billed to Us by Deloitte & Touche LLP During 2012 and 2011,” is incorporated herein by reference.



**Part IV**

**Item 15. Exhibits and Financial Statement Schedules**

(a) Financial Statements, Financial Statement Schedules and Exhibits

(1) **Financial Statements:** See Item 8 herein.

(2) **Financial Statement Schedules:**

Report of Independent Registered Public Accounting Firm	S-1
---	-----

Schedule II – Valuation and Qualifying Accounts	S-2
---	-----

(All other schedules are omitted because they are not applicable or not required, or because the required information is included in the consolidated financial statements or notes thereto.)

(3) **Exhibits:** See the exhibit listing set forth below.

(3) Exhibits

Exhibit	Description
2.1	Asset Purchase Agreement, dated August 23, 2011, by and among AmSurg, AmSurg Holdings, Inc. and National Surgical Care, Inc. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K, dated August 29, 2011)
2.2	Amendment No. 1 to Asset Purchase Agreement, dated September 1, 2011, by and among AmSurg, AmSurg Holdings, Inc. and National Surgical Care, Inc. (incorporated by reference to Exhibit 2.1 of the Current Report on Form 8-K, dated September 2, 2011)
3.1	Second Amended and Restated Charter of AmSurg, as amended (incorporated by reference to Exhibit 3.1 to the Quarterly Report on Form 10-Q for the quarter ended June 30, 2012)
3.2	Second Amended and Restated Bylaws of AmSurg, as amended (incorporated by reference to Exhibit 3.2 of the Current Report on Form 8-K, dated May 22, 2012)
4.1	Specimen common stock certificate (incorporated by reference to Exhibit 4.1 to the Registration Statement on Form 10/A-4 (filed with the Commission on July 13, 2001))
4.2	Indenture, dated as of November 20, 2012, among AmSurg Corp., the subsidiary guarantors listed therein and U.S. Bank National Association, as trustee (incorporated by reference to Exhibit 4.1 of the Current Report on Form 8-K, dated November 20, 2012)
4.3	Registration Rights Agreement, dated as of November 20, 2012, AmSurg Corp., the subsidiary guarantors listed therein, and SunTrust Robinson Humphrey, Inc., acting on behalf of itself and as the representative of the several Initial Purchasers listed therein (incorporated by reference to Exhibit 4.2 of the Current Report on Form 8-K, dated November 20, 2012)
10.1	* Form of Indemnification Agreement with directors, executive officers and advisors (incorporated by reference to Exhibit 10.3 to the Registration Statement on Form 10 (filed with the Commission on March 11, 1997))
10.2	Revolving Credit Agreement, dated as of May 28, 2010, among AmSurg, SunTrust Bank, as Administrative Agent, and various banks and other financial institutions (incorporated by reference to Exhibit 99.1 of the Current Report on Form 8-K, dated June 2, 2010)
10.3	First Amendment to Revolving Credit Agreement, dated as of April 6, 2011, among AmSurg, SunTrust Bank, as Administrative Agent, and various banks and other financial institutions (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K, dated April 12, 2011)
10.4	Second Amendment to Revolving Credit Agreement, dated as of April 6, 2011, among AmSurg, SunTrust Bank, as Administrative Agent, and various banks and other financial institutions (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K, dated April 12, 2011)

- 10.5 Third Amendment to Revolving Credit Agreement, dated as of August 30, 2011, among AmSurg, SunTrust Bank, as Administrative Agent, and various banks and other financial institutions (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K, dated September 2, 2011)
- 10.6 Fourth Amendment to Revolving Credit Agreement, dated as of June 29, 2012, among AmSurg Corp., the banks and other financial institutions from time to time party thereto, and SunTrust Bank, in its capacity as Administrative Agent for the lenders (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K, dated June 29, 2012)
- 10.7 Fifth Amendment to Revolving Credit Agreement, dated as of November 7, 2012, among AmSurg Corp., the banks and other financial institutions from time to time party thereto, and SunTrust Bank, in its capacity as Administrative Agent for the lenders (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K, dated November 20, 2012)
- 10.8 Note Purchase Agreement, dated as of May 28, 2010 among AmSurg, The Prudential Life Insurance Company of America, and various other financial institutions (incorporated by reference to Exhibit 99.2 of the Current Report on Form 8-K, dated June 2, 2010)
- 10.9 First Amendment to Note Purchase Agreement, dated as of April 6, 2011, among AmSurg, The Prudential Life Insurance Company of America, and various other financial institutions (incorporated by reference to Exhibit 10.3 of the Current Report on Form 8-K, dated April 12, 2011)
- 10.10 Second Amendment to Note Purchase Agreement, dated as of August 30, 2011, among AmSurg, The Prudential Life Insurance Company of America, and various other financial institutions (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K, dated September 2, 2011)

(3) Exhibits – (continued)

Exhibit	Description
10.11	Third Amendment to Note Purchase Agreement, dated as of June 29, 2012, among AmSurg Corp. and the holders of Notes party thereto (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K, dated June 29, 2012)
10.12	Fourth Amendment to Note Purchase Agreement, dated as of November 7, 2012, among AmSurg Corp. and the holders of Notes party thereto (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K, dated November 20, 2012)
10.13	Amended and Restated 1997 Stock Incentive Plan (incorporated by reference to Exhibit 4.1 to the Quarterly Report on Form 10-Q for the quarter ended June 30, 2004)
10.14	First Amendment to Amended and Restated 1997 Stock Incentive Plan (incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K, dated November 21, 2006)
10.15	Form of Non-Qualified Stock Option Agreement – 1997 Incentive Plan (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K, dated February 2, 2005)
10.16	Form of Restricted Stock Agreement for Non-Employee Directors – 1997 Incentive Plan (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K, dated May 24, 2005)
10.17	Lease Agreement dated February 24, 1999 between Burton Hills III, LLC and AmSurg (incorporated by reference to Exhibit 10.1 of the Quarterly Report on Form 10-Q for the quarter ended June 30, 1999)
10.18	First Amendment to Lease Agreement dated June 27, 2001 by and between Burton Hills III, LLC and AmSurg (incorporated by reference to Exhibit 10 of the Quarterly Report on Form 10-Q for the quarter ended September 30, 2002)
10.19	Second Amendment to Lease Agreement dated January 31, 2003 by and between Burton Hills III Partnership and AmSurg (incorporated by reference to Exhibit 10.14 to the Annual Report on Form 10-K for the year ended December 31, 2003)
10.20	Third Amendment to Lease Agreement dated September 1, 2003 by and between Burton Hills III Partnership and AmSurg (incorporated by reference to Exhibit 10.15 to the Annual Report on Form 10-K for the year ended December 31, 2003)
10.21	Fourth Amendment to Lease Agreement dated October 31, 2003 by and between Burton Hills III Partnership and AmSurg (incorporated by reference to Exhibit 10.16 to the Annual Report on Form 10-K for the year ended December 31, 2003)
10.22	Fifth Amendment to Lease Agreement, dated November 9, 2012, between Burton Hills III Investments and AmSurg Corp.

- 10.23 Sixth Amendment to Lease Agreement, dated December 27, 2012, between Burton Hills III Investments and AmSurg Corp. (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K, dated January 3, 2013)
- 10.24 Lease Agreement, dated December 27, 2012, between Burton 6, LLC and AmSurg Corp. (incorporated by reference to Exhibit 10.2 of the Current Report on Form 8-K, dated January 3, 2013)
- 10.25 First Amendment to Lease Agreement, dated February 15, 2013, between Burton 6, LLC and AmSurg Corp.
- 10.26 \* Amended and Restated AmSurg Corp. Supplemental Executive & Director Retirement Savings Plan (incorporated by reference to Exhibit 10.1 of the Current Report on Form 8-K dated January 6, 2012)
- 10.27 \* AmSurg Corp. 2006 Stock Incentive Plan, as amended (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K, filed on May 22, 2012)
- 10.28 \* Form of Restricted Share Award Agreement for Non-Employee Directors – 2006 Incentive Plan (incorporated by reference to Exhibit 99.3 to the Current Report on Form 8-K, dated February 21, 2007)
- 10.29 \* Form of Non-Qualified Stock Option Agreement for Executive Officers – 2006 Incentive Plan (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K, dated February 21, 2007)
- 10.30 \* Form of Restricted Share Award for Employees – 2006 Incentive Plan (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K, dated May 26, 2010)
- 10.31 \* Restricted Share Award Agreement, dated February 21, 2008, between the Company and Ken P. McDonald (incorporated by reference to Exhibit 10.20 to the Annual Report on Form 10-K for the year ended December 31, 2007)

(3) Exhibits – (continued)

Exhibit	Description
10.32	* Non-Qualified Stock Option Agreement, dated February 21, 2008, between the Company and Ken P. McDonald (incorporated by reference to Exhibit 10.21 to the Annual Report on Form 10-K for the year ended December 31, 2007)
10.33	* AmSurg Corp. Long-Term Care Plan (incorporated by reference to Exhibit 10.2 to the Quarterly Report on Form 10-Q for the quarter ended June 30, 2005)
10.34	* Amended and Restated Employment Agreement, dated January 30, 2009, between AmSurg and Christopher A. Holden (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K, dated February 5, 2009)
10.35	* Second Amended and Restated Employment Agreement, dated January 30, 2009, between AmSurg and Claire M. Gulmi (incorporated by reference to Exhibit 99.2 to the Current Report on Form 8-K, dated February 5, 2009)
10.36	* Second Amended and Restated Employment Agreement, dated January 30, 2009, between AmSurg and David L. Manning (incorporated by reference to Exhibit 99.3 to the Current Report on Form 8-K, dated February 5, 2009)
10.37	* Second Amended and Restated Employment Agreement, dated January 30, 2009, between AmSurg and Billie A. Payne (incorporated by reference to Exhibit 99.4 to the Current Report on Form 8-K, dated February 5, 2009)
10.38	* Employment Agreement, dated January 30, 2009, between AmSurg and Kevin D. Eastridge (incorporated by reference to Exhibit 99.5 to the Current Report on Form 8-K, dated February 5, 2009)
10.39	* Employment Agreement, dated March 23, 2009, between AmSurg and Phillip A. Clendenin (incorporated by reference to Exhibit 99.1 to the Current Report on Form 8-K, dated March 27, 2009)
10.40	* Schedule of Non-employee Director Compensation
21.1	Subsidiaries of AmSurg
23.1	Consent of Independent Registered Public Accounting Firm
24.1	Power of Attorney (appears on page 73)
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a)
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a)

Interactive data files pursuant to Rule 405 of Regulation S-T; (i) the Consolidated Balance Sheets at December 31, 2012 and December 31, 2011, (ii) the Consolidated Statements of Earnings for the years ended December 31, 2012, 2011 and 2010, (iii) the Consolidated Statements of Comprehensive Income for the years ended December 31, 2012, 2011 and 2010, (iv) the Consolidated Statements of Changes in Equity for the years ended December 31, 2012, 2011 and 2010, (v) the Consolidated Statements of Cash Flows for the years ended December 31, 2012, 2011 and 2010, and (vi) the Notes to the Consolidated Financial Statements for the years ended December 31, 2012, 2011 and 2010.

- \* Management contract or compensatory plan, contract or arrangement

**Signature**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**AMSURG CORP.**

Date: February 27, 2013

By: /s/ Christopher A. Holden

**Christopher A. Holden**

(President and Chief Executive Officer)

KNOW ALL MEN BY THESE PRESENTS, each person whose signature appears below hereby constitutes and appoints Christopher A. Holden and Claire M. Gulmi, and each of them, his or her true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him or her and in his or her name, place, and stead, in any and all capacities, to sign any and all amendments (including post-effective amendments) to this report, and to file the same with all exhibits thereto and all documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<u>/s/ Christopher A. Holden</u> Christopher A. Holden	President, Chief Executive Officer and Director (Principal Executive Officer)	February 27, 2013
<u>/s/ Claire M. Gulmi</u> Claire M. Gulmi	Executive Vice President, Chief Financial Officer, Secretary and Director (Principal Financial and Accounting Officer)	February 27, 2013
<u>/s/ Steven I. Geringer</u> Steven I. Geringer	Chairman of the Board	February 27, 2013
<u>/s/ Thomas G. Cigarran</u> Thomas G. Cigarran	Director	February 27, 2013
<u>/s/ James A. Deal</u> James A. Deal	Director	February 27, 2013

<u>/s/ Henry D. Herr</u> Henry D. Herr	Director	February 27, 2013
<u>/s/ Kevin P. Lavender</u> Kevin P. Lavender	Director	February 27, 2013
<u>/s/ Cynthia S. Miller</u> Cynthia S. Miller	Director	February 27, 2013
<u>/s/ John W. Popp, Jr., M.D.</u> John W. Popp, Jr., M.D.	Director	February 27, 2013

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Shareholders of  
AmSurg Corp.  
Nashville, Tennessee

We have audited the consolidated financial statements of AmSurg Corp. and subsidiaries (the "Company") as of December 31, 2012 and 2011, and for each of the three years in the period ended December 31, 2012, and the Company's internal control over financial reporting as of December 31, 2012, and have issued our reports thereon dated February 27, 2013; such consolidated financial statements and reports are included elsewhere in this Form 10-K. Our audits also included the consolidated financial statement schedule of the Company listed in Item 15. This consolidated financial statement schedule is the responsibility of the Company's management. Our responsibility is to express an opinion based on our audits. In our opinion, such consolidated financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

/s/ DELOITTE & TOUCHE LLP

Nashville, Tennessee  
February 27, 2013

S-1

---

**AmSurg Corp.**  
**Schedule II – Valuation and Qualifying Accounts**  
**For the Years Ended December 31, 2012, 2011 and 2010**  
**(In thousands)**

	<u>Balance at Beginning of Period</u>	<u>Additions</u>		<u>Deductions</u>	<u>Balance at End of Period</u>
		<u>Charged to Cost and Expenses</u>	<u>Charged to Other Accounts (1)</u>	<u>Charge-off Against Allowances</u>	
Allowance for uncollectible accounts included under					
the balance sheet caption "Accounts receivable":					
Year ended December 31, 2012	\$ 18,844	\$ 20,340	\$ 4,561	\$ (21,366)	\$ 22,379
Year ended December 31, 2011	\$ 13,070	\$ 18,501	\$ 3,967	\$ (16,694)	\$ 18,844
Year ended December 31, 2010	\$ 12,375	\$ 17,211	\$ 448	\$ (16,964)	\$ 13,070

(1) Valuation of allowance for uncollectible accounts as of the acquisition date of physician practice-based surgery centers, net of dispositions. See "Item 8. Financial Statements and Supplementary Data – Notes to the Consolidated Financial Statements – Note 2."



**BURTON HILLS III  
FIFTH AMENDMENT TO LEASE AGREEMENT**

This Fifth Amendment to Lease Agreement is, entered into as of the 9th day of November 2012, by Burton Hills III Investments, a Tennessee general partnership and successor by sale to Burton Hills III Partners LLP (hereinafter called "Landlord") and AmSurg Corporation, Inc., a Tennessee corporation (hereinafter called "Tenant").

**WITNESSETH:**

**Whereas**, the parties hereto did, on the 24th day of February 1999, enter into a Lease Agreement whereby Landlord leased to Tenant a certain portion of space in Burton Hills III Office Building in Nashville, Tennessee (hereinafter called the "Original Lease").

**Whereas**, the parties hereto did, on the 27th day of June 2001, enter into a First Amendment to Lease Agreement whereby Landlord leased to Tenant an additional portion of space in Burton Hills III Office Building in Nashville, Tennessee (the "First Amendment").

**Whereas**, the parties hereto did, on the 31st day of January 2003, enter into a Second Amendment to Lease Agreement whereby Landlord leased to Tenant an additional portion of space in Burton Hills III Office Building in Nashville, Tennessee (the "Second Amendment"; the Original Lease, the First Amendment and the Second Amendment being hereinafter collectively referred to as the "Lease").

**Whereas**, the parties hereto did, on the 1st day of September 2003, enter into a Third Amendment to Lease Agreement whereby Landlord leased to Tenant an additional portion of space in Burton Hills III Office Building in Nashville, Tennessee (the "Third Amendment").

**Whereas**, the parties hereto did, on the 31st day of October 2003, enter into a Fourth Amendment to the Lease Agreement whereby Landlord leased to Tenant an additional portion of space in Burton Hills III Office Building in Nashville, Tennessee and increase the Term of the Lease from ten (10) years to fifteen (15) years (the "Fourth Amendment; Original Lease, the First Amendment, Second Amendment, the Third Amendment and the Fourth Amendment being hereinafter collectively referred to as the "Lease").

**Whereas**, it is the desire of Landlord and Tenant to again amend the Lease in order to extend the Lease term for a period of Four (4) months.

**Now, therefore**, for and in consideration of the promises and covenants contained herein, the monetary considerations referred to and other good and sufficient consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Lease Extension: Landlord and Tenant agree to extend the Lease for a period of four (4) months (the Extension Period) beyond the current termination date of June 30th 2014. The new termination date of the Lease shall be October 31, 2014.
2. Revised Base Rent Payments: Effective July 1, 2014 Section 1.02 D, Minimum Annual Rent, shall be amended to reflect the following Lease rate for the Extension Period:

<b>TERM</b>	<b>Rate/RSF</b>	<b>Monthly Base Rent</b>
July 1, 2014 – October 31, 2014	\$27.50	\$101,112.92



3. Revised Section 2.05 of the Original Lease: Landlord and Tenant hereby agree that that the first sentence of Section 2.05 shall be replaced with the following:

"If Tenant holds over after the expiration or earlier termination of this Lease with the consent of the Landlord, Tenant shall become a tenant from month to month at two hundred (200%) of Tenant's then current rental rate including any additional rent for the Leased Premises in effect upon the date of such expiration or earlier termination (subject to adjustment as provided in Article 3 hereof and prorated on a daily basis), and otherwise upon the terms, covenants and conditions herein specified, so far as applicable."

4. Controlling Provisions. To the extent the provisions of this Fifth Amendment are inconsistent with the Lease, the terms of this Fifth Amendment shall control.
5. Authority. Landlord and Tenant affirm and covenant that each has the authority to enter into this Fifth Amendment and to abide by the terms hereof, and that the signatories hereto are authorized representatives of their respective entities empowered by their respective entities to execute this Fifth Amendment.
6. Force and Effect. Except as expressly amended and modified herein, all other terms, covenants and conditions of the Lease shall remain in full force and effect.
7. Successors and Assigns. The conditions, covenants and agreements contained herein shall be binding upon the parties hereto and their respective successors and assigns.

[END OF TEXT; SIGNATURES APPEAR ON THE FOLLOWING PAGE]

---

**In Witness Whereof**, the parties hereto have executed this Agreement on the day and year first above written.

**TENANT:**

**AMSURG CORPORATION**

BY: /s/ Christopher R. Kelly

TITLE: Vice President

**LANDLORD:**

**BURTON HILLS INVESTMENTS**

BY: /s/ Chuck Archerd

TITLE: Managing Partner

---



## FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (this "Amendment") is made as of February 15 2013 by and between Burton 6, LLC, a Tennessee limited liability company ("Landlord"), and AmSurg Corp., a Tennessee corporation ("Tenant").

### RECITALS

A. Landlord and Tenant entered into that certain Lease Agreement dated December 27, 2012 (the "Lease"), pursuant to which Landlord leased to Tenant that certain Building to be constructed by Landlord located on Burton Hills Boulevard, Nashville, Tennessee, and to contain 109,751 rentable square feet (the "Premises").

B. Landlord and Tenant wish to amend the Lease as described herein.

### AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant agree as follows:

#### 1. PARKING.

(a) Sections 3.d. and 3.f. of the Lease are hereby generally amended to delete "Ground Lessor" wherever it appears and replace it with "Adjacent Owner".

(b) The second and third sentences of Section 10 of the Lease are hereby deleted and replaced with the following:

"Tenant acknowledges that, pursuant and subject to the Declaration, the Adjacent Owner shall have rights to use those spaces in the Surface Parking Lot that are not reserved for Tenant's exclusive use, and twenty-one (21) parking spaces in the Parking Garage on an exclusive basis, which twenty-one (21) spaces shall be located on the Lower Level 01 of the Parking Garage as more particularly shown on Exhibit G attached hereto, and shall be marked for Adjacent Owner's use (collectively, the "**Adjacent Owner's Reserved Parking Spaces**"). Tenant agrees not to use the Adjacent Owner's Reserved Parking Spaces."

#### 2. GROUND LEASE. Section 3.c. of the Lease is hereby deleted and replaced with the following:

"c. Landlord represents and warrants that (i) the Land is currently owned by E.P. Real Estate Fund, L.P., a Tennessee limited partnership ("**Adjacent Owner**"), (ii) Landlord has the full power and authority to execute this Lease, (iii) Landlord shall acquire fee simple interest in the Land from Adjacent Owner on or before December 31, 2014, and (iv) the estate demised herein is and shall be subject only to the liens and encumbrances described on Exhibit D attached hereto, as the same may be modified from time to time in compliance with Section 3(f) below, and any new easements, restrictions or other encumbrances hereafter applicable to the Project executed in compliance with Section 3(f) below (collectively, the "**Permitted Encumbrances**"). In the event the Landlord does not acquire fee simple interest in the Land on or before December 31, 2014, then Tenant shall be entitled to terminate this Lease by delivering written notice of such termination to Landlord in addition to Tenant's other rights and remedies available at law."

3. OPERATING EXPENSES.

(a) Section 6.a.vi.(z) of the Lease is hereby deleted and replaced with the following:

“(z) Tenant shall receive the full benefit of any tax incentives procured with respect to the Project.”

(b) Section 6.c.(xxiv) of the Lease is hereby deleted and replaced with the following:

“(xxiv) costs or fees relating to the defense of Landlord's title to or interest in the Project, or any part thereof, or any costs or expenses associated with any sale or finance transaction;”

(c) Section 6.c.(xxx) of the Lease is hereby amended to delete “Ground Lessor” and replace it with “Adjacent Owner”

4. SUBORDINATION AND ATTORNMENT.

(a) The first sentence of Section 28(a) of the Lease is hereby amended to delete “and/or Ground Lessor”.

(b) The first sentence of Section 28(b) of the Lease is hereby amended to delete “or the Ground Lessor”.

5. PERMITTED EXCEPTIONS. The second sentence in the introductory paragraph of Exhibit D to the Lease is hereby deleted and replaced with the following:

“This exhibit will be updated as of the date of the acquisition of the Land to provide for only those matters expressly encumbering the Land.”

6. ADJACENT OWNER'S PARKING SPACES. Exhibit G attached hereto is hereby inserted as Exhibit G to the Lease.

7. INDEMNITY. The following is added as a new Section 47 of the Lease:

“47. ***Indemnity.*** Pursuant to the terms of the Declaration, as defined in Section 3(f) hereof, in the event New York Life Insurance Company (“NYL”) obtains title to the Adjacent Owner's property through foreclosure or deed in lieu of foreclosure, then NYL shall not be bound by the indemnity therein contained with regard to the acts of Adjacent Owner in the easement areas discussed in said Declaration. In the event NYL obtains title to the Adjacent Owner's parcel through foreclosure or deed in lieu of foreclosure, then, during NYL's ownership of the Adjacent Owner's parcel, Landlord shall indemnify Tenant for damage, loss or injury due to NYL's or its tenants' negligence or willful misconduct in the exercise of the easements and rights contained within the Declaration.”

8. MISCELLANEOUS. Capitalized terms used but not otherwise defined herein shall have the same meaning ascribed to them in the Lease. This Amendment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors. This Amendment shall be governed by and construed in accordance with the laws of the state in which the Premises is located. In the event of conflict or inconsistency between the provisions of this Amendment and any provisions of the Lease, the provisions of this Amendment shall govern. Except as set forth in this Amendment, all of the terms and conditions of the Lease shall continue in full force and effect throughout the term of the Lease.



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

LANDLORD:

BURTON 6, LLC,  
a Tennessee limited liability company

By: /s/ John W. Eakin

Name: John W. Eakin

Title: Manager

TENANT:

AMSURG CORP.,  
a Tennessee corporation

By: /s/ Christopher R. Kelly

Name: Christopher R. Kelly

Title: Vice President

EXHIBIT G

ADJACENT OWNER'S GARAGE PARKING SPACES

---



**Non-Employee Director Compensation**

The Chairman of the Board of Directors receives an annual retainer of \$120,000 for his services as Chairman and his attendance at meetings of the Board of Directors and committees of the Board. Each other non-employee director (the "non-employee directors") receives an annual retainer of \$60,000 for his or her services as a director. In addition, the Chairman of the Board of Directors receives an annual grant of restricted stock with a value equal to \$135,000, and each other non-employee director receives an annual grant of restricted stock with a value equal to \$100,000. Chairmen of the Audit, Compensation and Nominating and Governance Committees receive an annual retainer of \$35,000, \$25,000 and \$20,000, respectively. Non-chair members of the Audit Committee receive an annual retainer of \$20,000, and non-chair members of the Compensation and Nominating and Governance Committee receive an annual retainer of \$10,000 and \$7,500, respectively.

From time to time, the Board of Directors of the Company may form ad hoc committees. Each non-employee director who serves on an ad hoc committee receives \$1,000 for each meeting of the ad hoc committee that he or she attends, whether in person or via telephone, except that the Chair of any ad hoc committee receives \$2,000 for each such meeting that he or she attends.

The Company maintains a supplemental executive and director retirement savings plan pursuant to which non-employee directors may defer up to 100 percent of their cash director fees and make pre-tax contributions to an investment account established in their name. Participants in the supplemental executive and director retirement savings plan are fully vested in their contributions to the plan, and direct the investment of their accounts in investment alternatives that the Company selects. All contributions to the plan are subject to claims of our creditors.

The Company also reimburses each non-employee director for his or her out-of-pocket expenses incurred in attending Board of Directors' meetings and committee meetings.

---



## Subsidiary List

<b>Name of Subsidiary</b>	<b>State of Organization</b>	<b>Owned By</b>	<b>Ownership Percentage</b>
AmSurg KEC, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of Knoxville, L.P.	TN	AmSurg KEC, Inc.	51%
AmSurg EC Topeka, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of Topeka, L.P.	TN	AmSurg EC	51%
AmSurg EC St. Thomas, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of St. Thomas, L.P.	TN	AmSurg EC St. Thomas, Inc.	60%
AmSurg EC Beaumont, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of Southeast Texas, L.P.	TN	AmSurg EC Beaumont, Inc.	51%
AmSurg EC Santa Fe, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of Santa Fe, L.P.	TN	AmSurg EC Santa Fe, Inc.	51%
AmSurg EC Washington, Inc.	TN	AmSurg Corp.	100%
The Endoscopy Center of Washington D.C., L.P.	TN	AmSurg EC Washington, Inc.	51%
AmSurg Torrance, Inc.	TN	AmSurg Corp.	100%
Endoscopy Center of the South Bay, L.P.	TN	AmSurg Torrance, Inc.	51%
AmSurg Abilene, Inc.	TN	AmSurg Corp.	100%
The Abilene ASC, L.P.	TN	AmSurg Abilene, Inc.	60%
AmSurg Lorain, Inc.	TN	AmSurg Corp.	100%
AmSurg Maryville, Inc.	TN	AmSurg Corp.	100%
The Maryville ASC, L.P.	TN	AmSurg Maryville, Inc.	53%
AmSurg Melbourne, Inc.	TN	AmSurg Corp.	100%
The Melbourne ASC, L.P.	TN	AmSurg Melbourne, Inc.	51%
AmSurg Hillmont, Inc.	TN	AmSurg Corp.	100%
The Hillmont ASC, L.P.	TN	AmSurg Hillmont, Inc.	51%
AmSurg Northwest Florida, Inc.	TN	AmSurg Corp.	100%
The Northwest Florida ASC, L.P.	TN	AmSurg Northwest Florida, Inc.	51%
AmSurg Palmetto, Inc.	TN	AmSurg Corp.	100%
The Palmetto ASC, L.P.	TN	AmSurg Palmetto, Inc.	51%
AmSurg Ocala, Inc.	TN	AmSurg Corp.	100%
The Ocala Endoscopy ASC, L.P.	TN	AmSurg Ocala, Inc.	51%
AmSurg Crystal River, Inc.	TN	AmSurg Corp.	100%
The Crystal River Endoscopy ASC, L.P.	TN	AmSurg Crystal River, Inc.	51%
AmSurg Abilene Eye, Inc.	TN	AmSurg Corp.	100%
The Abilene Eye ASC, L.P.	TN	AmSurg Abilene Eye, Inc.	51%
AmSurg El Paso, Inc.	TN	AmSurg Corp.	100%
The El Paso ASC, L.P.	TN	AmSurg El Paso, Inc.	51%

AmSurg La Jolla, Inc.	TN	AmSurg Corp.	100%
The La Jolla Endoscopy Center, L.P.	TN	AmSurg La Jolla, Inc.	51%
AmSurg Burbank, Inc.	TN	AmSurg Corp.	100%
The Burbank Ophthalmology ASC, L.P.	TN	AmSurg Burbank, Inc.	51%
AmSurg Inglewood, Inc.	TN	AmSurg Corp.	100%
Los Angeles/Inglewood Endoscopy ASC, L.P.	TN	AmSurg Inglewood, Inc.	51%
AmSurg Glendale, Inc.	TN	AmSurg Corp.	100%
Glendale Ophthalmology ASC, L.P.	TN	AmSurg Glendale, Inc.	51%
AmSurg Suncoast, Inc.	TN	AmSurg Corp.	100%
The Suncoast Endoscopy ASC, L.P.	TN	AmSurg Suncoast, Inc.	51%
AmSurg San Antonio TX, Inc.	TN	AmSurg Corp.	100%
The San Antonio TX Endoscopy ASC, L.P.	TN	AmSurg San Antonio TX, Inc.	51%
AmSurg Temecula CA, Inc.	TN	AmSurg Corp.	100%
The Temecula CA Endoscopy ASC, L.P.	TN	AmSurg Temecula CA, Inc.	51%

---

<u>Name of Subsidiary</u>	<u>State of Organization</u>	<u>Owned By</u>	<u>Ownership Percentage</u>
AmSurg Escondido CA, Inc.	TN	AmSurg Corp.	100%
The Escondido CA Endoscopy ASC, LP	TN	AmSurg Escondido CA, Inc.	51%
AmSurg San Luis Obispo CA, Inc.	TN	AmSurg Corp.	100%
The San Luis Obispo CA Endoscopy ASC, L.P.	TN	AmSurg San Luis Obispo CA, Inc.	51%
The Scranton PA Endoscopy ASC, L.P.	TN	AmSurg Scranton PA, Inc.	51%
AmSurg Scranton PA, Inc.	TN	AmSurg Holdings, Inc.	100%
The Arcadia CA Endoscopy ASC, L.P.	TN	AmSurg Arcadia CA, Inc.	51%
AmSurg Arcadia CA, Inc.	TN	AmSurg Corp.	100%
The Main Line PA Endoscopy ASC, L.P.	TN	AmSurg Main Line PA, Inc.	51%
AmSurg Main Line PA, Inc.	TN	AmSurg Corp.	100%
The Oakland CA Endoscopy ASC, L.P.	TN	AmSurg Oakland CA, Inc.	51%
AmSurg Oakland CA, Inc.	TN	AmSurg Corp.	100%
The Lancaster PA Endoscopy ASC, L.P.	TN	AmSurg Lancaster PA Endoscopy ASC, LLC	51%
AmSurg Lancaster PA, Inc.	TN	AmSurg Corp.	100%
The Pottsville PA Endoscopy ASC, L.P.	TN	AmSurg Pottsville PA, Inc.	51%
AmSurg Pottsville PA, Inc.	TN	AmSurg Corp.	100%
Glendora CA Endoscopy ASC, L.P.	TN	AmSurg Glendora CA, Inc.	51%
AmSurg Glendora CA, Inc.	TN	AmSurg Corp.	100%
AmSurg Holdings, Inc.	TN	AmSurg Corp.	100%
The Knoxville Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Montgomery Eye Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
EyeCare Consultants Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
The Sidney ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Milwaukee ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Columbia ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Wichita Orthopaedic ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Willoughby ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Westglen Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
The Chevy Chase ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Oklahoma City ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Mountain West Gastroenterology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Cincinnati ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Fayetteville ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Independence ASC, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Northern Kentucky GI, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Louisville GI, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Kentucky Ophthalmology, LLC	TN	AmSurg Holdings, Inc.	51%
The Phoenix Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Toledo Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%

The Englewood ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Sun City Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Cape Coral/Ft. Myers Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Baltimore Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	60%
The Boca Raton Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Minneapolis Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Florham Park Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Northside Gastroenterology Endoscopy Center, LLC	IN	AmSurg Holdings, Inc.	51%
The Chattanooga Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Mount Dora Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	54%
The Oakhurst Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Seneca PA ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Tamarac Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Waldorf Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Sarasota Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%

---

<b><u>Name of Subsidiary</u></b>	<b><u>State of Organization</u></b>	<b><u>Owned By</u></b>	<b><u>Ownership Percentage</u></b>
The Las Vegas Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	52%
The Sarasota Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Middletown Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Dover Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Surgery Center of Middle Tennessee, LLC	TN	AmSurg Holdings, Inc.	51%
The Kingston Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Las Vegas East Ophthalmology ASC, LLC	NV	AmSurg Holdings, Inc.	51%
The Blue Ridge/Clemson Orthopaedic ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Hutchinson Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Sunrise Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Metairie Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Bel Air Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Bloomfield Eye Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
Mercer County Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
Atlantic Coastal Surgery Center, LLC	NJ	AmSurg Holdings, Inc.	51%
The Akron Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Newark Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Southfield Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Alexandria Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Columbia ASC Northwest, LLC	TN	AmSurg Holdings, Inc.	51%
St. George Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
The Paducah Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Greenville ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Columbia TN Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Rogers AR Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Tulsa OK Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Ft. Myers FL Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Peoria AZ Multi ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Columbia MD Orthopaedic ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Mesa AZ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Kingsport TN Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Lewes DE Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Winter Haven/Sebring FL Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Voorhees NJ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Rockledge FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Tampa FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Pueblo CO Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%

Western Washington Endoscopy Centers, LLC	TN	AmSurg Holdings, Inc.	51%
The Lakeland FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Northern NV Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Edina MN Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The West Palm Beach FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Gainesville FL Orthopaedic ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Raleigh NC Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Hanover NJ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Lake Bluff IL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Sun City AZ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Overland Park KS Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Casper WY Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Rockville MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Blue Water ASC, LLC	MI	AmSurg Holdings, Inc.	51%
Greenspring Station Endoscopy ASC, LLC	MD	AmSurg Holdings, Inc.	51%
Maryland Endoscopy Center Limited Liability Company	MD	AmSurg Holdings, Inc.	51%

---

<b>Name of Subsidiary</b>	<b>State of Organization</b>	<b>Owned By</b>	<b>Ownership Percentage</b>
Endoscopy Associates, LLC	MD	AmSurg Holdings, Inc.	51%
The Scranton PA GP, LLC	TN	AmSurg Holdings, Inc.	51%
The Orlando FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The St. Louis MO Orthopaedic ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Yuma AZ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The West Orange NJ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Greensboro NC Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Tulsa OK Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The St. Cloud MN Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Salem OR Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The El Dorado Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Nashville TN Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Laurel MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Torrance CA Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	53%
The Shenandoah TX Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The New Orleans LA Uptown/West Bank Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Metairie LA Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Rockville, ESC-North MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Silver Spring MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Ocean Endosurgery Center	NJ	AmSurg Holdings, Inc.	51%
The South Bend IN Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Mesquite TX Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Conroe TX Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Kissimmee FL Endoscopy ASC, LLC	TN	AmSurg Kissimmee FL, Inc.	51%
The Altamonte Springs FL Endoscopy ASC, LLC	TN	AmSurg Altamonte Springs FL, Inc.	51%
The Glendale AZ Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The New Port Richey FL Multi-Specialty ASC, LLC	TN	AmSurg New Port Richey FL, Inc.	55%
Poway CA Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	54.40%
The San Diego CA Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	55.10%
The Orlando/Oakwater FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Baton Rouge LA Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Pikesville MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Glen Burnie MD Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
West Bridgewater MA Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
The Orlando/Mills FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Miami Kendall FL Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
St. Clair Shores MI Ophthalmology ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Marin Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	53%
Blaine MN Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	55%
Casa Colina Surgery Center, LLC	TN	AmSurg Holdings, Inc.	53%

Digestive Health Center, LLC	TN	AmSurg Holdings, Inc.	51%
Digestive Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Phoenix Orthopaedic Ambulatory Center, L.L.C.	TN	AmSurg Holdings, Inc.	51%
Gastroenterology Associates Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Phoenix Endoscopy, L.L.C.	TN	AmSurg Holdings, Inc.	51%
Outpatient Orthopaedic Associates Surgery Center	TN	AmSurg Holdings, Inc.	51%
Central Texas Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Eye Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
Carroll County Digestive Disease Center, LLC	TN	AmSurg Holdings, Inc.	51%
Triangle Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Elms Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
TEC North, LLC	TN	AmSurg Holdings, Inc.	51%

---

<u>Name of Subsidiary</u>	<u>State of</u>		<u>Ownership</u>
	<u>Organization</u>	<u>Owned By</u>	<u>Percentage</u>
Cañon City CO Multi-Specialty ASC, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Anesthesia Management Services, LLC	TN	AmSurg Corp.	100%
Hermitage TN Endoscopy ASC, LLC	TN	AmSurg Holdings, Inc.	51%
Central Park Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	55%
North Richland Hills Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	57%
Old Town Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	57%
Park Ventura Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	57%
Redbird Square Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	57%
North Valley Orthopedic Surgery Center, L.L.C.	TN	AmSurg Holdings, Inc.	55%
Boston Out-Patient Surgical Suites, L.L.C.	TN	AmSurg Holdings, Inc.	65%
Waco Gastroenterology Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Bethesda Outpatient Surgery Center, LLC	TN	AmSurg Holdings, Inc.	55.40%
Hillmoor Eye Surgery Center, LLC	TN	AmSurg Holdings, Inc.	55%
Surgery Center of Volusia, LLC	TN	AmSurg Holdings, Inc.	51%
Arizona Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	55%
COA ASC of Franklin County, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg New Port Richey Anesthesia, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg San Luis Obispo Anesthesia, LLC	TN	The San Luis Obispo CA Endoscopy ASC, LP	100%
AmSurg Salt Lake City Anesthesia, LLC	TN	The Mountain West Gastroenterology ASC, LLC	100%
North Valley Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
MDSINE, LLC	TN	AmSurg Holdings, Inc.	54.48%
Pioneer Valley Surgicenter, LLC	TN	AmSurg Holdings, Inc.	64%
East Valley Endoscopy, LLC	TN	AmSurg Holdings, Inc.	51%
May Street Surgi Center, LLC	TN	AmSurg Holdings, Inc.	51%
Eagle Eye Surgery and Laser Center, LLC	TN	AmSurg Holdings, Inc.	51%
Doctors Park Surgery Center, LLC	TN	AmSurg Holdings, Inc.	51%
Long Beach NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Long Beach Surgery Center, L.P.	CA	Long Beach NSC, LLC	53.27%
Torrance NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Torrance Surgery Center, L.P.	CA	Torrance NSC, LLC	62.49%
Davis NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Davis Surgery Center, L.P.	CA	Davis NSC, LLC	66%
Fullerton NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Fullerton Surgical Center, L.P.	CA	Fullerton NSC, LLC	66.22%
San Antonio NSC, LLC	TN	AmSurg Holdings, Inc.	100%
San Antonio ASC, LP	TX	San Antonio NSC, LLC	55.28%
SSPC Building, LP	TX	San Antonio NSC, LLC	1%
Austin NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Premier Ambulatory Surgery of Austin, LLP	TX	Austin NSC, LLC	56.98%
Austin NSC, LP	TX	AmSurg Holdings, Inc.	99%

Austin Endoscopy Center I, LP	TX	Austin NSC, LP	20%
Austin Endoscopy Center II, LP	TX	Austin NSC, LP	20%
Twin Falls NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Southern Idaho Ambulatory Surgery Center, LLC	ID	Twin Falls NSC, LLC	54.78%
Kenwood NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Kenwood ASC, LLC	OH	Kenwood NSC, LLC	75.94%
Towson NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Towson Surgical Center, LLC	MD	Towson NSC, LLC	65.42%
Wilton NSC, LLC	CT	AmSurg Holdings, Inc.	100%
Stamford/NSC Management, LLC	CT	Wilton NSC, LLC	50%
Wilton Surgery Center, LLC	CT	Stamford/NSC Management, LLC	50.14%
NSC West Palm, LLC	TN	AmSurg Holdings, Inc.	100%
West Palm Outpatient Surgery & Laser Center, LTD	FL	NSC West Palm, LLC	52.66%
Tampa Bay NSC, LLC	TN	AmSurg Holdings, Inc.	100%

<b><u>Name of Subsidiary</u></b>	<b><u>State of Organization</u></b>	<b><u>Owned By</u></b>	<b><u>Ownership Percentage</u></b>
Tampa Bay Specialty Surgery Center, LLC	FL	Tampa Bay NSC, LLC	61.75%
Coral Springs NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Coral Springs Ambulatory Surgery Center, LLC	FL	Coral Springs NSC, LLC	63.44%
Weston NSC, LLC	TN	AmSurg Holdings, Inc.	100%
Weston Outpatient Surgical Center, Ltd.	FL	Weston NSC, LLC	63.79%
NSC RBO West, LLC	TN	AmSurg Holdings, Inc.	100%
NSC RBO East, LLC	TN	AmSurg Holdings, Inc.	100%
Illinois NSC, Inc.	TN	AmSurg Holdings, Inc.	100%
NSC Healthcare, Inc.	TN	Illinois NSC, Inc.	100%
Eastern Massachusetts Surgery Center, LLC	TN	AmSurg Holdings, Inc.	65%
Sierra Pacific Surgery Center, LLC	TN	AmSurg Holdings, Inc.	53.85%
Northeast Surgical Care of Newington, LLC	TN	AmSurg Holdings, Inc.	56%
AmSurg Tampa Bay Anesthesia, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Chattanooga Anesthesia, LLC	TN	The Chattanooga Endoscopy ASC, LLC	51%
AmSurg North Valley Anesthesia, LLC	TN	North Valley Endoscopy Center, LLC	51%
AmSurg Oakland Anesthesia, L.P.	TN	The Oakland CA Endoscopy ASC, L.P.	51%
AmSurg St. George Anesthesia, LLC	TN	St. George Endoscopy Center, LLC	51%
AmSurg Arcadia Anesthesia, L.P.	TN	The Arcadia CA Endoscopy ASC, L.P.	51%
Middlesex Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	65%
Mid Atlantic Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
Sunrise Ambulatory Surgical Center, LLC	TN	AmSurg Holdings, Inc.	51%
Glen Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Fresno CA, Inc.	TN	AmSurg Corp.	100%
Fresno CA Multi ASC, L.P.	TN	AmSurg Fresno CA, Inc.	53.7%
32 <sup>nd</sup> Street Surgery Center, LLC	TN	AmSurg Holdings, Inc.	57%
WB Surgery Center, LLC	TN	AmSurg Holdings, Inc.	57%
Red River Surgery Center, LLC	TN	AmSurg Holdings, Inc.	57%
Eastern Connecticut Endoscopy Center, LLC	CT	AmSurg Holdings, Inc.	40%
Boston Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	60%
Connecticut Eye Surgery Center South, LLC	CT	AmSurg Holdings, Inc.	49%
Hudson Crossing Surgery Center, LLC	TN	AmSurg Holdings, Inc.	55%
Short Hills Surgery Center, LLC	TN	AmSurg Holdings, Inc.	55%
Surgery Center of Allentown, LLC	TN	AmSurg Holdings, Inc.	62.5%
Cascade Endoscopy Center, LLC	TN	AmSurg Holdings, Inc.	51%
AmSurg Colton CA, Inc.	TN	AmSurg Corp.	100%
Colton CA Multi ASC, L.P.	TN	AmSurg Colton CA, Inc.	57.5%





**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in Registration Statements No. 333-41961, No. 333-33576, No. 333-56950, No. 333-65748, No. 333-90156, No. 333-107637, No. 333-118095, No. 333-134948, No. 333-149976, No. 333-151262, and No. 333-170531 on Forms S-8 of our reports dated February 27, 2013, relating to (1) the consolidated financial statements of AmSurg Corp. and subsidiaries (the "Company"), (2) the financial statement schedule of the Company, and (3) the effectiveness of the Company's internal control over financial reporting, appearing in this Annual Report on Form 10-K of AmSurg Corp. for the year ended December 31, 2012.

/s/ DELOITTE & TOUCHE LLP  
Nashville, Tennessee

February 27, 2013

---



## Certifications

I, Christopher A. Holden, certify that:

1. I have reviewed this annual report on Form 10-K of AmSurg Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2013

By: /s/ Christopher A. Holden  
Name: **Christopher A. Holden**  
Title: President and Chief Executive Officer

---



### Certifications

I, Claire M. Gulmi, certify that:

1. I have reviewed this annual report on Form 10-K of AmSurg Corp.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 27, 2013

By: /s/ Claire M. Gulmi  
 Name: **Claire M. Gulmi**  
 Title: Executive Vice President and  
 Chief Financial Officer



**AMSURG CORP.**  
**CERTIFICATION PURSUANT TO**  
**18 U.S.C. SECTION 1350,**  
**AS ADOPTED PURSUANT TO**  
**SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of AmSurg Corp. (the "Company") on Form 10-K for the fiscal year ending December 31, 2012, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Christopher A. Holden

**Christopher A. Holden**

President and Chief Executive

Officer of the Company

February 27, 2013

/s/ Claire M. Gulmi

**Claire M. Gulmi**

Executive Vice President and

Chief Financial Officer of the Company

February 27, 2013

## EXHIBIT 2

**Patient Population Mix: Current and Projected**

**TABLE 3: Patient Population Mix: Current and Projected**

	2009	2010	2011	Current FY 2012	Year1 FY 2013	Year 2 FY 2014	Year 3 FY 2015
	Cases	Cases	Cases	Cases	Cases	Cases	Cases
Medicare	865	1,016	928	1,281	1,294	1,306	1,320
Medicaid/ CT Care	116	107	127	142	144	145	147
CHAMPUS & TriCare	120	121	82	102	103	103	105
Total Government	1,101	1,245	1,136	1,525	1,540	1,555	1,571
Commercial Insurers	2,893	2,622	2,680	2,957	2,986	3,016	3,046
Uninsured	-	1	6	7	7	7	7
Workers Compensation				-			
Total Non Government	2,893	2,623	2,686	2,964	2,994	3,024	3,054
Total Payer Mix	3,994	3,868	3,822	4,489	4,534	4,578	4,625

## EXHIBIT 3

## B6.5 FINANCIAL HARDSHIP

---

**POLICY:**

To provide services on a free or partial pay basis to Medicaid eligible or financially indigent patients

**PURPOSE:**

To assist patients in receiving services if they meet the financial requirements of Medicaid eligible or financially indigent.

**PROCEDURE:**

When a Medicaid eligible or medically indigent patient requests their account to be considered as a charity write-off, the patient will be required to complete a FINANCIAL ASSISTANCE FORM.

1. It will be requested of the patient to provide a copy of the previous years Federal Income Tax Statement, W-2, Medicaid eligibility cards, or current payroll stub.
2. Upon receipt of the FINANCIAL ASSISTANCE FORM, the National Poverty Level Sliding Scale will be reviewed to determine where the patient's income resides.
3. If the patient meets or is below the gross income amount of the national poverty level, the appropriate write-off is made applicable to the procedure charge amount.
4. If the patient does not meet the gross income amount of the national poverty level, a sliding scale is reviewed to determine where the patient's income resides, and what the write-off percentage is.
5. The FINANCIAL ASSISTANCE FORM will be kept in the medical chart, and copies provided to the patient as well as the Business Office.

If the patient refuses to complete the FINANCIAL ASSISTANCE FORM, the patient will be held responsible for their account balance or presented with a payment plan option.

When a MEDICAID eligible patient is seen at the Center, copies of their card will be obtained.

1. One copy will be kept in the medical chart and one copy provided to the Business Office.
2. The Business Office will file with Medicaid on behalf of the patient.

**SURGERY  
CENTER**

123 South Avenue  
Anytown, ST 74136  
(123) 456-7890

**Financial Assistance Form**

Monthly Income: Please indicate all sources of income		
	Source	Amount
Patient:		\$
Spouse:		\$
Other:		\$
Number of dependents		

Total Monthly Income:

	Gross:	\$
	Net:	\$

**Monthly Expenses: Please indicate average expenses**

Rent /Mortgage:	\$	Utilities:	\$
Auto 1:	\$	Telephone:	\$
Auto 2:	\$	Child Care:	\$
Auto Insurance:	\$	Groceries:	\$
Health Insurance:	\$	Medications:	\$
Credit Cards (list)		Physicians (list)	\$
Visa	\$		\$
MasterCard	\$		\$
Discover	\$		\$
Department Store	\$		\$
Other Credit Card	\$	Other (list)	\$
Other Credit Card	\$		\$
Other Credit Card	\$		\$

Total Expenses \$

Total Monthly Income: \$
Total Monthly Expenses: \$
Total Monthly Income minus Expenses: (Grand Total): \$

I certify the above information is correct and that payment of my liability would present a financial hardship.

Signature of patient or guardian \_\_\_\_\_

**DEPARTMENT OF HEALTH AND HUMAN SERVICES 2013 Poverty GUIDELINES**

Federal Register, Vol. 77 No 17 January 26, 2012

<b>Persons or Family in Households</b>	<b>100% of Poverty</b>	<b>125% of Poverty</b>	<b>150% of Poverty</b>
1	\$11,170.00	\$13,963.00	\$16,755.00
2	\$15,130.00	\$18,913.00	\$22,695.00
3	\$19,090.00	\$23,863.00	\$28,635.00
4	\$23,050.00	\$28,813.00	\$34,575.00
5	\$27,010.00	\$33,763.00	\$40,515.00
6	\$30,970.00	\$38,713.00	\$46,455.00
7	\$34,930.00	\$43,663.00	\$52,395.00
8	\$38,890.00	\$48,613.00	\$58,335.00

\*Families with  
more than 8  
persons-

(100% add \$3960) (125% add \$4950) 150% add \$5940)

Revised December 2012 - 23



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

October 23, 2013

VIA FAX ONLY

Robert M. McCullough  
Vice President  
AmSurg Holding, Inc.  
20 Burton Hills Boulevard  
Nashville, TN 37215

Susan Cowden, R.N.  
Director  
Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street, Suite 107  
Norwich, CT 06360

RE: Certificate of Need Application; Docket Number: 13-31848-CON  
Eastern Connecticut Endoscopy Center, LLC, and AmSurg Holdings, Inc.  
Proposal to Change the Ownership Structure of Eastern Connecticut  
Endoscopy Center, LLC, in Norwich

Dear Ms. Cowden & Mr. McCullough:

On September 24, 2013, the Office of Health Care Access ("OHCA") received completeness responses to the Certificate of Need ("CON") application for a change in ownership structure of Eastern Connecticut Endoscopy Center, LLC ("ECEC"), at a total capital expenditure of \$4,200,000.

OHCA has reviewed the responses and requests the following additional information pursuant to General Statutes §19a-639a(c).

1. On page 170 of the Completeness Responses the Applicants indicate that State and federal antitrust laws limit the actions AmSurg can take on behalf of ECEC. Please identify the specific State and federal antitrust laws to which you are referring and explain how such laws limit AmSurg's ability to act on behalf of ECEC.
2. On page 170 of the Completeness Responses the Applicants state that contractual arrangements such as GPO apply only to subsidiaries that are majority-owned by AmSurg. Please explain why such arrangements are only available to majority-owned subsidiaries.
3. Provide a revised Financial Attachment I, as presented on page 167 of the application, which identifies:
  - a. Anticipated changes in net patient revenue by payer. Explain and provide assumptions for any change in the net patient revenue by payer category;

*An Equal Opportunity Provider*

*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*  
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308  
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov

- b. Anticipated cost reductions (e.g., leveraging the benefit of national contracts, promoting cost effective facility operations, and being positioned better to negotiate with third party payers) by identifying the appropriate projected incremental expense by category, making sure to explain and provide assumptions for each cost saving measure; and
  - c. Anticipated volume statistics as requested by fiscal year at the bottom of the revenue and expense statement. The volume statistics should be reflective of the revenue by payer category in part 3.a. above.
4. Please address the governance and control of the Eastern Connecticut Endoscopy Center once the proposed transfer provides AmSurg Holdings with a majority of the equity interest in the Center. How will the Revised Operating Agreement address the governance and control of the Center?

In responding to the questions contained in this letter, please repeat each question before providing your response. **Paginate and date** your response (i.e., each page in its entirety). Information filed after the initial CON application submission (i.e., response letter to completeness questions, late file submissions, and the like) must be numbered sequentially from the Applicants' document preceding it. As the current submission for the application concludes with page 342, please begin your completeness response with page 343. Please reference Docket Number: 13-31848-CON and submit one (1) original and five (5) hard copies of your response in its entirety, including any supporting documentation. Submit a scanned copy of your response in Adobe format, an electronic copy in MS Word format and any worksheets in MS Excel, including all attachments, on CD.

OHCA must receive your response letter no later than Monday, December 23, 2013. Should your response letter be received by OHCA after Monday, December 23, 2013, the record regarding your request will be closed and considered withdrawn. Please feel free to contact me directly at (860) 418-7069 should you have any questions regarding this letter.

Sincerely,



Jack A. Huber  
Health Care Analyst

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3788  
RECIPIENT ADDRESS 916156650755  
DESTINATION ID  
ST. TIME 10/23 11:06  
TIME USE 01'10  
PAGES SENT 3  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: MR. ROBERT MCCULLOUGH

FAX: (615) 665-0755

AGENCY: AMSURG HOLDINGS, INC.

FROM: JACK HUBER

DATE: 10/23/2013 Time: -10:55 p.m.

NUMBER OF PAGES: 3  
*(including transmittal sheet)*

Comments: Transmitted: Eastern Connecticut Endoscopy Center, LLC ("ECEC")  
Second CON Completeness Letter  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of ECEC located in Norwich

PLEASE PHONE Jack A. Huber at (860) 418-7069  
IF THERE ARE ANY TRANSMISSION PROBLEMS.

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3785  
RECIPIENT ADDRESS 918608867808  
DESTINATION ID  
ST. TIME 10/23 11:01  
TIME USE 00'33  
PAGES SENT 3  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

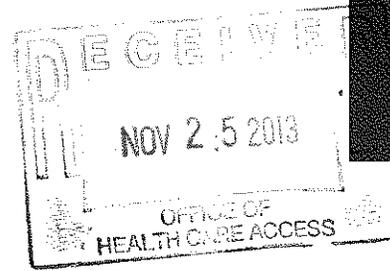
FAX SHEET

TO: SUSAN COWLEN, R.N.  
FAX: (860) 886-7808  
AGENCY: EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC  
FROM: JACK HUBER  
DATE: 10/23/2013 Time: ~10:55 p.m.  
NUMBER OF PAGES: 3  
*(including transmittal sheet)*

Comments: Transmitted: Eastern Connecticut Endoscopy Center, LLC ("ECEC")  
Second CON Completeness Letter  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of ECEC located in Norwich

H. KENNEDY HUDNER  
860.240.6029 DIRECT TELEPHONE  
KHUDNER@MURTHALAW.COM

STEPHANIE SPRAGUE SOBKOWIAK  
203.772.7782 DIRECT TELEPHONE  
SSOBKOWIAK@MURTHALAW.COM



**MURTHA**  
CULLINA

November 25, 2013

VIA HAND DELIVERY

Mr. Jack Huber  
Health Care Analyst  
State of Connecticut  
Department of Public Health,  
Office of Health Care Access  
410 Capitol Avenue, MS #13HCA  
Hartford, Connecticut 06134

Re: Docket No. 13-31848-CON

Dear Mr. Huber:

Enclosed you will find the original and five (5) copies of the response to completeness questions filed by Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. in the above-referenced docket number. A CD containing a scanned copy of the complete submission, as well as an MS Word version of the main text of the submission and an MS Excel version of Exhibit 1 are also enclosed.

If you have any questions, please feel free to contact either of us. Thank you very much for your consideration of the enclosed submission.

Sincerely,

H. Kennedy Hudner

Stephanie Sprague Sobkowiak

Enclosures

343

Murtha Cullina LLP | Attorneys at Law

BOSTON

HARTFORD

MADISON

NEW HAVEN

STAMFORD

WOBURN

**DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS**

..... )  
EASTERN CONNECTICUT ENDOSCOPY )  
CENTER, LLC AND AMSURG HOLDINGS, )  
INC. – PROPOSAL CHANGING THE ) DOCKET NO. 13-31848-CON  
OWNERSHIP COMPOSITION OF EASTERN )  
CONNECTICUT ENDOSCOPY CENTER, LLC )  
IN NORWICH ) November 25, 2013  
..... )

**RESPONSES TO COMPLETENESS QUESTIONS**

Eastern Connecticut Endoscopy Center, LLC (“ECEC”) and Amsurg Holdings, Inc. (“AmSurg”) submit the following responses to the Office of Health Care Access’ (“OHCA”) additional questions dated October 23, 2013 in the above-referenced matter.

1. On page 170 of the Completeness Responses the Applicants indicate that State and federal antitrust laws limit the actions AmSurg can take on behalf of ECEC. Please identify the specific State and federal antitrust laws to which you are referring and explain how such laws limit AmSurg’s ability to act on behalf of ECEC.

**RESPONSE:** The federal Sherman Antitrust Act is a federal statute that prohibits certain business activities that are deemed anti-competitive. Among other things, the Sherman Antitrust Act prohibits competitors from jointly operating or managing their business, or sharing certain competitive business information. Specifically, independent entities are precluded from collaborating in the negotiation of prices with purchasers of their services. The “Copperweld Doctrine” is a well-established anti-trust defense that provides that members of a single

corporate family cannot, as a matter of law, conspire together to violate the Sherman Antitrust Act. See Copperweld Corp. v. Independence Tube Corp., 467 U.S. 752 (1984). The determination of whether two or more entities are part of the same corporate family for purposes of the Copperweld Doctrine is based upon a fact and circumstances test. Any court that made such a determination would consider the common ownership of members of a corporate family as a very important factor in its decision, and the Applicants are not aware of any case where a court has held that a corporation and its majority-owned subsidiary are not part of a single corporate family for purposes of the Copperweld Doctrine. Therefore, for certain business actions, it is important that AmSurg be a majority owner of ECEC.

Similarly, at the state level, the Connecticut Antitrust Act (Conn. Gen. Stat. § 35-24 *et seq.*) makes it unlawful to restrain trade or commerce by fixing, controlling or maintaining prices, allocating or dividing customers or markets, or refusing to deal or inducing third parties to refuse to deal with another person.

2. On page 170 of the Completeness Responses the Applicants state that contractual arrangements such as GPO apply only to subsidiaries that are majority-owned by AmSurg. Please explain why such arrangements are only available to majority-owned subsidiaries.

**RESPONSE:** As mentioned on page 170, certain of AmSurg's contractual arrangements, including its group purchasing organization (GPO) undertakings, apply only to majority-owned subsidiaries pursuant to the language of each such contract. It is a common term in commercial contracts that the benefits to be derived pursuant to the contract, and the restrictions or obligations under the contract, are only available to the party to the contract and that party's majority-owned subsidiaries. Clearly stating that the contract applies to majority-

owned subsidiaries, rather than relying on an ambiguous term such as “affiliates,” provides certainty as to the parties who are beneficiaries under the contract. This is a common provision in AmSurg’s contracts.

3. Please provide a revised Financial Attachment I, as presented on page 167 of the application, which identifies:

a. Anticipated changes in net patient revenue by payer. Explain and provide assumptions for any change in the net patient revenue by payer category;

**RESPONSE:** The projected net patient revenue by payer category reflected on Financial Statement I assumes (i) no change in the payer mix at the Center and (ii) a 1% increase in reimbursement for all payer categories. AmSurg does not have reason to project any change in the payer mix at the Center, and the 1% increase in reimbursement is consistent with AmSurg’s experience of a 0% to 1% increase in same center revenue across its more than 240 surgery centers.

b. Anticipated cost reductions (e.g., leveraging the benefit of national contracts, promoting effective facility operations and being positioned to better negotiate with third party payers) identifying the appropriate projected incremental expense by category, making sure to explain and provide assumptions for each cost savings; and

**RESPONSE:** The Applicants have not prepared detailed, Center-specific projections or estimates showing the incremental expense savings for each category listed in the question above or for each cost saving measure implemented at the Center, or to be implemented at the Center in the future. The financial information contained in Financial Schedule I reflects a projected 2.5% increase in costs at the Center, and the Applicants believe this increase would be higher without

the involvement of AmSurg. Said another way, AmSurg is helping to the Center to limit increases in its costs. It is also important to note that the costs for any center cannot be dramatically reduced immediately. It takes a reasonable amount of time to renegotiate contracts as they come up for renewal and to identify additional ways in which a particular center can realize measurable savings. Again, the cost and expense savings are projections based upon AmSurg's considerable experience at its over 240 surgery centers. At this point in its operations, AmSurg has a reliable track record upon which it believes that it can make such projections.

c. Anticipated volume statistics as requested by fiscal year at the bottom of the revenue and expense statement. The volume statistics should be reflective of the revenue by payer category in part 3.a above.

**RESPONSE:** The Applicants have added the requested information. Please see attached Exhibit 1. Please note that there are no new services or changes to existing services provided at the Center as a result of the proposed transaction.

4. Please address the governance and control of the Eastern Connecticut Endoscopy Center once the proposed transfer provides AmSurg Holdings with a majority of the equity interest in the Center. How will the Revised Operating Agreement address the governance and control of the Center?

**RESPONSE:** The governance and control of the surgery center will not significantly change when AmSurg Holdings acquires a majority of the equity interest in the Center. The Amended and Restated Operating Agreement to be entered into by the owners of the Center following the acquisition of the additional equity interest by AmSurg Holdings is attached to the Application at pages 34 through 57.

Applicants also wish to point out that they always intended this transaction to involve the sale and purchase of a majority interest in ECEC. As is indicated on page 8 of the CON Application, time pressures in 2012 forced the Applicants to structure the transaction in two phases, with an initial purchase by AmSurg of 40% of the equity interest in ECEC in 2012, to be followed by the purchase of the additional 11% that is now the subject of this CON Application. The primary reason for this two-part acquisition was that the physician sellers faced significant tax consequences if they did not sell the main portion of their interest in 2012. However, as indicated above, both Applicants have always viewed the business arrangement, and the numerous benefits stemming from it (as described in the CON Application and completeness responses), as based on AmSurg's purchase of the full 51% interest in ECEC. As the Applicants have described, this majority interest is key to achieving the maximum benefits for ECEC and thus for ECEC's patients and the health care system.

# EXHIBIT 1

13. B. i. Please provide one year of actual results and three years of projections of Total Facility revenue, expense and volume statistics without, incremental to and with the CON proposal in the following reporting format:

Total Facility: Description	2012 Actual Results	2013		2014		2015	
		Projected W/out CON	Projected With CON	Projected W/out CON	Projected With CON	Projected W/out CON	Projected With CON
<b>NET PATIENT REVENUE</b>							
Non-Government	\$ 2,001,607	\$2,021,623	\$2,021,623	\$2,041,839	\$2,041,839	\$2,062,258	\$2,062,258
Medicare	864,330	\$872,974	\$872,974	\$881,703	\$881,703	\$890,520	\$890,520
Medicaid and Other Medical Assistance	97,048	\$98,018	\$98,018	\$98,998	\$98,998	\$99,988	\$99,988
Other Government	\$69,753	\$70,451	\$70,451	\$71,155	\$71,155	\$71,867	\$71,867
Total Net Patient Patient Revenue	\$3,032,738	\$3,063,065	\$3,063,065	\$3,093,696	\$3,093,696	\$3,124,633	\$3,124,633
Other Operating Revenue	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Revenue from Operations	\$3,032,738	\$3,063,065	\$3,063,065	\$3,093,696	\$3,093,696	\$3,124,633	\$3,124,633
<b>OPERATING EXPENSES</b>							
Salaries and Fringe Benefits	762,108	\$781,161	\$781,161	\$800,690	\$800,690	\$820,707	\$820,707
Professional / Contracted Services	205,544	\$210,683	\$210,683	\$215,950	\$215,950	\$221,348	\$221,348
Supplies and Drugs	215,531	\$220,919	\$220,919	\$226,442	\$226,442	\$232,103	\$232,103
Bad Debts	73,348	\$75,182	\$75,182	\$77,061	\$77,061	\$78,988	\$78,988
Other Operating Expense	\$220,617	\$226,132	\$226,132	\$231,786	\$231,786	\$237,580	\$237,580
Subtotal	1,477,148	\$1,514,077	\$1,514,077	\$1,551,929	\$1,551,929	\$1,590,727	\$1,590,727
Depreciation/Amortization	367,435	\$376,621	\$376,621	\$386,036	\$386,036	\$395,687	\$395,687
Interest Expense	12,306	\$12,614	\$12,614	\$12,929	\$12,929	\$13,252	\$13,252
Lease Expense	\$132,354	\$135,663	\$135,663	\$139,054	\$139,054	\$142,531	\$142,531
Total Operating Expenses	1,989,243	\$2,038,974	\$2,038,974	\$2,089,948	\$2,089,948	\$2,142,197	\$2,142,197
Income (Loss) from Operations	\$1,043,495	\$1,024,091	\$1,024,091	\$1,003,748	\$1,003,748	\$982,436	\$982,436
Non-Operating Income	\$205	\$210	\$210	\$215	\$215	\$221	\$221
Income before provision for income taxes	\$1,043,700	\$1,024,301	\$1,024,301	\$1,003,963	\$1,003,963	\$982,657	\$982,657
Provision for income taxes	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Net Income	\$1,043,700	\$1,024,301	\$1,024,301	\$1,003,963	\$1,003,963	\$982,657	\$982,657
Retained earnings, beginning of year	\$1,965,484	\$3,009,184	\$3,009,184	\$4,033,485	\$4,033,485	\$5,037,448	\$5,037,448
Retained earnings, end of year	\$3,009,184	\$4,033,485	\$4,033,485	\$5,037,448	\$5,037,448	\$6,020,105	\$6,020,105
FTEs	13.4	13.7	13.7	14.1	14.1	14.4	14.4
Volume (Cases)	4,489	4,534	4,534	4,578	4,578	4,625	4,625

## Huber, Jack

---

**From:** Huber, Jack  
**Sent:** Tuesday, December 17, 2013 3:31 PM  
**To:** 'kHUDNER@MURTHALAW.COM'; 'SSOBKOWIAK@MURTHALAW.COM'  
**Cc:** Martone, Kim; Riggott, Kaila  
**Subject:** Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013  
**Attachments:** Diag. Endoscopy Center DN 12-31772.pdf

Dear Attorneys Hudner & Sobkowiak:

OHCA is in receipt of the Applicants' completeness response submitted on November 25, 2013, regarding information relating to federal and state antitrust matters as well as information relating to anticipated cost savings attributable to the proposed change in ownership structure of Eastern Connecticut Endoscopy Center.

Before OHCA can move forward with this CON application it is imperative that OHCA receives from the Applicants the anticipated cost savings associated with the proposal. In an effort to assist the Applicants in this matter OHCA requests that the proposed cost savings be provided in the same format as presented in Findings of Fact 35 and 36 of OHCA's Agreed Settlement with Diagnostic Endoscopy Center and AmSurg Holdings. A copy of this Agreed Settlement issued under Docket Number: 12-31772-CON is attached for your convenience. Finding of Fact 35 is found on page 8, while Finding of Fact 36 is found on page 9 of the settlement.

Please respond to this request by the close of business 4:30 p.m., Friday, December 20, 2013. Thank you for your attention to this matter. Regards, Jack Huber

Jack A. Huber  
DPH – OHCA Health Care Analyst



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

April 22, 2013

**IN THE MATTER OF:**

An Application for a Certificate of Need  
filed Pursuant to Section 19a-638, C.G.S. by: Notice of Agreed Settlement  
Office of Health Care Access  
Docket Number: 12-31772-CON

**Diagnostic Endoscopy Center, LLC and  
AmSurg Corp.**

To:

Stuart Waldstreicher, M.D.  
Member  
Diagnosofic Endoscopy Center, LLC  
778 Long Ridge Road  
Stamford, CT 06902

Robert McCullough  
Vice President, Development  
AmSurg Corp.  
20 Burton Hills Boulevard  
Suite 500  
Nashville, TN 37215-6105

Dear Dr. Waldstreicher and Mr. McCullough:

This letter will serve as notice of the approved Certificate of Need Application in the above-referenced matter. On April 17, 2013, the Agreed Settlement, attached hereto, was adopted and issued as an Order by the Department of Health, Office of Health Care Access.

  
\_\_\_\_\_  
Kimberly R. Martone  
Director of Operations

Enclosure  
KRM:sl

*An Equal Opportunity Provider*  
*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*  
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308  
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov



## Office of Health Care Access Certificate of Need Application

### Agreed Settlement

**Applicants:** Diagnostic Endoscopy Center, LLC  
778 Long Ridge Road, Stamford, CT 06902  
AmSurg Corp. through its wholly owned subsidiary  
AmSurg Holdings, Inc.  
20 Burton Hills Blvd., Suite 500, Nashville, TN 37215

**Docket Number:** 12-31772-CON

**Project Title:** Change of Ownership of Diagnostic Endoscopy Center,  
LLC

**Project Description:** Diagnostic Endoscopy, LLC and AmSurg Corp through its wholly owned subsidiary AmSurg Holdings, Inc. (herein together referred to as "Applicants") propose the change of ownership of Diagnostic Endoscopy, LLC. As a result of this proposal, AmSurg Holdings, Inc. will acquire a 62% ownership interest in Diagnostic Endoscopy, LLC. The remaining 38% ownership interest will remain with the physician members of Diagnostic Endoscopy, LLC. AmSurg Corp and AmSurg Holdings, Inc. are collectively referred to herein as "AmSurg."

**Procedural History:** On October 26, 2012, the Office of Health Care Access ("OHCA") received a Certificate of Need ("CON") application from the Applicants for the above-referenced project. A notice to the public concerning OHCA's receipt of the Applicant's intent to file the application with OHCA was published on May 30, 31 and June 1, 2012 in *The Advocate* (Stamford).

OHCA's authority to review, approve, modify, or deny this proposal is established by Connecticut General Statutes § 19a-639. The provisions of this section, as well as the principles and guidelines set forth in Connecticut General Statutes § 19a-637, were fully considered by OHCA in its review.

### FINDINGS OF FACT

1. Diagnostic Endoscopy, LLC is an outpatient endoscopy facility that provides gastroenterology and colonoscopy procedures. Ex. A, p. 9.
2. On June 29, 1999, OHCA determined that Diagnostic Endoscopy, LLC (at that time known as Stamford Endoscopy Center) did not require a CON to establish the endoscopy service/center. OHCA CON Determination, 99-W.
3. On August 31, 2004, OHCA concluded that pursuant to Public Act 04-249, Diagnostic Endoscopy, LLC (then known as Diagnostic Endoscopy Center) had provided evidence that it was in operation prior to July 1, 2003 and, consequently, was exempt from the need to obtain CON authorization. OHCA CON Determination, 04-30109-DTR.
4. Diagnostic Endoscopy, LLC's current ownership is comprised of eight (8) gastroenterology specialists ("Physician Owners"). Ex. A, p. 8.
5. AmSurg Corp currently operates over 220 centers in 35 states across the United States and has over 1,500 physician partners. Ex. A, p. 11.
6. Under the proposed change of ownership, AmSurg Holdings, Inc. will obtain a sixty-two percent (62%) ownership interest in Diagnostic Endoscopy, LLC. The remaining thirty-eight percent (38%) ownership interest will remain with the physician members. Ex. A, p. 8.
7. AmSurg provides a wide range of management and support services for both established and newly-developed surgical centers with particular expertise in managed care contracting, information system development and accounting. Ex. A, p. 8.
8. The change of ownership will not result in any change in scope of services or licensure category. Ex. A, p. 8.
9. The decision for this change in ownership was developed jointly by the current physician owners and DEC Merritt, LLC. DEC Merritt, LLC currently provides management services to the Center. Ex. A, p. 8.
10. AmSurg was chosen by the current owners of Diagnostic Endoscopy, LLC for the following reasons: (a) proven ability to improve management and operations; (b) expertise in the clinical and administrative quality improvement; (c) contracting capabilities; and (d) financial resources, expertise and strength. Ex. A, p. 9.
11. AmSurg offers expertise in the areas of quality improvement, collection and analysis of data; benchmarking analysis comparing quality outcomes to industry standards; up-to-date policy and procedures manuals that meet regulatory and

- accreditation requirements; clinical experts who conduct periodic assessments and provide hands-on support for quality and risk management initiatives; specialty specific initiatives, including programs regarding infection control, patient safety and quality improvement; and clinical regulatory and accreditation educational programs. Ex. C, pp. 102-103.
12. This proposal, through AmSurg's expertise in centralized support services and maintaining efficient administrative practices, will produce immediate operating cost reductions. Ex. A, p. 9.
  13. Streamlined administration and management of Diagnostic Endoscopy, LLC will allow the physicians to focus on providing patient care and quality services. Ex. A, p. 9.
  14. The efficiencies anticipated due to this proposal will be critical to the performance of Diagnostic Endoscopy, LLC since the Applicants anticipate the cost of providing high quality patient care to increase in the near future due to quality improvements to ensure patient satisfaction, technological advances, development of electronic health records and information systems and healthcare reform. Ex. A, pp. 9&10.
  15. Diagnostic Endoscopy, LLC anticipates AmSurg's quality initiative will provide a systematic approach to planning, measuring, evaluating and improving safety and quality of care. Ex. A, pp. 9&10.
  16. AmSurg has significant resources in the areas of materials management, information systems, managed care contracting, planning and development, and expense management. Ex. C, p. 103.
  17. Diagnostic Endoscopy, LLC will benefit from AmSurg's contracting expertise in the areas of payers, purchasing and leasing. Ex. A, p. 10.
  18. AmSurg's involvement in Diagnostic Endoscopy, LLC's ownership and operations will provide it with leadership and financial support. AmSurg currently carries an over \$450 million line of credit. Ex. A, p. 10.
  19. AmSurg's ownership will not only make the capital available and necessary to implement enhancements to Diagnostic Endoscopy, LLC, but as a national management company, AmSurg will institute financial controls, risk management strategies and economies of scale into Diagnostic Endoscopy, LLC's purchasing and supply arrangements that will reduce the cost of patient services and provide Diagnostic Endoscopy, LLC with long-term financial viability. Ex. A, p. 10.
  20. AmSurg's financial strength will ensure the viability of the Center and thus continued access to more cost efficient gastroenterology outpatient procedures in the service area. Ex. A, p. 10.

21. Diagnostic Endoscopy, LLC unanimously approved the sale of 62% ownership interest to AmSurg Holdings, Inc. at the Board meeting on May 7, 2012. Ex. A, p. 12 & Attachment C.
22. Diagnostic Endoscopy, LLC's historical procedure utilization is as follows:

**Table 1: Diagnostic Endoscopy, LLC's Historical Utilization Growth**

Year	# of Procedures	Annual Growth
2008	4,552	-
2009	8,469	86%*
2011	8,840	4%
2012 (Year to date)	9,800	11%**

\*Growth related to new physician owners.

\*\*Growth related to new non-owner physicians.

Ex. C, p. 105.

23. Diagnostic Endoscopy, LLC's projected procedure utilization is as follows:

**Table 2: Diagnostic Endoscopy, LLC's Projected Utilization Growth**

Year	# of Procedures	Annual Growth
2012 (projected)	10,290	5%
2013	10,599	3%
2014	10,917	3%
2015	11,244	3%

Notes:

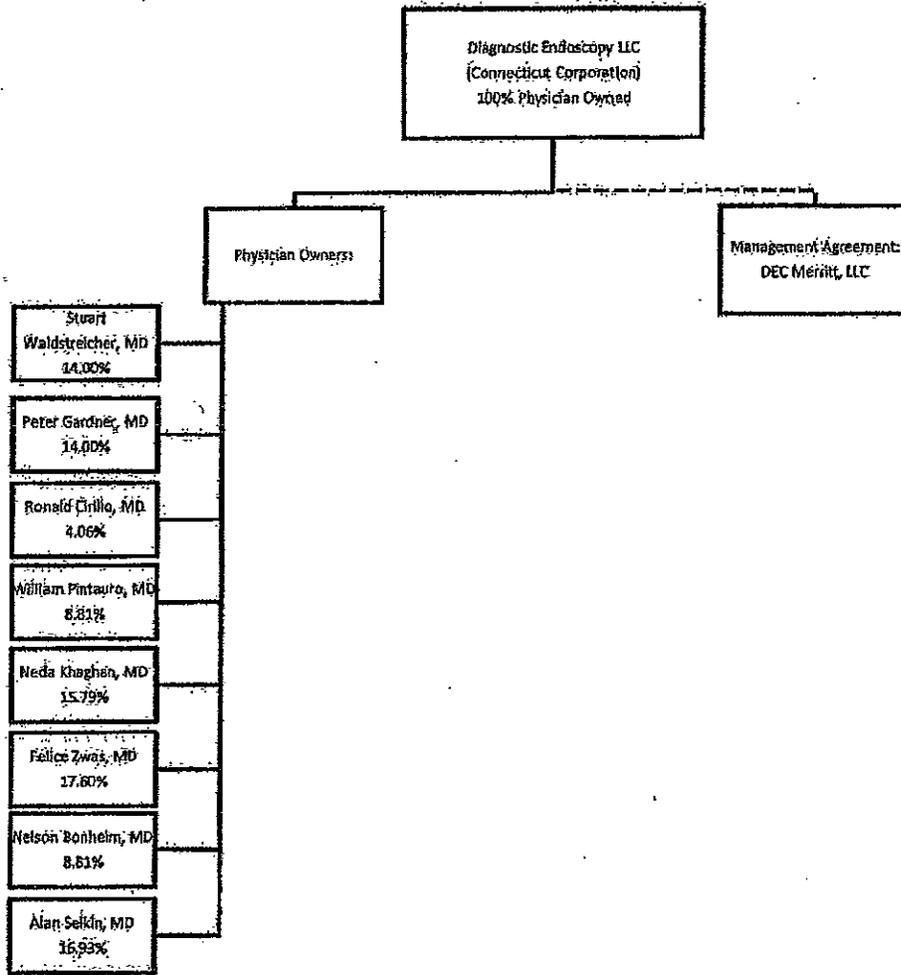
2012 growth based on historical and additional non-owner physicians owners.

2013-2015 is based solely on historical growth.

Ex. C, p. 105.

24. The proposed transaction will result in the termination of the management agreement with DEC Merritt, LLC. Prior to closing, the Center will merge into a Tennessee LLC and at the closing, AmSurg Holdings, Inc. will become a member of that Tennessee LLC. Ex. A, p. 13.
25. The following is Diagnostic Endoscopy, LLC's current corporate organization structure:

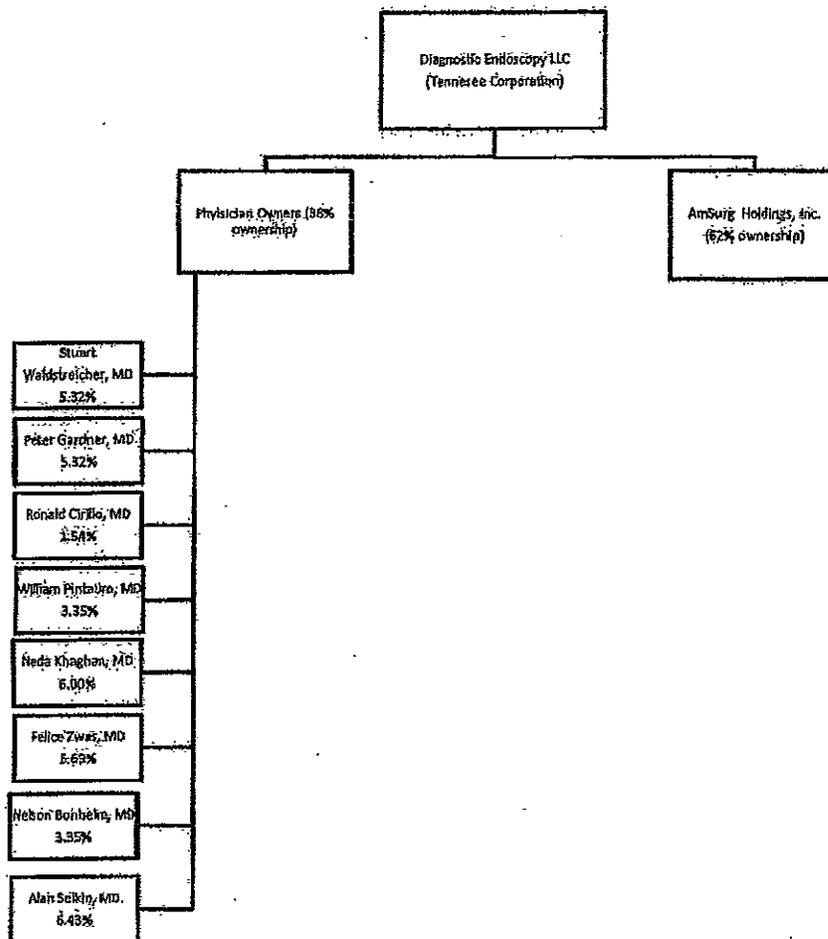
Organizational Chart of Diagnostic Endoscopy Pre-Transaction



Ex. A, pp. 43-36.

26. The following represents Diagnostic Endoscopy, LLC's proposed corporate organization chart:

Organizational Chart of Diagnostic Endoscopy Post-Transaction



Ex. A, pp. 43-36.

27. The follow table illustrates the Pre and Post-transaction ownership of the Center:

**Table 3: Center's Pre- and Post-Transaction Ownership**

<b>Seller's name</b>	<b>Pre-Trans. Membership Int.</b>	<b>Membership Interest Transfer</b>	<b>Post Trans. Membership Int.</b>
DEC Merritt, LLC	0.0%	0.0%	0.0%
Stuart Waldesteicher, M.D.	14.00%	(8.98)%	5.32%
Peter Gardner, M.D.	14.00%	(8.68)%	5.32%
Ronald Cirillo, M.D.	4.06%	(2.52)%	1.54%
William Pintauro, M.D.	8.81%	(5.46)%	3.35%
Neda Khagan, M.D.	15.79%	(9.79)%	6.00%
Felice Zwas, M.D.	17.60%	(10.91)%	6.69%
Nelson Bonheim, M.D.	8.81%	(5.46)%	3.35%
Alan Selkin, M.D.	16.93%	(10.51)%	6.43%
AmSurg Holdings, Inc.	0.00%	62.00%	62.00%
<b>Total</b>	<b>100%</b>		

Ex. A, p. 37, Attachment F.

28. The Operating Agreement of Diagnostic Endoscopy, LLC will provide that "No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care." Ex. C, p. 143
29. The total capital expenditure associated with this proposal is not more than \$12,583,950, which represents the purchase price that AmSurg Holdings, Inc. will pay the existing owners for purchasing 62% ownership interest in Diagnostic Endoscopy, LLC. Ex. A, p. 16.
30. Although AmSurg has an over \$450 million line of credit, it will use its existing working capital to fund the purchase price. Ex. A, p. 16.

31. The current and the projected payer mix for Diagnostic Endoscopy, LLC is as follows:

**Table 4: Payer Mix by Imaging Service**

<b>Payer Description:</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
Medicare	27.73%	28.73%	29.73%	30.73%
Medicaid	0.03%	0.03%	0.03%	0.03%
CHAMPUS & TriCare	0.04%	0.04%	0.04%	0.04%
<b>Total Government</b>	<b>27.79%</b>	<b>28.79%</b>	<b>29.79%</b>	<b>30.79%</b>
Commercial	71.79%	70.79%	69.79%	68.79%
Uninsured	0.42%	0.42%	0.42%	0.42%
Workers Comp	0.0%	0.0%	0.0%	0.0%
<b>Total Non-Government</b>	<b>72.21%</b>	<b>71.21%</b>	<b>70.21%</b>	<b>69.21%</b>
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Ex. A. pp. 16-17.

32. The Applicants project the following incremental revenues and expenses for Diagnostic Endoscopy, LLC with the proposed project:

**Table 5: Projected Incremental Revenues and Expenses**

<b>Description:</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>FY 2015</b>
<b>Revenues from Operations</b>	<b>\$5,742,220</b>	<b>\$5,914,487</b>	<b>\$6,091,922</b>
<b>Total Operation Expense</b>	<b>\$3,025,385</b>	<b>\$3,086,164</b>	<b>\$3,156,263</b>
<b>Net Income</b>	<b>\$2,716,835</b>	<b>\$2,828,343</b>	<b>\$2,935,659</b>

Ex. A, p. 68.

33. The assumptions used to formulate the projections include 5% growth in revenue and procedures due to an additional physician utilizer, 3% annual growth in revenue and procedures in 2013 and 2014 and 3% annual growth in expenses. These percentages are based on Diagnostic Endoscopy, LLC's historical experiences. Ex. A, pp. 17, 68-71.
34. The Applicants assert that this proposal is cost effective because freestanding outpatient surgery centers are less costly for patients and payers due to efficiencies in the operation and administration, economies of scale with vendors and other costs that will be realized. Ex. A, p. 18.
35. The cost savings assume a proposed 10% reduction in Professional/Contracted Services, a 20% reduction in Supplies/Drugs, and a 15% reduction in Other Expenses for each of the 3 projected years. Ex. A, pp. 17, 68-71.

36. The cost savings are based on AmSurg's previous experience with the facilities it currently operates nationally and its ability to reduce operating costs. The cost savings will be achieved specifically through national contracting for supplies and drugs, in-house legal and accounting services, favorable medical waste and linen/laundry contracting, operating efficiencies in information technology and software technology, national contracting for insurance coverage and favorable office supplies contracting and efficiencies. Ex. C, p. 103.
37. This proposal will improve the financial strength of the state's healthcare system by: (1) leveraging existing payer contracts, increasing utilization and achieving operating cost reductions; (2) improving patient satisfaction with increased efficiency in administrative support and upgrade in information system development; and (3) enabling patients' greater access to outpatient services through procurement of contracts with additional health plans. Further, the Center has a Financial Hardship Policy in which it provides reduced fees to certain qualifying patients. The Financial Hardship Policy will remain in place after the transaction. AmSurg's financial management and tax expertise will also have a positive impact upon the financial performance of the Center which in turn will improve the financial health of the State's health care system. Ex. A, p. 16.
38. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1))
39. OHCA recently published a statewide facilities and services plan. Since the plan was not in circulation at the time the Applicants filed the instant CON application, OHCA has not made any findings as to this proposal's relationship to the plan. (Conn. Gen. Stat. § 19a-639(a)(2))
40. The Applicants have satisfactorily demonstrated that there is a clear public need for the proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
41. The Applicants have satisfactorily demonstrated that the proposal is financially feasible given the operational cost savings expected to be realized by the proposal. (Conn. Gen. Stat. § 19a-639(a)(4)).
42. The Applicants have satisfactorily demonstrated that the proposal would maintain accessibility of health care delivery in the region and satisfactorily demonstrated an improvement in quality and cost effectiveness. (Conn. Gen. Stat. § 19a-639(a)(5)).
43. The Applicants have shown that there would be no significant change to the provision of health care services to the relevant populations and payer mix. (Conn. Gen. Stat. § 19a-639(a)(6)).

44. The Applicants have satisfactorily identified the population to be served by the proposal and satisfactorily demonstrated that said population has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7))
45. The historical utilization in the service area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).
46. The Applicants have satisfactorily demonstrated that their proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9)).

## Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in Connecticut General Statutes § 19a-639(a). The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Goldstar Medical Services, Inc., et al. v. Department of Social Services*, 288 Conn. 790 (2008).

Diagnostic Endoscopy, LLC is an outpatient endoscopy facility that provides gastroenterology and colonoscopy procedures. In 1999, OHCA determined that Diagnostic Endoscopy, LLC (at that time known as Stamford Endoscopy Center) did not require a CON to establish the endoscopy service/center. Additionally, on August 31, 2004, OHCA concluded that pursuant to Public Act 04-249, Diagnostic Endoscopy, LLC (then known as Diagnostic Endoscopy Center) provided evidence that it was in operation prior to July 1, 2003 and, consequently, was exempt from the need to obtain CON authorization. FF1-3. Diagnostic Endoscopy, LLC's current ownership is comprised of eight (8) gastroenterology specialists who are the Physician Owners. FF4.

AmSurg, currently operates over 220 centers in 35 states across the United States, including two (2) in Connecticut, and has over 1,500 physician partners. FF5&7. AmSurg provides a wide range of management and support services for both established and newly-developed surgical centers with particular expertise in managed care contracting, information system development and accounting. FF7.

As part of this proposal, AmSurg Holdings, Inc. will obtain a sixty-two percent (62%) ownership interest in Diagnostic Endoscopy, LLC. The remaining thirty-eight percent (38%) ownership interest will remain with the physician members. FF6. The proposed change in ownership will not result in any change in scope of services or licensure category for Diagnostic Endoscopy, LLC. FF9. The decision for the proposed change in ownership was developed jointly by the current physician owners and DEC Merritt, LLC, the company that currently provides management services to Diagnostic Endoscopy, LLC. FF9. AmSurg was chosen by the current owners of Diagnostic Endoscopy, LLC for the following reasons: (a) proven ability to improve management and operations; (b) expertise in clinical and administrative quality improvement; (c) contracting capabilities; and (d) financial resources, expertise and strength. FF10.

AmSurg's national experience offers expertise in the areas of quality improvement, collection and analysis data; benchmarking analysis comparing the Diagnostic Endoscopy, LLC's quality outcomes to industry standards; up to date policies and procedures manuals that meet regulatory and accreditations requirements; clinical experts who conduct periodic assessments and provide hands-on support for quality and risk management initiatives; specialty specific initiatives, including programs regarding infection control, patient safety and quality improvement; and clinical regulatory and accreditation educational programs. FF11.

It is expected that AmSurg's expertise in centralized support services and maintaining efficient administrative practices will produce immediate operating cost reductions. FF12. The efficiencies anticipated due to this proposal will be critical to the performance of Diagnostic Endoscopy, LLC since the Applicants anticipate the cost of providing high quality patient care to increase in the near future due to quality improvement and patient satisfaction, advances in technology, development of electronic health records and information systems and health care reform. FF14. Diagnostic Endoscopy, LLC anticipates that AmSurg's quality initiative will provide a systematic approach to planning, measuring, evaluating and improving safety and quality of care. FF15. As a result of the streamlined administration and management of Diagnostic Endoscopy, LLC, the physicians will be able to focus on providing quality patient care and services. FF13.

Additionally, Diagnostic Endoscopy, LLC will benefit from AmSurg's contracting expertise in the areas of payers, purchasing and leasing. AmSurg will facilitate contract negotiations with new payers because of AmSurg's national market presence in the healthcare provider community. FF17. Finally, AmSurg's involvement in the ownership and operations of Diagnostic Endoscopy, LLC will provide leadership and financial support. Even though AmSurg currently carries an over \$450 million line of credit, it will use its existing working capital to fund the not more than \$12,583,950 purchase price. FF30.

AmSurg's ownership will make capital available to implement necessary enhancements to Diagnostic Endoscopy, LLC, and as a national management company, it will institute financial controls, risk management strategies and economies of scale into Diagnostic Endoscopy, LLC's purchasing and supply arrangements that will reduce the cost of patient services and provide Diagnostic Endoscopy, LLC with long-term financial viability. FF19. The cost savings related to this proposal include a 10% reduction in Professional/Contracted Services, a 20% reduction in Supplies/Drugs, and a 15% reduction in Other Expenses for each of the 3 projected years. FF35.

AmSurg's financial strength will also ensure continued access to more cost efficient gastroenterology outpatient procedures in the service area. FF20. These cost savings are based on AmSurg's national historical experience with similar facilities and its ability to reduce operating costs. The cost savings will be achieved specifically through national contracting for supplies and drugs, in house legal and accounting services, favorable medical waste and linen/laundry contracting, operating efficiencies in information technology and software technology, national contracting for insurance coverage and favorable office supply contracting and efficiencies. FF36.

The Operating Agreement of Diagnostic Endoscopy, LLC will provide that: "No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care." FF28. In order to ensure that the practicing physicians remain free from any corporate influence upon their medical judgments, OHCA requires that the Applicants agree to take certain actions as stated in the Order attached hereto.

ORDER

NOW, THEREFORE, the Department of Public Health, Office of Health Care Access, Diagnostic Endoscopy Center, LLC and AmSurg hereby stipulate and agree to the terms of settlement with respect to the change of ownership of Diagnostic Endoscopy Center, LLC, as follows:

1. AmSurg and Diagnostic Endoscopy, LLC shall ensure that the Center's Medical Director and any and all physicians utilizing the Center are free from any and all influence from AmSurg or Diagnostic Endoscopy, LLC with respect to their independent medical judgment in providing direct care to patients of the Center.
2. AmSurg and Diagnostic Endoscopy, LLC shall ensure that the Center's Medical Director and any and all physicians utilizing the Center are free from any and all influence with respect to their supervision of any and all licensed health care workers providing direct care to patients of the Center.
3. AmSurg and Diagnostic Endoscopy, LLC shall ensure that the Operating Agreement among the Physician Owners and AmSurg Holdings, Inc. contains a provision providing for the independent medical judgment of their Medical Director and physicians utilizing the Center.
4. AmSurg and Diagnostic Endoscopy, LLC shall provide the Office of Health Care Access with a fully executed copy of the Operating Agreement, relating to the Center, within 30 days of execution in order to evidence compliance with Paragraph 3.
5. AmSurg and Diagnostic Endoscopy, LLC shall provide the Office of Health Care Access with a fully executed copy of the Operating Agreement, as referenced on pages 105 and 137 through 171 of the Application and as subsequently revised, within 30 days of execution.
6. The Office of Health Care Access, Diagnostic Endoscopy Center, LLC and AmSurg agree that this Agreed Settlement represents a final agreement between the Office of Health Care Access, Diagnostic Endoscopy Center, LLC and AmSurg with respect to Docket No. 12-31772-CON. The execution of this Agreed Settlement resolves all objections, claims and disputes, which may have been raised by Diagnostic Endoscopy Center, LLC and AmSurg with regard to Docket Number 12-31772-CON.
7. This Agreed Settlement is an order of the Office of Health Care Access with all the rights and obligations attendant thereto, and the Office of Health Care

Access may enforce this Agreed Settlement under the provisions of Conn. Gen. Stat. §§ 19a-642 and 19a-653 with all fees and costs of such enforcement being the responsibility of Diagnostic Endoscopy Center, LLC and AmSurg.

8. This Agreed Settlement shall be binding upon Diagnostic Endoscopy Center, LLC, AmSurg, and their successors and assigns.

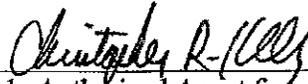
Signed by STUART WALDSTREICHER, BOARD MEMBER  
(Print name) (Title)

4/18/2013  
Date

  
Duly Authorized Agent for  
Diagnostic Endoscopy Center, LLC

Signed by Christopher R Kelly, Vice President  
(Print name) (Title)

4/18/2013  
Date

  
Duly Authorized Agent for  
AmSurg Holdings, Inc.

The above Agreed Settlement is hereby accepted and so ordered by the Department of Public Health Office of Health Care Access on April 22, 2013.

  
Lisa A. Davis, MBA, BSN, RN  
OHCA Commissioner

## Huber, Jack

---

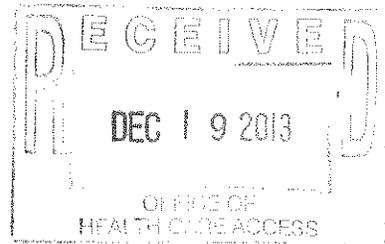
**From:** Stephanie Sprague Sobkowiak <ssobkowiak@murthalaw.com>  
**Sent:** Thursday, December 19, 2013 4:02 PM  
**To:** Huber, Jack  
**Cc:** Kennedy Hudner; Jenkins, Jim  
**Subject:** RE: Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013  
**Attachments:** Response to Additional OHCA Questions.DOCX

Mr. Huber,

Attached you will find the Applicants' response to your question below regarding Docket No. 13-31848-CON. I am sending this via email based on our conversation earlier today. If you need an original and signed letter from us, please just let me know. I will be happy to put such items in the mail to you.

Thank you again.

Regards,  
Stephanie



### Stephanie Sprague Sobkowiak

*Associate*

[ssobkowiak@murthalaw.com](mailto:ssobkowiak@murthalaw.com)



Murtha Cullina LLP | Attorneys at Law | [www.murthalaw.com](http://www.murthalaw.com)  
Whitney Grove Square, 2 Whitney Avenue | New Haven | CT | 06510-1220  
Direct: 203-772-7782  
Fax: 860-240-5899

IRS CIRCULAR 230 DISCLAIMER: Any tax advice contained in this e-mail is not intended to be used, and cannot be used by any taxpayer, for the purpose of avoiding Federal tax penalties that may be imposed on the taxpayer. Further, to the extent any tax advice contained in this e-mail may have been written to support the promotion or marketing of the transactions or matters discussed in this e-mail, every taxpayer should seek advice based on such taxpayer's particular circumstances from an independent tax advisor.

CONFIDENTIALITY NOTICE: This message originates from the law firm of Murtha Cullina LLP. The information contained in this e-mail and any files transmitted with it may be a confidential attorney-client communication or may otherwise be privileged and confidential. If the reader of this message, regardless of the address or routing, is not an intended recipient, you are hereby notified that you have received this transmittal in error and any review, use, distribution, dissemination or copying is strictly prohibited. If you have received this message in error, please delete this e-mail and all files transmitted with it from your system and immediately notify Murtha Cullina by sending a reply e-mail to the sender of this message. Thank you.

**From:** Huber, Jack [mailto:Jack.Huber@ct.gov]  
**Sent:** Tuesday, December 17, 2013 3:31 PM  
**To:** Kennedy Hudner; Stephanie Sprague Sobkowiak  
**Cc:** Martone, Kim; Riggott, Kaila  
**Subject:** Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Dear Attorneys Hudner & Sobkowiak:

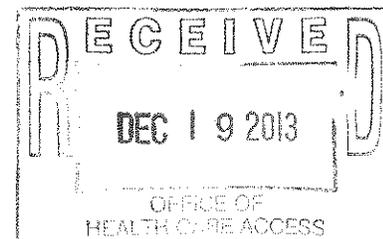
OHCA is in receipt of the Applicants' completeness response submitted on November 25, 2013, regarding information relating to federal and state antitrust matters as well as information relating to anticipated cost savings attributable to the proposed change in ownership structure of Eastern Connecticut Endoscopy Center.

Before OHCA can move forward with this CON application it is imperative that OHCA receives from the Applicants the anticipated cost savings associated with the proposal. In an effort to assist the Applicants in this matter OHCA requests that the proposed cost savings be provided in the same format as presented in Findings of Fact 35 and 36 of OHCA's Agreed Settlement with Diagnostic Endoscopy Center and AmSurg Holdings. A copy of this Agreed Settlement issued under Docket Number: 12-31772-CON is attached for your convenience. Finding of Fact 35 is found on page 8, while Finding of Fact 36 is found on page 9 of the settlement.

Please respond to this request by the close of business 4:30 p.m., Friday, December 20, 2013. Thank you for your attention to this matter. Regards, Jack Huber

Jack A. Huber  
DPH – OHCA Health Care Analyst

**DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS**

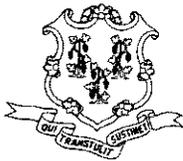


**DOCKET NO. 13-31848-CON: EASTERN CONNECTICUT ENDOSCOPY  
CENTER, LLC AND AMSURG HOLDINGS, INC. – PROPOSAL CHANGING THE  
OWNERSHIP COMPOSITION OF EASTERN CONNECTICUT ENDOSCOPY  
CENTER, LLC IN NORWICH**

**RESPONSE TO ADDITIONAL COMPLETENESS QUESTION**

Eastern Connecticut Endoscopy Center, LLC (the “Center”) and AmSurg Holdings, Inc. (“AmSurg”) (collectively, the “Applicants”) submit the following response to the additional completeness questions posed via electronic mail to the Applicants on December 17, 2013 by the Office of Health Care Access (“OHCA”) with respect to the above-referenced Certificate of Need application (the “Application”).

The financial information contained in the Application reflects a projected 2.5% increase in costs at the Center. Based upon AmSurg’s prior experience, the Applicants believe the Center can achieve cost savings of up to 10% in Professional/Contracted Services, 5% to 25% in Supplies/Drugs, and 5% to 20% in Other Expenses compared to the expenses the Center would incur without AmSurg’s management expertise. The cost savings are based upon AmSurg’s previous experience with the facilities it currently operates nationally and its ability to reduce operating costs. The cost savings are expected to be achieved through national contracting for supplies and drugs, in-house legal, accounting and marketing services, favorable medical waste and linen/laundry contracting, operating efficiencies in information technology and software technology, national contracting for insurance coverage and favorable office supplies contracting and efficiencies.



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

December 23, 2013

VIA FACSIMILE ONLY

Robert M. McCullough  
Vice President  
AmSurg Holding, Inc.  
20 Burton Hills Boulevard  
Nashville, TN 37215

Susan Cowden, R.N.  
Director  
Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street, Suite 107  
Norwich, CT 06360

RE: Certificate of Need Application; Docket Number: 13-31848-CON  
Eastern Connecticut Endoscopy Center, LLC, and AmSurg Holdings, Inc.  
Proposal to Change the Ownership Structure of Eastern Connecticut  
Endoscopy Center, LLC, in Norwich

Dear Ms. Cowden & Mr. McCullough:

This letter is to inform you that, pursuant to Section 19a-639a (d) of the Connecticut General Statutes, the Office of Health Care Access has deemed the above-referenced application complete as of December 23, 2013.

If you have any questions regarding this matter, please feel free to contact me at (860) 418-7069.

Sincerely,

A handwritten signature in cursive script that reads "Jack A. Huber".

Jack A. Huber  
Health Care Analyst

*An Equal Opportunity Provider*

*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*  
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308  
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3902  
RECIPIENT ADDRESS 916152341433  
DESTINATION ID  
ST. TIME 12/23 09:39  
TIME USE 00'42  
PAGES SENT 2  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: MR. ROBERT MCCULLOUGH

FAX: (615) 234-1433

AGENCY: AMSURG HOLDINGS, INC.

FROM: JACK HUBER

DATE: 12/23/2013 Time: ~8:30 a.m.

NUMBER OF PAGES: 2  
*(including transmittal sheet)*

**Comments:** Transmitted: Eastern Connecticut Endoscopy Center, LLC ("ECEC")  
Letter Deeming the CON Application Complete  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of ECEC located in Norwich

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3903  
RECIPIENT ADDRESS 918608867808  
DESTINATION ID  
ST. TIME 12/23 09:40  
TIME USE 00'19  
PAGES SENT 2  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: SUSAN COWLEN, R.N.  
FAX: (860) 886-7808  
AGENCY: EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC  
FROM: JACK HUBER  
DATE: 12/23/2013 Time: ~8:30 a.m.  
NUMBER OF PAGES: 2  
*(including transmittal sheet)*

**Comments:** Transmitted: Eastern Connecticut Endoscopy Center, LLC ("ECEC")  
Letter Deeming the CON Application Complete  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of ECEC located in Norwich

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
\*\*\*\*\*

TRANSMISSION OK

TX/RX NO 3901  
RECIPIENT ADDRESS 98602405899  
DESTINATION ID  
ST. TIME 12/23 09:38  
TIME USE 00'57  
PAGES SENT 2  
RESULT OK



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: ATTORNEY S' EPHANIE SPRAGUE SOBKOWIAK

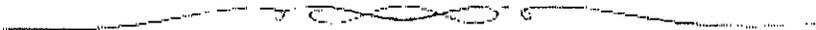
FAX: (860) 240-5899

AGENCY: MURTHA CULINA LLP  
FOR AMSURC HOLDINGS, INC.

FROM: JACK HUBER

DATE: 12/23/2013 Time: ~8:30 a.m.

NUMBER OF PAGES: 2  
*(including transmittal sheet)*



Comments: Transmitted: Eastern Connecticut Endoscopy Center, LLC ("ECEC")  
Letter Deeming the CON Application Complete  
Docket Number: 13-31848-CON  
Proposal to Change the Existing Ownership  
Structure of ECEC located in Norwich

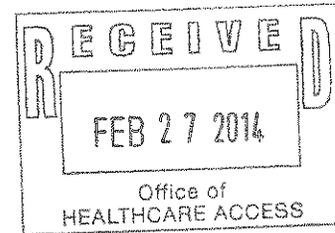
**MURTHA**  
CULLINA

H. KENNEDY HUDNER  
860.240.6029 DIRECT TELEPHONE  
860.240.6829 DIRECT FACSIMILE  
KHUDNER@MURTHALAW.COM

February 27, 2014

VIA HAND DELIVERY

Office of Health Care Access  
410 Capitol Avenue  
P.O. Box 340308  
Hartford, CT 06134



Re: Eastern Connecticut Endoscopy Center, LLC  
Docket No. 13-31848 CON  
Affidavit of AmSurg Holdings, Inc.

Dear Madam/Sir:

Enclosed for filing is an Affidavit executed by AmSurg Holdings, Inc. as requested by the Office of Health Care Access. Please contact me if you have any questions.

Thank you for your assistance.

Very truly yours,

A handwritten signature in cursive script that reads "H. Kennedy Hudner".

H. Kennedy Hudner

Enclosure

Murtha Cullina LLP | Attorneys at Law

BOSTON

HARTFORD

MADISON

NEW HAVEN

STAMFORD

WOBURN

**AFFIDAVIT**

Applicant: AmSurg Holdings, Inc.

Project Title: Certificate of Need Application, Docket Number: 13-31848 con  
Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc.

Proposal Changing the ownership composition of Eastern Connecticut Endoscopy Center LLC, in  
CFO Norwich

I, Claire M. Gulmi, \_\_\_\_\_  
(Individual's Name) (Position Title - CEO or CFO)

of AmSurg Holdings, Inc. being duly sworn, depose and state that  
(Hospital or Facility Name)

AmSurg Holdings, Inc.'s information submitted in this Certificate of  
(Hospital or Facility Name)

Need Application is accurate and correct to the best of my knowledge.

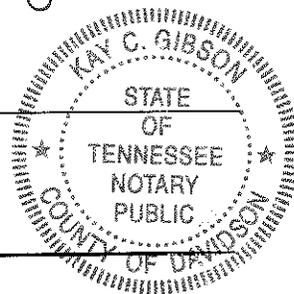
Claire M. Gulmi  
Signature

1-30-14  
Date

Subscribed and sworn to before me on January 30, 2014

Kyle Gibson  
Notary Public/Commissioner of Superior Court

My commission expires: 3-3-16



## Huber, Jack

---

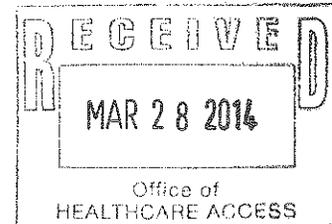
**From:** Kennedy Hudner <KHUDNER@murthalaw.com>  
**Sent:** Friday, March 28, 2014 4:22 PM  
**To:** Huber, Jack  
**Cc:** 'Jenkins, Jim'  
**Subject:** Re: Eastern CT Endoscopy Center - Request for Financial Attachment 1 Information  
**Attachments:** 20140328132719992.pdf

Dear Jack:

In response to your request for an updated financial attachment, please see the attached revised and updated projection of total facility revenue, expense and volume. You will see the adjustments made in Fiscal Years 2014 and 2015.

Please feel free to contact me if you have any questions or comments.

Sincerely,  
Kennedy Hudner



Kennedy Hudner  
Partner  
[khudner@murthalaw.com](mailto:khudner@murthalaw.com)  
Murtha Cullina LLP | Attorney at Law | [www.murthalaw.com](http://www.murthalaw.com) CityPlace I, 185 Asylum Street | Hartford | CT | 06103-3469  
Direct: 860-240-6029  
Fax: 860-240-5829

IRS CIRCULAR 230 DISCLAIMER: Any tax advice contained in this e-mail is not intended to be used, and cannot be used by any taxpayer, for the purpose of avoiding Federal tax penalties that may be imposed on the taxpayer. Further, to the extent any tax advice contained in this e-mail may have been written to support the promotion or marketing of the transactions or matters discussed in this e-mail, every taxpayer should seek advice based on such taxpayer's particular circumstances from an independent tax advisor.

CONFIDENTIALITY NOTICE: This message originates from the law firm of Murtha Cullina LLP. The information contained in this e-mail and any files transmitted with it may be a confidential attorney-client communication or may otherwise be privileged and confidential. If the reader of this message, regardless of the address or routing, is not an intended recipient, you are hereby notified that you have received this transmittal in error and any review, use, distribution, dissemination or copying is strictly prohibited. If you have received this message in error, please delete this e-mail and



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

April 25, 2014

**IN THE MATTER OF:**

An Application for a Certificate of Need  
filed Pursuant to Section 19a-638, C.G.S. by:

Notice of Agreed Settlement  
Office of Health Care Access  
Docket Number: 13-31848-CON

**Eastern Connecticut Endoscopy Center,  
LLC, and AmSurg Holdings, Inc.**

**Proposal to Change the Ownership  
Structure of Eastern Connecticut  
Endoscopy Center, LLC, in Norwich**

To:

Susan Cowden, R.N.  
Director  
Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street, Suite 107  
Norwich, CT 06360

Robert M. McCullough  
Vice President  
AmSurg Holdings, Inc.  
20 Burton Hills Boulevard  
Nashville, TN 37215

Dear Ms. Cowden and Mr. McCullough:

This letter will serve as notice of the approved Certificate of Need Application in the above-referenced matter. On April 25, 2014, the Agreed Settlement, attached hereto, was adopted and issued as an Order by the Department of Public Health, Office of Health Care Access.

Kimberly R. Martone  
Director of Operations

Enclosure  
KRM:jah



**Department of Public Health  
Office of Health Care Access  
Certificate of Need Application**

**Agreed Settlement**

**Applicants:** Eastern Connecticut Endoscopy Center, LLC  
79 Wawecus Street, Suite 107, Norwich, CT 06360

AmSurg Holdings, Inc.  
20 Burton Hills Boulevard, Nashville, TN 37215

**Docket Number:** 13-31848-CON

**Project Title:** Proposal to Change the Ownership Structure of  
Eastern Connecticut Endoscopy Center, LLC

**Project Description:** Eastern Connecticut Endoscopy Center, LLC (“Center”), an endoscopic outpatient surgical facility in Norwich, is currently owned by its 4-physician members with a combined 60% ownership interest and AmSurg Holdings, Inc. with a 40% ownership interest. The physician members of the Center and AmSurg Holdings, Inc., hereinafter collectively referred to as the “Applicants,” propose a change in the ownership structure of the Center. As a result of the proposal, AmSurg Holdings, Inc. will acquire an additional 11% ownership interest in the Center, thereby increasing its ownership interest from a 40% to a 51% ownership interest. The remaining 49% ownership interest will remain with the physician members of the Center. The transfer of the 11% membership interest will give AmSurg Holdings, Inc. a majority ownership interest in the Center.

**Procedural History:** The Applicants published notice of their intent to file the Certificate of Need (“CON”) application in *The Bulletin* of Norwich on March 27, 28, and 29, 2013. On June 26, 2013, the Office of Health Care Access (“OHCA”) received the CON application from the Applicants for the above-referenced project and deemed the application complete on December 19, 2013. OHCA received no responses from the public concerning the Applicants’ proposal and no hearing requests were received from the public pursuant to Connecticut General Statutes (“Conn. Gen. Stat.”) § 19a-639a(e). Deputy Commissioner Davis considered the entire record in this matter.

To the extent the findings of fact actually represent conclusions of law, they should be so considered, and vice versa. *SAS Inst., Inc., v. S & H Computer Systems, Inc.*, 605 F.Supp. 816 (Md. Tenn. 1985).

### Findings of Fact and Conclusions of Law

1. The Center is a licensed outpatient surgical facility providing endoscopic surgical procedures at 79 Wawecus Street, Suite 107, in Norwich, Connecticut. Exhibit A, pp. 6 & 110.
2. AmSurg Holdings, Inc. (“AmSurg”) is a wholly-owned subsidiary of AmSurg Corporation. AmSurg Corporation operates over 250 ambulatory surgery centers in 35 states and provides a wide range of management and support services. AmSurg Corporation has specific expertise in managed care contracting, information system development and accounting services for both established and newly-developed surgical centers. Exhibit A, pp. 6 & 8.
3. On December 5, 2012, AmSurg purchased a 40% minority ownership interest in the Center. The physician members of the Center collectively retained a 60% majority ownership interest. Exhibit A, pp. 6, 8 & 17.
4. The Applicants’ current proposal involves a transfer of ownership interests from the physician owners to AmSurg, whereby AmSurg will acquire an additional 11% ownership interest in the Center. The proposed transaction will result in AmSurg possessing a 51% majority ownership interest in the Center and the physician members collectively retaining a 49% minority ownership interest in the Center. Exhibit A, pp. 6 & 89.
5. The two organizational charts that follow illustrate the corporate structure of the Center before (Chart 1) and after (Chart 2) the proposed ownership interest transfer. Exhibit A, pp. 6 through 10 & 85 through 87.

**Chart 1:**

**Eastern Connecticut Endoscopy Center Organizational Chart – Before Proposed Transfer**

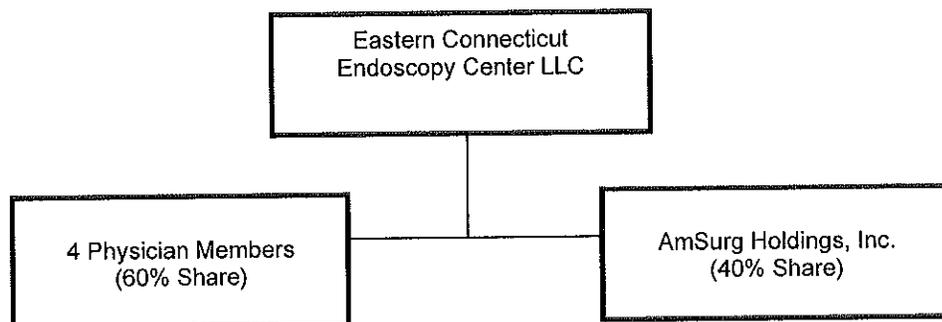
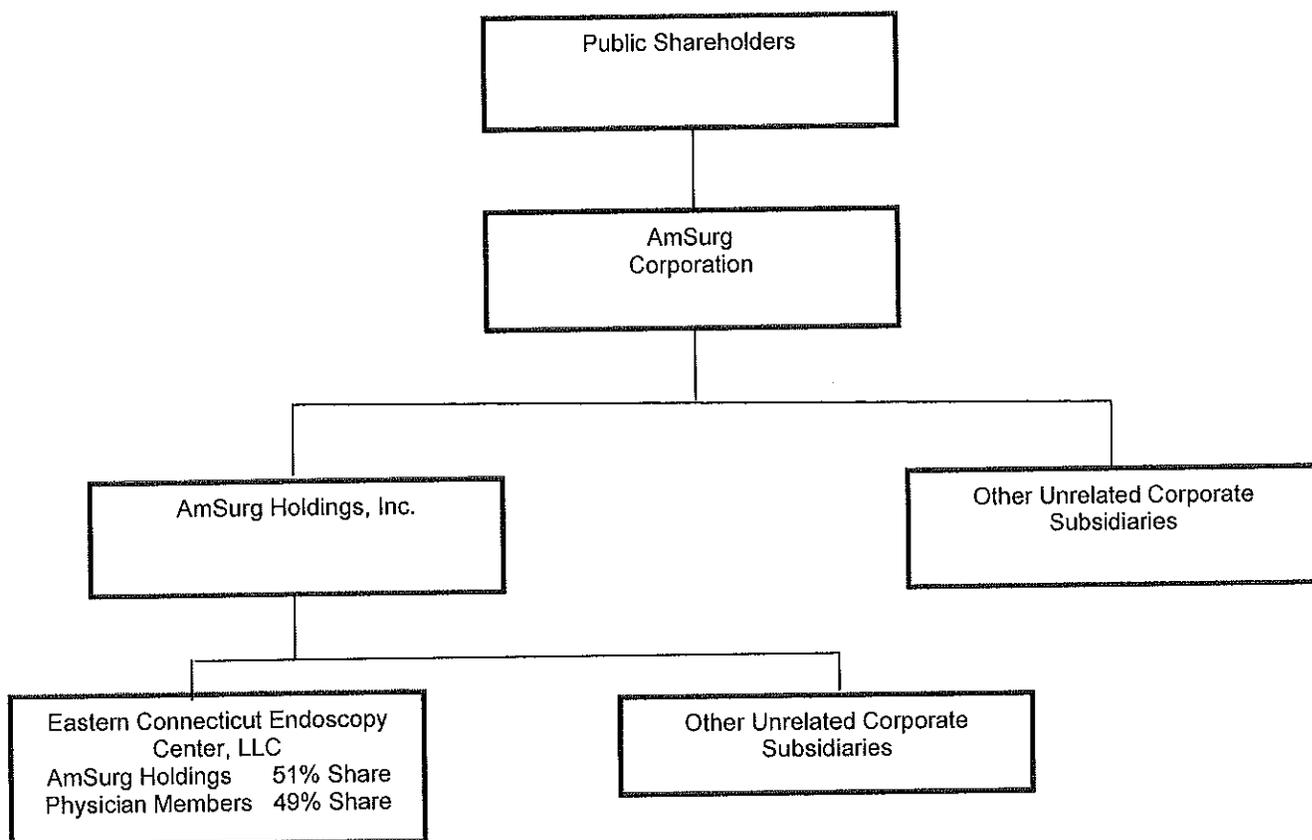


Chart 2:  
Eastern Connecticut Endoscopy Center Organizational Chart – After Proposed Transfer



6. The proposed reorganization is being initiated to facilitate a change in the ownership structure that is consistent with AmSurg's other affiliated ambulatory surgery centers and will not affect or alter any terms of the Center's operation. Exhibit A, pp. 8 & 10.
7. Allowing for the transfer of the additional 11% ownership interest to AmSurg will enable AmSurg to take certain actions on behalf of the Center as its major equity owner, and to fully leverage the benefit of its national contracts with equipment and supply vendors for the benefit of the Center. Exhibit C, p. 170; Exhibit E, pp. 344 through 346.
8. Pursuant to the Federal Sherman Antitrust Act and Conn. Gen. Stat. § 35-24 et seq., there exist limitations on the actions AmSurg can take on behalf of the Center unless AmSurg holds a controlling ownership interest in the Center. Under both Federal and Connecticut statutes, entities not under common control cannot coordinate their negotiation of prices or payment terms with purchasers of their services, but entities

under common control can coordinate such activities. Exhibit C, p. 170; Exhibit E, pp. 344 through 346; Conn. Gen. Stat. § 35-24 et seq.

9. The Center currently serves the town of Norwich as well as its adjacent towns: Bozrah, Montville, Preston, Lisbon, Sprague and Franklin. With respect to the proposal, the Center's service area will remain the same and the Center will continue to operate in the space it currently leases. Exhibit A, p. 9.
10. The proposed change in ownership structure will not result in any change in the scope of services provided, service volumes or patient population mix for the Center. Exhibit A, pp. 7 & 9.
11. The governance of the Center will continue to be controlled by the Center's Board of Managers. The proposed transfer of the 11% ownership interest will not affect the governance or controlling body of the Center. Exhibit A, pp. 40 & 65.
12. AmSurg will not influence the Center's Medical Director or the physicians utilizing the Center with respect to their independent medical judgment in providing direct patient care to the Center's patients. The Center's current Operating Agreement provides, and the proposed Operating Agreement will continue to provide that, "No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care." Exhibit A, p. 9.
13. The proposed ownership interest transfer will allow the Center to:
  - a. Streamline the corporate administration of the Center, consistent with AmSurg's other affiliated ambulatory surgery centers;
  - b. Promote optimum integration of the Center's operations with the expertise of AmSurg (e.g., information and support systems);
  - c. Promote the cost effectiveness of facility operations by utilizing contractual arrangements that AmSurg will be negotiating requiring the Center to be a majority owned subsidiary of AmSurg; and
  - d. Position the Center more favorably in negotiations with third party payers. Exhibit A, p. 7; Exhibit C, pp. 169 & 171.
14. The Center has performed an average of 4,060 endoscopic surgical procedures annually for fiscal years ("FYs") 2010 through 2012, with a 1% annual increase in volume:

**Table 1: Actual Utilization, FY 2010-2012**

Description	Actual FY 2010	Actual FY 2011	Actual FY 2012
Procedures Performed	3,868	3,822	4,489
% Change between FYs	-	-1%	2%

Note: FY is from October 1 through September 30.  
Exhibit C, p. 338.

15. The Center is projecting similar growth in the number of procedures for FYs 2013 through 2015:

**Table 2: Projected Utilization, FYs 2013-2015**

Description:	Projected FY 2013	Projected FY 2014	Projected FY 2015
Procedures Performed	4,534	4,578	4,625
% Change between FYs	1%	1%	1%

Note: Projected procedure volumes are based upon the Center's actual historical results. Exhibit A, p. 13; Exhibit C, p. 338.

16. The Center reported approximately \$1.0 million in income from operations for FY 2012. The projected income and incremental expense reductions from operations for the Center with the proposal for FYs 2013 through 2015 is as follows:

**Table 3: Actual & Projected Operating Results with the Proposal for FYs 2012 - 2015**

Description	Actual FY 2012	Projected FY 2013	Projected FY 2014	Projected FY 2015
Net Patient Revenue:				
Non-Government	\$2,001,607	\$2,021,623	\$2,041,839	\$2,062,258
Medicare	\$864,330	\$872,974	\$881,703	\$890,520
Medicaid	\$97,048	\$98,018	\$98,998	\$99,988
Other Gov't.	\$69,753	\$70,451	\$71,155	\$71,867
<b>Revenue from Operations</b>	<b>\$3,032,738</b>	<b>\$3,063,066</b>	<b>\$3,093,695</b>	<b>\$3,124,633</b>
<b>Total Operating Expenses</b>	<b>\$1,989,243</b>	<b>\$2,038,974</b>	<b>\$2,089,948</b>	<b>\$2,142,197</b>
<b>Income from Operations</b>	<b>\$1,043,495</b>	<b>\$1,024,092</b>	<b>\$1,003,747</b>	<b>\$982,436</b>

Exhibit D, pp. 346, 350; Exhibit I, p. 2.

**Table 4: Incremental Expense Reductions from Operations**

Description:	FY 2013	FY 2014	FY 2015
Professional/Contracted Services	(\$5,402)	(\$5,537)	(\$5,676)
Supplies and Drugs	(\$11,627)	(\$11,918)	(\$12,216)
Other Operating Expenses	(\$11,902)	(\$12,199)	(\$12,504)
<b>Total Operating Expense Adjustments</b>	<b>(\$28,931)</b>	<b>(\$29,654)</b>	<b>(\$30,396)</b>

Note: \*Operating expenses also includes salaries and fringe benefits, bad debt, depreciation, interest expense and lease expense required to operate the Center. These expenses are not affected by the proposed interest transfer. The Applicants assume 1% annual growth in net patient service revenue and surgical procedures performed; 2.5% annual growth in expenses; and no change in the number of full time equivalents necessary to staff the Center. The percentage increases are based on the actual results of the Center.

Exhibit I, p. 2.

17. Based upon AmSurg's prior experiences, the Center can achieve cost savings of 2.5% in Professional/Contracted Services, a 5% in Supplies/Drugs, and 5% in Other Expenses compared to the expenses the Center would incur without being able to fully capitalize on AmSurg's management expertise. Exhibit I, p. 2.
18. The cost savings are based on AmSurg's previous experience with the surgical facilities it currently operates nationally and its ability to reduce operating costs. The cost savings will be achieved specifically through national contracting for supplies and drugs; in-house legal, accounting and marketing services; favorable

medical waste and linen/laundry contracting; operating efficiencies in information technology and software technology; national contracting for insurance coverage and favorable office supplies contracting and efficiencies. Exhibit G, p. 2.

19. The total expenditure associated with the proposal is \$1,058,054, which represents the fair market value consideration for the membership interest that AmSurg will pay physician members for the additional 11% ownership interest in the Center. AmSurg will use working capital to fund the purchase price. Exhibit A, p. 12.
20. The current and projected patient population mix is based upon established Center operations and is not projected to change as a result of this proposal.

**Table 5: The Endoscopy Center's Current and Projected Patient Population Mix**

Description	FY 2012 Current Payer Mix	FY 2013 Projected Payer Mix	FY 2014 Projected Payer Mix	FY 2015 Projected Payer Mix
Medicare	28.54%	28.54%	28.53%	28.54%
Medicaid*	3.16%	3.18%	3.17%	3.18%
CHAMPUS & TriCare	2.27%	2.27%	2.27%	2.27%
<b>Total Government</b>	<b>33.97%</b>	<b>33.99%</b>	<b>33.97%</b>	<b>33.99%</b>
Commercial Insurers*	65.87%	65.85%	66.88%	65.86%
Uninsured	0.16%	0.15%	0.15%	0.15%
<b>Total Non-Government</b>	<b>66.03%</b>	<b>66.01%</b>	<b>66.03%</b>	<b>66.01%</b>
<b>Total Patients</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>	<b>100.00%</b>

Note: \* Includes managed care activity.  
 Exhibit A, p. 13.

21. OHCA is currently in the process of establishing its policies and standards as regulations. Therefore, OHCA has not made any findings as to this proposal's relationship to any regulations adopted by OHCA. (Conn. Gen. Stat. § 19a-639(a)(1)).
22. This CON application is consistent with the overall goals of the Statewide Health Care Facilities and Services Plan. (Conn. Gen. Stat. § 19a-639(a)(2)).
23. The Applicants have satisfactorily demonstrated that there is a clear public need for the proposal. (Conn. Gen. Stat. § 19a-639(a)(3)).
24. The Applicants have satisfactorily demonstrated that the proposal is financially feasible given the Center's actual and projected revenues and expenses and the cost reductions expected to be realized by the proposal. (Conn. Gen. Stat. § 19a-639(a)(4)).
25. The Applicants have satisfactorily demonstrated that their proposal would maintain accessibility of health care delivery in the region and satisfactorily demonstrates a potential improvement in quality and cost effectiveness. (Conn. Gen. Stat. § 19a-639(a)(5)).

26. The Applicants have shown that there would be no adverse change to the provision of health care services to the relevant patient populations and payer mix. (Conn. Gen. Stat. § 19a-639(a)(6)).
27. The Applicants have satisfactorily identified the population being served by the proposal and have satisfactorily demonstrated that said population has a need as proposed. (Conn. Gen. Stat. § 19a-639(a)(7)).
28. The Applicants' historical provision of surgical procedures in the area supports this proposal. (Conn. Gen. Stat. § 19a-639(a)(8)).
29. The Applicants have satisfactorily demonstrated that their proposal would not result in an unnecessary duplication of existing services in the area. (Conn. Gen. Stat. § 19a-639(a)(9)).

## Discussion

CON applications are decided on a case by case basis and do not lend themselves to general applicability due to the uniqueness of the facts in each case. In rendering its decision, OHCA considers the factors set forth in Connecticut General Statutes § 19a-639(a). The Applicants bear the burden of proof in this matter by a preponderance of the evidence. *Jones v. Connecticut Medical Examining Board*, 309 Conn. 727 (2013).

The Center is an outpatient surgical facility in Norwich, Connecticut that provides endoscopic surgical procedures. *FF1*. AmSurg Corporation provides a wide range of management and support services for both established and newly-developed surgical centers throughout the country. *FF2*. In 2012, AmSurg Corporation, through its wholly-owned subsidiary AmSurg, purchased a 40% ownership interest in the Center. *FF3*. Currently, the ownership composition of the Center consists of 4 physician members collectively owning a 60% majority ownership interest and AmSurg owning a 40% minority ownership interest. *FF3&5*. The Applicants' proposal involves a transfer of ownership interest from the physician owners to AmSurg, whereby, AmSurg will obtain an additional 11% ownership interest in the Center, resulting in AmSurg holding a 51% majority ownership interest. The 49% ownership interest will remain with the 4 physician members of the Center. *FF4&5*. The reorganization is being initiated to facilitate governance consistent with AmSurg's other affiliated ambulatory surgery centers and to realize cost efficiencies associated therewith. The proposal will not affect or alter any terms of the Center's operation. *FF6,9,10&11*.

After attaining a 40% ownership interest in 2012, AmSurg began introducing enhancements for the Center's operations by providing administrative and management oversight services; introducing accounting and financial reporting services; and integrating the Center's information system with its own. *Exhibit A, pp. 7 through 9; Exhibit C, p.171*. Allowing for the transfer of an additional 11% ownership interest in the Center to AmSurg will enable AmSurg to take certain actions on behalf of the Center in order to reduce its operating costs; actions that are prohibited under state and Federal antitrust laws under the current ownership structure of the Center. In order for AmSurg to be in compliance with state and Federal antitrust laws, and thereby realize operational savings for the Center, it must hold a majority ownership interest in the Center. *FF7&8*.

The cost savings related to this proposal include 2.5% in "Professional/Contracted Services", 5% in "Supplies/Drugs", and 5% in "Other Expenses" compared to the expenses the Center would incur without being able to fully implement AmSurg's management expertise by way of this proposal. *FF16&17*. The cost savings are based on AmSurg's previous experience with the surgical facilities it currently operates nationally and its ability to reduce operating costs. More specifically, the cost savings will be achieved through national contracting for supplies and drugs, in-house legal, accounting and marketing services, favorable medical waste and linen/laundry contracting, operating efficiencies in information technology and software technology, national contracting for insurance coverage and favorable office supplies contracting and efficiencies. *FF18*.

This proposal will allow AmSurg to further streamline the corporate administration of the Center; to promote optimum integration of the Center's operations with the expertise of AmSurg; and to fully leverage the benefit of its national contracts with supply vendors and the purchasing and leasing of equipment for the benefit of the Center. In addition, AmSurg will take advantage of its national market presence during its contract negotiations with new commercial healthcare payers. *FF13.*

The proposed change in ownership structure will not result in any change in scope of services provided, service volumes, patient population mix or licensure category for the Center. *FF10&20.* Also, the proposed transfer will not affect the governance or controlling body of the Center, which will continue to be controlled by the Center's Board of Managers. *FF11.*

Overall, the cost savings achieved by this proposal will enhance the financial strength of the health care system in Connecticut while ensuring that access to quality care is maintained for the population currently being served by the Center, including that of the Medicare and Medicaid population. As a result, the Applicants have demonstrated that their proposal is consistent with the overall goals included in the Statewide Health Care Facilities and Services Plan.

Moreover, neither AmSurg nor the Center will influence the Center's Medical Director or the physicians utilizing the Center with respect to their independent medical judgment in providing direct patient care to the patients of the Center. Specifically, the Center's current operating agreement provides, and the proposed operating agreement will continue to provide, that nothing contained in the operating agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the provision of patient care. *FF12.* In order to ensure that the practicing physicians remain free from any corporate influence upon their medical judgment, OHCA requires that the Applicants agree to take certain actions as stated in the Order attached hereto.

## Order

NOW, THEREFORE, the Department of Public Health, Office of Health Care Access, Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. hereby stipulate and agree to the terms of settlement with respect to the change in ownership structure of Eastern Connecticut Endoscopy Center as follows:

1. Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. shall ensure that the Center's Medical Director and any and all physicians utilizing the Center are free from any and all influence from Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. with respect to their independent medical judgment in providing direct care to patients of the Eastern Connecticut Endoscopy Center, LLC.
2. Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. shall ensure that the Center's Medical Director and any and all physicians utilizing the Center are free from any and all influence with respect to their supervision of any and all licensed health care workers providing direct care to patients of the Eastern Connecticut Endoscopy Center, LLC.
3. Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. shall ensure that the Operating Agreement among the Physician Owners and AmSurg Holdings, Inc. contains a provision providing for the independent medical judgment of their Medical Director and physicians utilizing the Eastern Connecticut Endoscopy Center, LLC.
4. Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. shall provide the Office of Health Care Access with a fully executed copy of the Operating Agreement, relating to the Center, within 30 days of execution.
5. The Office of Health Care Access, Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. agree that this Agreed Settlement represents a final agreement between the Office of Health Care Access, Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. with respect to this request. The signing of this Agreed Settlement resolves all objections, claims and disputes that may have been raised by the Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. with regard to Docket Number: 13-31848-CON.
6. This Agreed Settlement is an order of the Office of Health Care Access with all the rights and obligations attendant thereto, and the Office of Health Care Access may enforce this Agreed Settlement pursuant to the provisions of Conn. Gen. Stat. §§ 19a-642 and 19a-653 with all fees and costs of such enforcement being the responsibility of Eastern Connecticut Endoscopy Center, LLC and AmSurg Holdings, Inc. should Eastern Connecticut Endoscopy Center, LLC or AmSurg Holdings, Inc. fail to comply with its terms.

7. This Agreed Settlement shall inure to the benefit of and be binding upon the Office of Health Care Access, Eastern Connecticut Endoscopy Center, LLC, AmSurg Holdings, Inc. and their successors and assigns.

Signed by Kolala R. Sridhar, Director  
(Print name) (Print Title)

4/24/14  
Date KRSridhar  
Duly Authorized Agent for  
Eastern Connecticut Endoscopy Center, LLC

Signed by Christopher R. Kelly, Vice President  
(Print name) (Print Title)

4/21/14  
Date Christopher R. Kelly  
Duly Authorized Agent for  
AmSurg Holdings, Inc.

The above Agreed Settlement is hereby accepted and so ordered by the Department of Public Health, Office of Health Care Access on 4/25/14.

Lisa A. Davis  
Lisa A. Davis, MBA, BSN, RN  
Deputy Commissioner

\* \* \* COMMUNICATION RESULT REPORT ( APR. 25. 2014 3:05PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	APR. 25. 2014 2:58PM OPTION	ADDRESS	RESULT	PAGE
250	MEMORY TX	916152341433	OK	13/13

REASON FOR ERROR OR LINE FAIL  
 E-1) HANG UP OR NO ANSWER  
 E-3) NO ANSWER

E-2) BUSY  
 E-4) NO FACSIMILE CONNECTION



**STATE OF CONNECTICUT  
 DEPARTMENT OF PUBLIC HEALTH  
 OFFICE OF HEALTH CARE ACCESS**

**FAX SHEET**

**TO:** MR. ROBERT MCCULLOUGH

**FAX:** (615) 234-1433

**AGENCY:** AMSURG HOLDINGS, INC.

**FROM:** JACK A. HUBER

**DATE:** 4/25/2014 **Time:** ~3:00 pm

**NUMBER OF PAGES:** 13  
*(including transmittal sheet)*

**Transmitted:** Signed Agreed Settlement under Docket Number: 13-31848-CON Eastern Connecticut Endoscopy Center's proposal to change the existing ownership structure of the surgery center, located in Norwich, CT.

**PLEASE PHONE Jack A. Huber at (860) 418-7069  
 IF THERE ARE ANY TRANSMISSION PROBLEMS.**

**Phone: (860) 418-7001**

**Fax: (860) 418-7053**

**410 Capitol Ave., MS#13HCA  
 P.O.Box 340308  
 Hartford, CT 06134**

\* \* \* COMMUNICATION RESULT REPORT ( APR. 25. 2014 3:01PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	APR. 25. 2014 2:56PM OPTION	ADDRESS	RESULT	PAGE
249 MEMORY TX		918608867808	OK	13/13

REASON FOR ERROR  
E-1) HANG UP OR LINE FAIL  
E-3) NO ANSWER

E-2) BUSY  
E-4) NO FACSIMILE CONNECTION



**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS**

**FAX SHEET**

**TO:** SUSAN COWDEN, R.N.

**FAX:** (860) 886-7808

**AGENCY:** EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC

**FROM:** JACK A. HUBER

**DATE:** 4/25/2014 **Time:** ~3:00 p.m.

**NUMBER OF PAGES:** 13  
*(including transmittal sheet)*

**Transmitted:** Signed Agreed Settlement under Docket Number: 13-31848-CON Eastern Connecticut Endoscopy Center's proposal to change the existing ownership structure of the surgery center, located in Norwich, CT.

**PLEASE PHONE Jack A. Huber at (860) 418-7069  
IF THERE ARE ANY TRANSMISSION PROBLEMS.**

**Phone: (860) 418-7001**

**Fax: (860) 418-7053**

**410 Capitol Ave., MS#13HCA  
P.O.Box 340308  
Hartford, CT 06134**

\* \* \* COMMUNICATION RESULT REPORT ( APR. 25. 2014 3:11PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : APR. 25. 2014 3:06PM  
FILE MODE OPTION

ADDRESS

RESULT

PAGE

251 MEMORY TX

918602405829

OK

13/13

REASON FOR ERROR OR LINE FAIL  
E-1) HANG UP  
E-3) NO ANSWER

E-2) BUSY  
E-4) NO FACSIMILE CONNECTION



STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
OFFICE OF HEALTH CARE ACCESS

FAX SHEET

TO: KENNEDY HUDNER, ESQ.  
FAX: (860) 240-5829  
AGENCY: MURTHA CULLINA, LLP  
FROM: JACK A. HUBER  
DATE: 4/25/2014 Time: ~3:00 p.m.  
NUMBER OF PAGES: 13  
*(including transmittal sheet)*

**Transmitted:** Signed Agreed Settlement under Docket Number: 13-31848-CON Eastern Connecticut Endoscopy Center's proposal to change the existing ownership structure of the surgery center, located in Norwich, CT.

**PLEASE PHONE Jack A. Huber at (860) 418-7069  
IF THERE ARE ANY TRANSMISSION PROBLEMS.**

Phone: (860) 418-7001

Fax: (860) 418-7053

410 Capitol Ave., MS#13HCA  
P.O. Box 340308  
Hartford, CT 06134

\* \* \* COMMUNICATION RESULT REPORT ( APR. 25. 2014 3:17PM ) \* \* \*

FAX HEADER:

TRANSMITTED/STORED : FILE MODE	APR. 25. 2014 3:07PM OPTION	ADDRESS	RESULT	PAGE
252 MEMORY TX		918602405742	OK	13/13

REASON FOR ERROR  
 E-1) HANG UP OR LINE FAIL  
 E-3) NO ANSWER  
 E-2) BUSY  
 E-4) NO FACSIMILE CONNECTION



**STATE OF CONNECTICUT  
 DEPARTMENT OF PUBLIC HEALTH  
 OFFICE OF HEALTH CARE ACCESS**

**FAX SHEET**

**TO:** ELIZABETH M. NEUWIRTH, ESQ.

**FAX:** (860) 240-5742

**AGENCY:** MURTHA CULLINA, LLP

**FROM:** JACK A. HUBER

**DATE:** 4/25/2014 **Time:** ~3:00 p.m.

**NUMBER OF PAGES:** 13  
*(including transmittal sheet)*

**Transmitted:** Signed Agreed Settlement under Docket Number: 13-31848-CON Eastern Connecticut Endoscopy Center's proposal to change the existing ownership structure of the surgery center, located in Norwich, CT.

**PLEASE PHONE Jack A. Huber at (860) 418-7069  
 IF THERE ARE ANY TRANSMISSION PROBLEMS.**

**Phone: (860) 418-7001 Fax: (860) 418-7053**

**410 Capitol Ave., MS#13HCA  
 P.O.Box 340308  
 Hartford, CT 06134**

## Huber, Jack

---

**From:** Stephanie Sprague Sobkowiak <ssobkowiak@murthalaw.com>  
**Sent:** Monday, December 23, 2013 1:17 PM  
**To:** Huber, Jack  
**Subject:** RE: Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Thank you, Jack, I appreciate it.

Happy holidays to you.

Regards,  
Stephanie

---

**From:** Huber, Jack [mailto:Jack.Huber@ct.gov]  
**Sent:** Monday, December 23, 2013 8:29 AM  
**To:** Stephanie Sprague Sobkowiak  
**Subject:** RE: Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Good morning Stephanie – I will be sending a letter out today deeming the application complete as of December 23, 2013. The notice deeming the application complete will then be placed on the OHCA website for a thirty day period. If the notice deeming the application complete doesn't generate a request for hearing from the public, a decision on this matter can move forward from that point in time – January 22, 2014. I will begin drafting a decision document toward the end of this week, as the possibility of this request generating an outside request for public hearing doesn't appear to be great. If you have any other questions feel free to contact me by email or at (860) 418-7069. Regards, Jack

Jack Huber  
DPH – OHCA Health Care Analyst

---

**From:** Stephanie Sprague Sobkowiak [mailto:ssobkowiak@murthalaw.com]  
**Sent:** Friday, December 20, 2013 3:07 PM  
**To:** Huber, Jack  
**Subject:** FW: Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Mr. Huber,

I wanted to follow up on my message below to make sure that you received it and to see if you have a sense of when we should expect the decision in this matter. If you need anything else, please let me know.

Thank you and regards.  
Stephanie

---

**From:** Stephanie Sprague Sobkowiak  
**Sent:** Thursday, December 19, 2013 4:02 PM  
**To:** Huber, Jack  
**Cc:** Kennedy Hudner; Jenkins, Jim  
**Subject:** RE: Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Mr. Huber,

Attached you will find the Applicants' response to your question below regarding Docket No. 13-31848-CON. I am sending this via email based on our conversation earlier today. If you need an original and signed letter from us, please just let me know. I will be happy to put such items in the mail to you.

Thank you again.

Regards,  
Stephanie

**Stephanie Sprague Sobkowiak**

*Associate*

[ssobkowiak@murthalaw.com](mailto:ssobkowiak@murthalaw.com)



Murtha Cullina LLP | Attorneys at Law | [www.murthalaw.com](http://www.murthalaw.com)  
Whitney Grove Square, 2 Whitney Avenue | New Haven | CT | 06510-1220  
Direct: 203-772-7782  
Fax: 860-240-5899

IRS CIRCULAR 230 DISCLAIMER: Any tax advice contained in this e-mail is not intended to be used, and cannot be used by any taxpayer, for the purpose of avoiding Federal tax penalties that may be imposed on the taxpayer. Further, to the extent any tax advice contained in this e-mail may have been written to support the promotion or marketing of the transactions or matters discussed in this e-mail, every taxpayer should seek advice based on such taxpayer's particular circumstances from an independent tax advisor.

CONFIDENTIALITY NOTICE: This message originates from the law firm of Murtha Cullina LLP. The information contained in this e-mail and any files transmitted with it may be a confidential attorney-client communication or may otherwise be privileged and confidential. If the reader of this message, regardless of the address or routing, is not an intended recipient, you are hereby notified that you have received this transmittal in error and any review, use, distribution, dissemination or copying is strictly prohibited. If you have received this message in error, please delete this e-mail and all files transmitted with it from your system and immediately notify Murtha Cullina by sending a reply e-mail to the sender of this message. Thank you.

**From:** Huber, Jack [<mailto:Jack.Huber@ct.gov>]  
**Sent:** Tuesday, December 17, 2013 3:31 PM  
**To:** Kennedy Hudner; Stephanie Sprague Sobkowiak  
**Cc:** Martone, Kim; Riggott, Kaila  
**Subject:** Eastern CT Endoscopy Center - Request for Information - Dec. 17, 2013

Dear Attorneys Hudner & Sobkowiak:

OHCA is in receipt of the Applicants' completeness response submitted on November 25, 2013, regarding information relating to federal and state antitrust matters as well as information relating to anticipated cost savings attributable to the proposed change in ownership structure of Eastern Connecticut Endoscopy Center.

Before OHCA can move forward with this CON application it is imperative that OHCA receives from the Applicants the anticipated cost savings associated with the proposal. In an effort to assist the Applicants in this matter OHCA requests that the proposed cost savings be provided in the same format as presented in Findings of Fact 35 and 36 of OHCA's Agreed Settlement with Diagnostic Endoscopy Center and AmSurg Holdings. A copy of this Agreed Settlement issued under Docket Number: 12-31772-CON is attached for your convenience. Finding of Fact 35 is found on page 8, while Finding of Fact 36 is found on page 9 of the settlement.

Please respond to this request by the close of business 4:30 p.m., Friday, December 20, 2013. Thank you for your attention to this matter. Regards, Jack Huber

Jack A. Huber  
DPH – OHCA Health Care Analyst

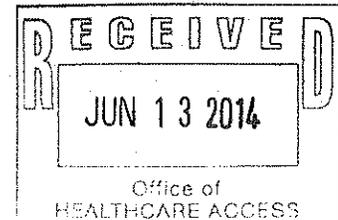
**MURTHA**

STEPHANIE SPRAGUE SOBKOWIAK  
203.772.7782 DIRECT TELEPHONE  
SSOBKOWIAK@MURTHALAW.COM

June 13, 2014

VIA E-MAIL (Jack.Huber@ct.gov)

Mr. Jack Huber  
Health Care Analyst  
State of Connecticut  
Department of Public Health,  
Office of Health Care Access  
410 Capitol Avenue, MS #13HCA  
Hartford, Connecticut 06134



Re: Docket No. 13-31848-CON

Dear Mr. Huber:

Enclosed you will find an executed copy of the Amended and Restated Operating Agreement of Eastern Connecticut Endoscopy Center, LLC as required by the Agreed Settlement in the above-referenced docket number.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Sobkowiak".

Stephanie Sprague Sobkowiak

Enclosure

Murtha Cullina LLP | Attorneys at Law

BOSTON

HARTFORD

MADISON

NEW HAVEN

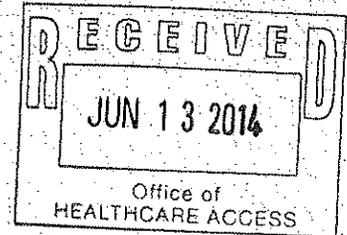
STAMFORD

WOBURN

Two Whitney Avenue, P.O. Box 704 | New Haven, CT 06503-0704 | Phone 203.772.7700 | Fax 203.772.7723 | www.murthalaw.com

**AMENDED AND RESTATED OPERATING AGREEMENT OF  
EASTERN CONNECTICUT ENDOSCOPY CENTER, LLC**

---



## TABLE OF CONTENTS

---

1.	DEFINITIONS .....	1
2.	ORGANIZATION .....	3
3.	PURPOSE AND POWERS .....	3
4.	CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS .....	3
5.	EXPENSES OF THE LLC .....	4
6.	ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS .....	4
7.	BOARD OF DIRECTORS .....	5
8.	MEMBERS .....	6
9.	OFFICERS .....	10
10.	INDEMNIFICATION .....	13
11.	FISCAL MATTERS .....	13
12.	ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS .....	14
13.	DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE .....	18
14.	GENERAL PROVISIONS .....	19

THIS AMENDED AND RESTATED OPERATING AGREEMENT (the "Agreement") is made and entered into as of the 29<sup>th</sup> day of May, 2014, by and between AmSurg Holdings, Ind., a Tennessee corporation ("AmSurg"), and each of the other persons listed on the signature page to this Agreement ("Owners") (each of AmSurg and Owners, together with the other persons who may become members under the terms of this Agreement, a "Member" and collectively, the "Members").

**WITNESSETH:**

WHEREAS, the Members have formed a limited liability company under and pursuant to the Act (as defined below) to conduct certain business as a limited liability company and desire to set forth their mutual rights and obligations in this Agreement; and

WHEREAS, Owners have sold to AmSurg a portion of their membership interests in the LLC pursuant to a Membership Interest Purchase Agreement, dated as of the date hereof.

NOW, THEREFORE, in consideration of the mutual promises, covenants and undertakings hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

**1. DEFINITIONS**

When used in this Agreement, the following terms shall have the meanings set forth below:

1.1. "Act" means the Tennessee Revised Limited Liability Company Act, being Sections 48-249-101 *et seq.* of the Tennessee Code Annotated, as amended from time to time, and any corresponding provisions of any successor legislation.

1.2. "Affiliate," with respect to any individual or Entity, means any individual or other Entity directly or indirectly controlling, controlled by or under common control with such individual or Entity.

1.3. "Affiliated Physician" means any individual physician who directly or indirectly through another entity has an ownership interest in the LLC, is an immediate Family Member of any individual who directly or indirectly through another entity has an ownership interest in the LLC, or is a grantor, trustee or beneficiary of any trust that is a Member.

1.4. "Agent" means any agent of the LLC, including any officer, director, employee, independent contractor, or agent of a Member acting on behalf of the LLC.

1.5. "Agreement" means this Amended and Restated Operating Agreement, as amended from time to time.

1.6. "AmSurg" has the meaning set forth in the introductory paragraph hereof.

1.7. "AmSurg Corp." means AmSurg Corp., a Tennessee corporation and the sole shareholder of AmSurg.

1.8. "Articles of Organization" means the Articles of Organization of the LLC filed with the Secretary of State of the State of Tennessee, as amended from time to time.

1.9. "Available Cash Flow" means all cash funds of the LLC on hand at the end of each month, less (a) provision for payment of all outstanding and unpaid current cash obligations of the LLC at the end of such month (including those which are in dispute) and (b) provisions for reserves reasonably determined by the Board for anticipated operating expenses, capital expenditures and other contingencies (which may include debt service on LLC indebtedness and fees payable to Affiliates); provided, however, that proceeds from the disposition of all or substantially all of the LLC's capital assets shall not be included in Available Cash Flow.

1.10. "Board" means the Board of Directors of the LLC.

1.11. "Book Capital Account" has the meaning given to such term in Section 4.3 hereof.

1.12. "Capital Contribution" in respect of any Member means the amount of all cash and other property, tangible or intangible, contributed by such Member to the capital of the LLC. The initial capital account balance for each Member shall be as set forth on Exhibit A.

1.13. "Cause" means (i) any conviction of, or a plea of guilty or no contest to, any charge of embezzlement, theft or fraud or any felony or (ii) any breach of fiduciary duty, in each case that the Owners holding a majority of the Membership Interests held by all Owners (other than the Owner being removed for Cause) acting in good faith determine has had or would reasonably be expected to have a material adverse effect upon the business, operations or financial condition of the LLC.

1.14. "Center" means the ambulatory surgery center operated by the LLC and located in Norwich, Connecticut, including the real property, or leasehold improvements, furniture, fixtures, the Equipment, books, records, supplies, accounts receivable, goodwill, other intangibles and other assets used in its operation.

1.15. "Code" means the Internal Revenue Code of 1986, as amended from time to time, any corresponding

provisions of any successor legislation, and the regulations adopted thereunder.

1.16. "Director" means, individually, any natural person serving on the Board.

1.17. "Dissolution Event" has the meaning given to such term in Section 13.2 hereof.

1.18. "Entity" means any corporation, partnership, trust, limited liability company or other entity.

1.19. "Equipment" means the equipment used in connection with the operation of the Center.

1.20. "Financial Rights" means a Member's rights as a member of the LLC (i) to share in the profits and losses of the LLC to the extent provided in this Agreement and (ii) to share in distributions to the extent provided in this Agreement.

1.21. "Fundamental Regulatory Change" means any change in federal or state law or regulation that results in (a) the referral of Medicare or any other patients to the Center by Owners, or the submission of claims to Medicare for services performed by or at the direction of Owners, becoming illegal, (b) the existence of a substantial likelihood that the receipt of cash distributions from the LLC to Owners is or will be found to be in violation of federal or state law, or (c) the ownership by Owners of Membership Interests in the LLC becoming illegal.

1.22. "Governance Rights" means all of a Member's rights as a member of the LLC other than Financial Rights and the right to assign Financial Rights.

1.23. "Information" has the meaning given to such term in Section 8.10 hereof.

1.24. "LLC" means Eastern Connecticut Endoscopy Center, LLC, a Tennessee limited liability company.

1.25. "LLC Profit" means net income of the LLC for the applicable period determined on an accrual basis in accordance with generally accepted accounting principles.

1.26. "Market Area" has the meaning given to such term in Section 8.2 hereof.

1.27. "Material Contract" means a new or renewed contract or obligation of the LLC (including a loan obligation) which will require the expenditure of \$100,000 in any one year or more than \$200,000 in the aggregate.

1.28. "Medical Director" means the person appointed by Owners and approved by the Board pursuant to Section 8.3.1 to provide medical supervision and to coordinate professional and clinical activities at the Center.

1.29. "Members" has the meaning set forth in the introductory paragraph hereof.

1.30. "Membership Interest" means a Member's interest in the LLC, which when expressed as a percentage of all Membership Interests in the LLC shall be equal to such Member's Membership Percentage. The Membership Interest shall consist of (a) the Member's Financial Rights, (b) the Member's right to assign Financial Rights to the extent permitted under this Agreement, and (c) the Member's Governance Rights.

1.31. "Membership Percentage" means the percentage interest of a Member as shown on Exhibit A, as amended from time to time as provided in Section 4.8 or 12.9 hereof or as otherwise required by this Agreement or the Code.

1.32. "New Member" has the meaning given such term in Section 12.7 hereof.

1.33. "Officers" means the President, Vice Presidents, Treasurer, Secretary, and any other person appointed to be an officer by the Board of the LLC.

1.34. "Owners" has the meaning set forth in the introductory paragraph hereof.

1.35. "Performance Improvement Chairman" means the person appointed by Owners and approved by the Board to provide oversight and coordinate the development and operation of the Center's performance improvement program.

1.36. "Permanent Disability" shall mean a mental or physical condition which renders an individual unable or incompetent to practice medicine on a full-time basis consistent with past practice, which condition shall have existed for a period of 90 or more consecutive days or 180 days during any consecutive 12-month period. If any controversy should arise as to whether a Permanent Disability exists, either the subject individual or the LLC may require that the subject individual be examined by a physician and in such case the decision of such physician shall be conclusive and binding on all parties. The examining physician shall be mutually satisfactory to the subject individual and the LLC; provided, however, that if they are unable to agree, then the subject individual and the LLC shall each designate a physician and the final examining physician shall be a physician mutually acceptable to each of such designees.

1.37. "Prime Rate" means that rate of interest equal to the prime rate as published from time to time by SunTrust Bank in Nashville, Tennessee, or any successor thereto.

1.38. "Principal Indebtedness" means the principal amount of the LLC's indebtedness for borrowed money plus indebtedness for capitalized leases.

1.39. "Responsible Person" has the meaning given to such term in Section 48-249-115(a)(6) of the Act.

1.40. "Successor" means a Member's executor, administrator, guardian, conservator, other legal representative or successor in interest.

1.41. "Tax Capital Account" has the meaning given to such term in Section 4.4 hereof.

1.42. "Tax Matters Member" has the meaning given to such term in Section 11.6 hereof and shall also mean the "tax matters partner" as that term is used in the Code.

1.43. "Treasury Regulations" includes proposed, temporary and final regulations promulgated under the Code.

1.44. "Triggering Event" has the meaning given to such term in Section 8.11 hereof.

1.45. "Triggering Event Date" means the last day of the calendar month immediately preceding the month during which a Triggering Event occurs.

## 2. ORGANIZATION

2.1. **Effective Date.** This Agreement shall become effective upon execution by the Members as of the date first above written.

2.2. **Adoption of Agreement.** The Members hereby adopt this Agreement as the operating agreement of the LLC, as the term "operating agreement" is used in the Act, to set forth the rules, regulations and provisions regarding the management of the business of the LLC, the governance of the LLC, the conduct of its business and the rights and privileges of its members. The operating agreement of the LLC shall be in writing, and the terms of the operating agreement shall be as set forth in this Agreement. This Agreement supersedes and replaces all prior operating Agreements of the LLC, which prior agreements shall be of no further force or effect.

2.3. **Name.** The name of the LLC shall be Eastern Connecticut Endoscopy Center, LLC. The LLC may adopt and conduct its business under such assumed or trade names as the Members may from time to time determine. The LLC shall file any registrations or assumed or fictitious name certificates as may be required to conduct business in any state.

2.4. **Registered Agent.** The initial registered agent of the LLC shall be Claire M. Gulmi. The initial registered office and the principal executive office of the LLC shall be 20 Burton Hills Boulevard, Davidson County, Nashville, Tennessee 37215..

## 3. PURPOSES AND POWERS

3.1. **Purposes.** The purposes of the LLC shall be to own and operate the Center and to carry on any and all activities necessary, proper, convenient or advisable in connection therewith.

3.2. **Powers.** The LLC may exercise all powers necessary or convenient to carry out its business and affairs and to effectuate the purposes set forth in Section 3.1 hereof which may be legally exercised by limited liability companies under the Act.

3.3. **Independent Medical Judgment.** No provision of this Agreement shall limit the independent medical judgment of any practicing physician with staff privileges at the Center with regard to the providing of patient care. Further, nothing contained herein requires any practicing physician with staff privileges at the Center to use or recommend the use of facilities or services owned, operated or provided by the LLC.

## 4. CAPITAL CONTRIBUTIONS AND MEMBERSHIP INTERESTS

4.1. **Capital Contribution.** Each Member shall be credited with a Capital Account in the amount set forth opposite such Member's name on Exhibit A hereto.

4.2. **Additional Contributions.** Members shall make additional Capital Contributions as may be determined from time to time by the Board in an amount proportional to their Membership Percentages. The timing, amount and terms of such additional Capital Contributions shall be determined by the Board. The Capital Contributions of each Member shall be made on the same terms and conditions.

4.3. **Book Capital Accounts.** Each Member shall have a capital account to which the fair market value of such Member's Capital Contribution shall be credited (the "Book Capital Account"). Each Member's share of the income, including tax-exempt income, expenses, gain or loss of the LLC shall be charged or credited to such Member's Book Capital Account. All distributions to a Member shall be charged to such Member's Book Capital Account.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Book Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Book Capital Accounts.

4.4. **Tax Capital Accounts.** The capital accounts for the Members for federal income tax purposes (the "Tax Capital Accounts") shall be maintained and adjusted in accordance with the principles set forth in Treasury Regulation Section 1.704-1(b)(2)(iv), and the items of income, profit, gain, expenditures, deductions,

losses, distributions and contributions which increase or decrease such Tax Capital Accounts shall be those items which, pursuant to such provision, affect the balance of capital accounts.

Any Capital Contributions made solely by one Member or made out of proportion to the Membership Percentages shall, in the sole discretion of the President, either (a) be treated as a loan to the LLC and shall not affect the balance of the Tax Capital Accounts, or (b) shall cause an appropriate adjustment to be made to the Tax Capital Accounts.

4.5. **LLC Loans.** Subject to the provisions of Section 7.3.6 requiring the consent of the Board for certain agreements, AmSurg or an Affiliate thereof may, from time to time and as it deems necessary, lend, or arrange for the LLC to borrow, additional working capital sufficient to enable the LLC to carry on its business as contemplated by Article 3 hereof.

Any loan by AmSurg or an Affiliate thereof to the LLC made for working capital purposes shall be evidenced by a promissory note which shall bear interest at a rate equal to one-half percentage point over the Prime Rate and which shall contain other terms substantially similar to those which might be agreed to with a non-affiliated lender. Any required monthly payments (including any past due amounts) under any such loan by the LLC or any other party shall be made before any distributions of Available Cash Flow are made to the Members pursuant to Section 6.3 hereof.

4.6. **Withdrawal of a Member or Reduction of Members' Capital Contributions.** No Member shall have the right to withdraw from the LLC. A Member shall not receive out of the LLC's property all or any part of such Member's Capital Contributions except as provided in Sections 6.3 and 13.3 hereof.

4.7. **Interest and Preferential Rights.** Except with respect to any loans made pursuant to Sections 4.3, 4.4 and 4.5 hereof, no interest shall accrue on any Capital Contributions and no Member shall have any preferential rights with respect to distributions or upon dissolution of the LLC.

4.8. **Membership Interests and Amendments to Exhibit A.** Each Member shall be credited with the Membership Interest (expressed as a percentage of all Membership Interests) and initial capital account balance set forth opposite such Member's name on Exhibit A. The amounts shown on Exhibit A with respect to capital account balances and Membership Interests shall be appropriately amended to reflect changes to such amounts as a result of any changes in the membership of the LLC or assignments of Membership Interests. Exhibit A shall also be amended from time to time to reflect any changes in the addresses of Members.

## 5. EXPENSES OF THE LLC

5.1. **Organizational Expenses.** Each Member shall bear its own expenses incurred in connection with the preparation, review, and negotiation of this Agreement, the Membership Interest Purchase Agreement and any other documents contemplated hereunder.

5.2. **Operating Expenses.** The LLC will reimburse the Members for reasonable travel expenses approved by the Board and incurred in connection with performing their respective duties hereunder.

## 6. ALLOCATION OF INCOME AND LOSS AND DISTRIBUTIONS

6.1. **Allocation of Net Taxable Income or Loss and Tax Credits.** Except as provided in Sections 6.2 and 6.5, all income and gain of the LLC includable for federal, state and local income tax purposes, all expenses and losses of the LLC deductible for federal, state and local income tax purposes, as applicable, and all federal income tax credits shall be allocated in proportion to the Membership Percentage of each Member.

6.2. **Allocations to Reflect Contributed Property.** If a Member contributes property to the LLC which has a difference between its tax basis and its fair market value on the date of its contribution, then all items of income, gain, loss and deduction with respect to such contributed property shall be shared for federal income tax purposes among the Members pursuant to Section 704(c) of the Code so as to take into account the variation between the basis of such property and its fair market value at the time of contribution.

Any elections or other decisions relating to such allocations shall be made by the Tax Matters Member in any manner that reasonably reflects the purpose and intention of this Agreement. Except as otherwise provided in such Section 1.704-3(d) of the Treasury Regulations, the Capital Accounts of the Members shall be adjusted in accordance with Section 1.704-1(b)(2)(iv)(g) of the Treasury Regulations for allocations to the Members of income, gain, loss and deduction (including depreciation, depletion, amortization or other cost recovery) as computed for book purposes, with respect to the property contributed; and the amount of book depreciation, depletion or amortization for a period with respect to an item of contributed property shall be the amount that bears the same relationship to the book value of such property as the depreciation (or cost recovery deduction), depletion or amortization computed for tax purposes with respect to such property for such period bears to the adjusted tax basis of such property. If such property has a zero adjusted tax basis, the book depreciation, depletion or amortization may be determined under any reasonable method selected by the Tax Matters Member.

References in this Section 6.2 to book and tax depreciation, depletion, amortization, and gain or loss with respect to property that has an adjusted tax basis that differs from its book value include, under analogous rules and principles, the unrealized income or deduction with respect to accounts receivable, accounts payable and other accrued but unpaid items.

6.3. **Distribution of Available Cash Flow.** Except as provided in Section 4.5, the LLC shall distribute Available Cash Flow. Such mandatory distributions shall be made in monthly installments within fifteen (15) days after the end of each month and shall be made to all Members pro rata in proportion to the respective Membership Percentages of the Members at the time of each distribution.

6.4. **Consequences of Distributions.** Upon the determination to distribute funds in any manner expressly provided in this Article 6; made in good faith, no Member shall incur liability on account of such distribution, even though such distribution may have resulted in the LLC retaining insufficient funds for the operation of its business, which insufficiency resulted in loss to the LLC or necessitated the borrowing of funds by the LLC.

6.5. **Distribution Upon Termination.** When the LLC is terminated, pursuant to Article 13 or otherwise, the final distribution to Members shall be according to the balance of their Book Capital Accounts, after allocation of income, gain, expense and loss in the fiscal year of termination (including the allocation for the deemed sale of assets distributed in kind required by Section 13.3).

## 7. BOARD OF DIRECTORS

7.1. **Number and Term.** The LLC shall have a Board consisting of two (2) AmSurg Directors and two (2) Owner Directors. Each AmSurg Director shall hold office for a period of one (1) year or until such AmSurg Director's earlier resignation, removal or death. Each Owner Director shall hold office for a period of one (1) year or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member; provided, that the initial Owner Directors shall hold office for a period of three (3) years or until such Owner Director's earlier resignation, removal for Cause, death or cessation of status as a Member.

7.2. **Duties.** Except as otherwise specifically set forth in this Agreement, the Board shall have ultimate authority with respect to the LLC's operations, including, but not limited to, physician credentialing, granting of privileges and approval of operating policies and procedures of the Center.

7.3. **Acts Requiring Board Approval.** Notwithstanding anything contained herein to the

contrary, without obtaining the consent of the Board, no Member, Officer or Agent shall:

7.3.1. Sell, exchange, lease or otherwise transfer all or substantially all of the assets of the LLC;

7.3.2. Cause the LLC to commence any voluntary proceeding under any bankruptcy, reorganization, insolvency or similar laws;

7.3.3. Dissolve the LLC;

7.3.4. Merge or consolidate the LLC into another entity;

7.3.5. Change the name under which the Center does business or relocate the Center from its current location;

7.3.6. Enter into any Material Contract; provided, that the Officers shall have the power and authority to renew the lease for the Center premises so long as the renewal is on substantially the same terms as the lease then in effect;

7.3.7. Establish or change in any material respect the operating policies and procedures of the Center, except for policies and procedures relating to corporate governance and regulatory compliance, employment matters and financial reporting matters;

7.3.8. Vary or change in any material respect any portion of the professional liability coverage of the Center; or

7.3.9. Request or require a Capital Contribution to be made by any Member.

7.4. **Election.** The AmSurg Directors shall be elected by AmSurg. The initial AmSurg Directors shall be Frank Blair and Steve Marshall. The Owner Directors shall be elected by Owners holding a majority of the Membership Interests held by the Owners. The initial Owner Directors shall be Kolala Sridhar, M.D. and Ashan Manohar, M.D. Any vacancy occurring on the Board for any reason shall be filled by AmSurg if the vacancy is the result of the termination of service by an AmSurg Director, or the Owners if the vacancy is the result of the termination of service by an Owner Director. A Chairman of the Board shall be elected by a majority of the members of the Board at the first meeting of the Board held in each fiscal year.

7.5. **Quorum and Voting.** A quorum of the Board shall consist of a majority of the number of Directors. If a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present shall be the act of the Board, unless the Articles of Organization or this Agreement requires the vote of a greater number of Directors. Each Director shall have one vote on each matter considered by the Board.

7.6. **Regular Meetings of the Board.** Regular meetings of the Board shall be held quarterly at such places, within or without the State of Connecticut, on such dates and at such times as the Board may determine from time to time. Unless otherwise determined by the Board, regular meetings of the Board shall be held in Norwich, Connecticut.

7.7. **Meeting by Telephone.** Any or all Directors may participate in a regular or special meeting by conference telephone or any other means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is deemed to be present in person at the meeting.

7.8. **Action on Unanimous Written Consent.** Action required or permitted to be taken at a meeting of the Board may be taken without a meeting if all of the Directors consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken.

7.9. **Notice of Meetings.** The President or a majority of the Directors may call a special meeting of the Board of Directors by giving 48 hours' prior notice to all Directors of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

## 8. MEMBERS

8.1. **Medical Malpractice Insurance.** Each Owner shall maintain at all times medical malpractice insurance complying with the Medical Staff Bylaws of the Center as approved by the Board.

8.2. **Ownership and Investment Restrictions.** No Owner or Affiliated Physician, nor any Affiliate of any Owner or Affiliated Physician shall:

8.2.1. have any direct or indirect ownership interest in, or manage, lease, develop or otherwise have any financial interest in any business or entity competing or planning to compete with the LLC (including, but not limited to, any ambulatory surgery center or any physician office in which surgical procedures are performed and for which facility fees, tray fees or other fees in addition to standard professional fees are charged) within a twenty-five (25) mile radius of the Center (the "Market Area"), or

8.2.2. become an employee of a hospital or an Affiliate of a hospital that is located within the Market Area, or enter into any contract or other arrangement with a hospital or an Affiliate of a hospital that is located within the Market Area (whether as a result of his or her employment or otherwise) that requires or

incentivizes him or her to perform procedures that could have been performed at the Center at any hospital or facility affiliated with a hospital in the Market Area,

in each case described in Sections 8.2.1 and 8.2.2 until the later of (i) five (5) years from the date of this Agreement, or (ii) two (2) years after such Owner (or with respect to an Affiliated Physician, the Owner with whom such Affiliated Physician is affiliated) ceases to be a Member of the LLC.

The foregoing shall not prohibit any Owner or Affiliated Physician, nor any Affiliate of an Owner or Affiliated Physician, from (i) owning shares of capital stock constituting less than 1% of the outstanding capital stock of any corporation whose common stock is traded on a national securities exchange, (ii) practicing medicine or performing surgical procedures at any facility, or (iii) receiving a reasonable fee in exchange for providing medical director or call coverage services to a tertiary hospital. The parties acknowledge and agree that this Section 8.2 does not require physician Owners or Affiliated Physicians to perform surgical procedures at the Center or to refer patients to the Center, and imposes no restrictions on where such procedures are performed or where referrals are made.

Each Owner who is a physician and each Affiliated Physician acknowledges and agrees that the enforcement of the provisions of this Section 8.2 against him or her would not prevent such person from engaging in his or her profession, the practice of medicine.

Each Owner and Affiliated Physician recognizes and acknowledges that the ascertainment of damages in the event of a breach of this Section 8.2 would be difficult, and agrees that the LLC, at the direction of AmSurg, in addition to all other remedies it may have, shall have the right to injunctive relief if there is such a breach. Notwithstanding the foregoing, in the event a physician Owner or Affiliated Physician, or any Affiliate of a physician Owner or Affiliated Physician violates the provisions of Section 8.2.2, such physician Owner or Affiliated Physician shall pay to the LLC, as liquidated damages, an amount equal to (a) five (5) times the LLC Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by such Owner's ownership interest in the LLC (or such Owner's ownership interest in the LLC immediately prior to the termination of his or her membership in the LLC), it being acknowledged by the parties that the damages to the LLC in such event would be difficult to ascertain.

8.3. **Services Provided by Owners.** As additional consideration for his or her Membership Interests and without further charge to the LLC other than the

expenses outlined in Section 5.2 hereof, Owners shall provide the Center with:

8.3.1. A Medical Director acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board, including, but not limited to:

8.3.1.1. Assisting in the selection of suitable treatment modality for all patients of the Center;

8.3.1.2. Devising clinical procedures which, when implemented by the Center, will assure adequate monitoring of patients and the treatment process;

8.3.1.3. Directing, coordinating and reporting to the Board on all medical aspects of the Center's operations;

8.3.1.4. Devising procedures which, when implemented by the Center, will assure (i) adequate training of nurses and other staff in appropriate treatment techniques, and (ii) the supervision of all non-physician staff at the Center;

8.3.1.5. Devising clinical procedures which, when implemented by the Center, will assure the availability of a patient care policy and procedures manual and other written materials that reflect current professional standards and assisting in the periodic review and revision thereof;

8.3.1.6. Developing and maintaining professional memberships and active visibility in the local community through the provision of consulting, educational and related services in a manner consistent with the role of Medical Director which promotes the positive visibility of the Center in the community;

8.3.1.7. Devising the medical policy statements of the Center, presenting the statements for the approval of the Board and upon securing Board approval, implementing and monitoring the policies;

8.3.1.8. Assisting the LLC in attracting qualified physicians to the medical staff of the Center and recommending to the Board that qualified physicians be granted clinical privileges at the Center;

8.3.1.9. Assisting the LLC in attracting qualified non-physician staff to work at the Center and assessing, in conjunction with other members of the medical staff, the performance of non-physician staff;

8.3.1.10. Using best efforts to assist the Board in assuring that the Center complies with all state and federal statutes, all standards of applicable accreditation bodies, and regulations and agency directives concerning the medical standards of patient care required at the Center, and reporting to the Board any known deficiencies therein;

8.3.1.11. Accepting appropriate and reasonable medical staff duties and assignments at the Center including (i) acting as the liaison between the medical staff and the Board, (ii) appointing physicians to serve as members and chairmen of medical staff committees, and (iii) serving on all committees of the Center; and

8.3.1.12. Participating in long and short range planning for the Center, reviewing the Center's operating budget, and, where appropriate, making recommendations on the budget.

The initial Medical Director shall be You Sung Sang, M.D.

8.3.2. A Performance Improvement Chairman acceptable to the Board, who will perform the duties and responsibilities assigned from time to time by the Board or its designee, including, but not limited to:

8.3.2.1. Overseeing the performance improvement program and all corresponding activities of the Center;

8.3.2.2. Assisting in the development and revision of indicators necessary to adequately evaluate care provided by the Center and that meet or exceed governmental requirements;

8.3.2.3. Directing the review of data summaries of all identified indicators, as well as information from other sources regarding the quality of care provided by the Center;

8.3.2.4 Directing the development of educational programs based on the needs identified through committee activities and supporting department-wide education on continuous process improvement principles;

8.3.2.5 Overseeing the credentialing and recredentialing process for the Center's medical staff;

8.3.2.6 Overseeing and administering the risk management program for the Center;

8.3.2.7 Overseeing and administering medical malpractice issues related to the Center;

8.3.2.8 Working with the Center's performance improvement committee, and conducting quarterly performance improvement committee meetings; and

8.3.2.9 Reviewing the Center's performance improvement program on at least an annual basis.

The initial Performance Improvement Chairman shall be Abera Abay, M.D.

8.4. **Member Representations.** Each Owner hereby represents that he or she maintains a current license to practice medicine in the State of Connecticut, has not been excluded from participation in the Medicare program or any other governmental health care program for any reason, has not been convicted of any crime in violation of any state or Federal law related to health care matters, and has no knowledge of any circumstances or conditions that could have a material adverse impact on the operations of the Center or the medical practices of Owners (other than conditions which might have a material adverse effect on the health care industry in general).

8.5. **Meetings.** Meetings of the Members, for any purpose or purposes, may be called by the President, the Board of Directors or Members holding a majority of the Membership Interests by giving 48 hours' prior notice to all Members of the date, time and place of the meeting. The notice need not state the purpose of the meeting.

8.6. **Action by Members Without a Meeting; Telephone Meetings.** Action required or permitted to be taken at a meeting of the Members may be taken without a meeting, if the number of Members required to approve any such action consent to the taking of such action without a meeting and approve such action by signing one or more written consents describing the action taken. The LLC shall promptly distribute copies

of any such action to the Members, but the failure of the LLC to distribute copies of such action shall not void or otherwise affect the validity of such action in any manner. A meeting also may take place by telephone conference call or any other form of electronic communication through which the Members may simultaneously hear each other. A Member participating in a meeting by this means is deemed to be present in person at the meeting.

8.7. **Record Date.** For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or Members entitled to receive payment of any distribution, or in order to make a determination of Members for any other purpose, the date on which notice of the meeting is mailed or the date on which the resolution declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section 8.7, such determination shall apply to any adjournment thereof.

8.8. **Quorum.** Members holding 75% of the Membership Interests, represented in person, shall constitute a quorum at any meeting of Members.

8.9. **Required Vote; Manner of Acting.** Except as otherwise provided in Section 8.7 above, if a quorum is present, the affirmative vote of Members holding 75% of the Membership Interests present and entitled to vote on that item of business shall be the act of the Members.

8.10. **Confidentiality.** Except as required by law or legal process, each Member and Affiliated Physician shall maintain the confidentiality of all documents and information provided by the other Members or the Center in connection with the formation of, and the business to be conducted by, the LLC, including, but not limited to, pro forma financial information, outcome studies, information concerning the other Members or their Affiliates and any documents to be utilized in connection with the ownership and operation of the Center (the "Information"). No Member or Affiliated Physician will discuss or disclose any of the Information to any third party or take any action that could compromise the confidentiality of the Information without the prior written consent of the Member providing such Information. Each Member and Affiliated Physician shall, upon termination of his or her membership in the LLC, promptly return to the LLC all Information in his, her or its possession, including without limitation all policy, procedure and program manuals and related documents, and such person shall not make or retain any copies thereof. By their execution of this Agreement, each Member and Affiliated Physician acknowledges that the Information is proprietary and contains specialized knowledge and data that constitutes valuable intellectual property.

8.11. Triggering Events.

8.11.1. Each of the following events shall be deemed a "Triggering Event" for purposes of this Section 8.11 with respect to any Owner (and such Owner shall hereinafter be referred to as "Terminating Owner"):

8.11.1.1 the death of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.2 the Permanent Disability of such Terminating Owner or the Affiliated Physician of such Terminating Owner;

8.11.1.3 the cessation of the practice of medicine by such Terminating Owner or the Affiliated Physician of such Terminating Owner on a full-time basis; provided, that the fact that an Owner or Affiliated Physician is working under an arrangement whereby he or she is not required to take a full call schedule or any call at a hospital shall not be deemed to be the cessation of the practice of medicine by that Owner or Affiliated Physician on a full-time basis;

8.11.1.4 the relocation of the practice of such Terminating Owner or the Affiliated Physician of such Terminating Owner outside of the Market Area;

8.11.1.5 such Terminating Owner or the Affiliated Physician of such Terminating Owner no longer maintaining a current license to practice medicine in the State of Connecticut (the foregoing not being applicable to a temporary suspension of a license to practice in Connecticut for a period of less than ninety (90) days);

8.11.1.6 such Terminating Owner or the Affiliated Physician of such Terminating Owner is involved in a divorce proceeding or matrimonial dissolution that becomes final and in which a transfer of any of such Terminating Owner's Membership Interest is ordered, in which case this subsection shall be applied solely to the ex-spouse of the Terminating Owner or the Affiliated Physician of such Terminating Owner; provided, however, that in the event the LLC

exercises its right to purchase any of the Terminating Owner's Membership Interest pursuant to this subsection, the Terminating Owner or the Affiliated Physician of such Terminating Owner shall have an option to repurchase such membership interest for the same purchase price paid by the LLC in accordance with Section 8.11.2.1;

8.11.1.7 a Transferring Owner (A) makes an assignment for the benefit of creditors or admits in writing his inability to pay debts generally as they become due, (B) applies to any tribunal for the appointment of a trustee or receiver of any substantial part of his assets, (C) commences any voluntary proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or other liquidation laws of any jurisdiction, (D) becomes the subject of any involuntary proceedings and such Transferring Owner indicates his approval, consent or acquiescence, or (E) becomes the subject of an order appointing a trustee or receiver, adjudicating him bankrupt or insolvent, or approving a petition in any involuntary proceeding, and such order remains in effect for ninety (90) days;

8.11.1.8 the Centers for Medicare and Medicaid Services or any other applicable governmental official or entity shall determine that such Terminating Owner or the Affiliated Physician of such Terminating Owner shall be excluded from participation in the Medicare, Medicaid or any other governmental health program pursuant to Section 1128 or 1156 of the Federal Social Security Act or other applicable provisions of Federal or state law;

8.11.1.9 the conviction of such Terminating Owner or the Affiliated Physician of such Terminating Owner of a felony in violation of any state or federal law related to healthcare matters;

8.11.1.10 the violation of the provisions of Section 8.2 by such Terminating Owner or the Affiliated

Physician of such Terminating Owner, and

8.11.1.11 the determination by AmSurg and the Owners holding a majority of the Membership Interests held by all Owners (other than the Terminating Owner) that the Terminating Owner's Membership Interest shall be repurchased by the LLC.

8.11.2. In the event of a Triggering Event, the remaining Owners shall have the obligation to repurchase their proportionate share of such Terminating Owner's Membership Interest equal to the Terminating Owner's Membership Interest multiplied by (i) (a) 100%, with respect to an individual Terminating Owner or (b) the percentage beneficial ownership of the Affiliated Physician or his or her Immediate Family Member in the Terminating Owner, with respect to a Terminating Owner who is not an individual (the "Subject Interest"). The Owners shall purchase the Subject Interest proportionately, based on a fraction, the numerator of which shall be the percentage Membership Interest held by each remaining Owner and the denominator of which shall be the aggregate percentage Membership Interests held by all remaining Owners. The aggregate purchase price for the Subject Interest pursuant to this Section 8.11.2 shall be payable in cash and determined as follows:

8.11.2.1 If the Triggering Event is one described in Sections 8.11.1.1 through 8.11.1.7 and Section 8.11.1.11, an amount equal to (i) three (3) times the LLC Profit for the twelve (12) calendar months immediately preceding the Triggering Event Date, plus the LLC's interest expense for the twelve (12) calendar months immediately preceding the Triggering Event Date, minus (ii) the LLC's outstanding Principal Indebtedness as of the Triggering Event Date, with this amount multiplied by the selling Terminating Owner's pro rata percentage ownership interest in the LLC.

8.11.2.2 If the Triggering Event is one described in Sections 8.11.1.8 and 8.11.1.9, the purchase price shall be equal to 50% of the amount determined in accordance with Section 8.11.2.1.

8.11.2.3 If the Triggering Event is described in Section 8.11.1.10, the purchase price shall be One Dollar (\$1.00).

In the event the purchase of the Subject Interest is from a Terminating Owner who is not an individual, such purchase price shall be paid by the Terminating Owner to the Affiliated Physician or his or her Immediate Family Member in redemption of his or her full beneficial ownership interest in the Terminating Owner.

8.11.3. The Terminating Owner shall give the LLC and the other Owners prompt written notice of the occurrence of a Triggering Event, and such Terminating Owner's Membership Interest shall terminate as of the date of the Triggering Event. The purchase price for the Terminating Owner's Membership Interest as described in Section 8.11.2 shall be paid in a lump sum in cash to the Terminating Owner within sixty (60) days following the date of the Triggering Event.

8.11.4. In the event one or more of the Owners breaches this Agreement and does not purchase his, her or its pro rata portion of the Subject Interest, the remaining Owners or, at the direction of AmSurg, the LLC shall have the right, but not the obligation, to purchase the portion of the Subject Interest not purchased by the Owner[s].

8.11.5. By their execution of this Agreement, each Owner acknowledges and agrees that the LLC may purchase a Terminating Owner's ownership interest in LLC pursuant to Section 8.11.2 and may subsequently thereafter transfer such ownership interest to another physician in the Market Area without then obtaining any additional consent of any Owner. Any such physician shall be treated as an Owner on the same terms as the other Owners.

8.12. **Fiduciary Duty.** AmSurg, each Owner and Affiliated Physician, and each Affiliate of an Owner or Affiliated Physician shall have a fiduciary duty to act at all times in a manner such Person reasonably believes to be in the best interest of the LLC, in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

## 9. OFFICERS

9.1. **Appointment of Officers.** The Board shall appoint a President, one or more Vice Presidents, a Treasurer, a Secretary and such other officers as the Board shall elect from time to time, all of whom will be

Affiliates of AmSurg, to serve as the officers of the LLC.

9.2. **Term.** The Officers shall serve for an indefinite term until removed and replaced by the Board.

9.3. **President**

9.3.1. **General.** Subject to the provisions of this Agreement, the management of the business affairs of the LLC shall rest with the President, who shall have all the authority which may be possessed by a president pursuant to the Act, and such additional authority as otherwise conferred by law or is necessary or advisable in the discharge of the duties of the President under this Agreement. The President shall perform his or her duties to the best of his or her ability and shall use his or her best efforts to carry out the business of the LLC.

9.3.2. **Powers:** Subject to the provisions of Section 7.3 and those powers reserved to the Members and the Board by this Agreement or the Articles of Organization, the President may, on behalf of and at the cost, expense and risk of the LLC and in accordance with the operating and capital budgets of the LLC:

9.3.2.1 On behalf of the LLC, spend the capital and net income of the LLC in the exercise of any rights or powers possessed by the President hereunder;

9.3.2.2 Make capital expenditures on behalf of the LLC;

9.3.2.3 Cause the LLC to lease, acquire, own, manage and operate the Center, and enter into agreements containing such terms, provisions and conditions as the President may deem advisable;

9.3.2.4 Cause the LLC to lease, acquire, own and operate any equipment, fixtures, supplies or other items necessary for the operation of the Center;

9.3.2.5 On behalf of and for the benefit of the LLC, enter into any contracts or arrangements necessary for the conduct of the business of the LLC;

9.3.2.6 Purchase from or through others contracts of liability, casualty and other insurance which the President deems advisable for the

protection of the LLC or for any purpose convenient or beneficial to the LLC;

9.3.2.7 On behalf of and for the benefit of the LLC, incur indebtedness;

9.3.2.8 Sell or otherwise dispose of, upon such terms and conditions as the President may deem advisable, appropriate or convenient, any of the assets of the LLC that do not constitute all or substantially all of the LLC's assets;

9.3.2.9 Establish bank accounts in the name and on behalf of the LLC and designate the signatories thereon;

9.3.2.10 Invest in short-term debt obligations of federal and state governments and their agencies, commercial paper and certificates of deposit of commercial banks, savings bank or savings and loan associations and "money market" mutual funds, such funds as are temporarily not required for the purposes of the LLC's operations; and

9.3.2.11 Appoint, employ or contract with any person (including Affiliates of the Members) to assist him or her in carrying out his or her duties hereunder and transacting the business of the LLC, which persons may, under the supervision of the President, act as consultants, accountants, attorneys, brokers, escrow agents, or in any other capacity deemed by the President necessary or desirable, and pay appropriate fees to any of such persons. Without limiting the foregoing, the President may delegate to AmSurg or its Affiliates the authority to negotiate and execute agreements with payors on behalf of the LLC.

9.4. **Duties.** As additional consideration for its Membership Interest and without further charge to the LLC other than the expenses outlined in Section 5.2 hereof, AmSurg, through the President, shall consult in and oversee the administrative operations of the Center and, subject to the terms of this Agreement and the general direction and control of the Board, coordinate all business and administrative activities pertaining to the Center, including, but not in any way limited to, the following:

9.4.1. Assist the Center in operating in an efficient and business like manner;

9.4.2. Coordinate the purchase or lease of equipment, supplies and pharmaceuticals (including purchases through national purchasing programs) necessary for the operation of the Center;

9.4.3. Coordinate all reasonable and necessary actions to maintain all licenses, permits and certificates required for the operation of the Center, and to ensure that all appropriate certification and accreditation available to the Center's operations are obtained;

9.4.4. Coordinate, with the support of the Medical Director and the Board, ongoing marketing programs to increase community and payor awareness of the Center;

9.4.5. Negotiate the amount and method of reimbursement that the Center will receive from all appropriate third party payors, both public and private;

9.4.6. Establish, maintain, revise and administer, with the support and approval of the Board, the overall charge structure of the Center and arrange for payment of such charges by others, when appropriate;

9.4.7. Arrange and negotiate financing for equipment and future capital needs of the Center;

9.4.8. Develop and revise, subject to approval by the Board, all necessary policies and operating procedures pertaining to each aspect of the Center's operations (except for policies and procedures relating to corporate and regulatory compliance, employment matters and financial reporting matters, which shall be approved by AmSurg and shall not be subject to Board approval);

9.4.9. Hire, supervise, discipline and discharge, in conjunction with the Medical Director, all persons working in the Center and providing direct patient care, as needed;

9.4.10. Train Center personnel with respect to all aspects of the Center's operations, including but not limited to administrative, clinical, financial and marketing matters;

9.4.11. Arrange for the purchase by the LLC of necessary insurance coverage for the Center;

9.4.12. Establish and administer accounting procedures and controls and systems for the development, preparation and keeping of

records and books of accounting related to the business and financial affairs of the Center;

9.4.13. Oversee the preparation of the annual report and tax information returns required to be filed by the LLC, and deliver a copy of same to the Members in a timely manner as needed;

9.4.14. Furnish the LLC in a timely fashion monthly operating reports and other reports reasonably requested by the Board or any Director;

9.4.15. Prepare for Board review all capital and annual operating budgets as needed; and

9.4.16. Perform all duties herein required of it in good faith and with reasonable diligence so as to maximize the Center's ability to efficiently provide appropriate quality health care to patients.

9.5. **Right to Rely Upon the Authority of the President.** No person dealing with the President shall be required to determine the President's authority to make any commitment or undertaking on behalf of the LLC, nor to determine any fact or circumstance bearing upon the existence of its authority. In addition, no purchaser of any property of the LLC shall be required to determine the sole and exclusive authority of the President to sign and deliver on behalf of the LLC any instrument of transfer, or to see to the application or distribution of revenues or proceeds paid or credited in connection therewith, unless such purchasers shall have received written notice from the LLC affecting the same.

9.6. **Vice President.** The Vice President or Vice Presidents (if any) shall assist the President in the management of the LLC, and shall perform such other duties as the Board may from time to time prescribe.

9.7. **Secretary.** The Secretary shall be responsible for recording the minutes of all Board and Member meetings. The Secretary shall have the responsibility of authenticating records of the LLC and receiving notices required to be sent to the Secretary and shall perform such other duties as the Board may from time to time prescribe.

9.8. **Treasurer.** The Treasurer shall have custody of the LLC's funds and securities, shall keep or cause to be kept full and accurate account of receipts and disbursements in books of the LLC, shall disburse or cause to be disbursed the funds of the LLC as required in the ordinary course of business, and shall perform such other duties as may be incident to his or her office or as prescribed by the Board.

9.9. **Limitation on Liability.** An Officer shall not be liable for any action taken as an Officer, or any failure to take action as an Officer, except to the extent

that such Officer's conduct failed to comply with the standards set forth in Section 48-249-115 of the Act.

**9.10. Resignation.** Any Officer of the LLC may resign at any time by giving written notice to the Members. The resignation of any Officer shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**9.11. Compensation and Reimbursement.** No Officer shall have any right to compensation for services performed on behalf of the LLC except as determined from time to time by the Board. Notwithstanding the foregoing, an Officer shall have the right to be reimbursed by the LLC for any out-of-pocket expenses incurred by such Officer in connection with any services performed by such Officer on behalf of the LLC.

**9.12. No Exclusive Duty.** Each Officer may have other business interests and may engage in other activities in addition to those relating to the LLC. Neither the LLC nor any Member shall have the right to share or participate in such other investments or activities of such Officer based on such Officer's status as an Officer of the LLC. No Officer shall incur any liability to any Member or the LLC as a result of engaging in any other business or venture.

## 10. INDEMNIFICATION

**10.1. Authority to Indemnify.** The LLC shall indemnify, and upon request shall advance expenses to, an individual made a party to a proceeding because such individual is or was a Responsible Person, to the full extent permitted by law, against liability incurred in the proceeding if the Responsible Person satisfies the following standard of conduct:

10.1.1. The Responsible Person's conduct was in good faith and the Responsible Person reasonably believed (a) in the case of conduct in the Responsible Person's official capacity with the LLC, that his or her conduct was in the best interest of the LLC and (b) in all other cases, that his or her conduct was at least not opposed to the LLC's best interest; and

10.1.2. In the case of any criminal proceeding, the Responsible Person had no reasonable cause to believe his or her conduct was unlawful.

**10.2. Limitations on Authority to Indemnify.** Except as required by applicable law, the LLC may not indemnify a Responsible Person (a) in connection with a proceeding by or in the right of the LLC in which the Responsible Person was adjudged liable to the LLC, and (b) in connection with any other proceeding charging improper personal benefit to such Responsible Person,

whether or not involving action in the Responsible Person's official capacity, in which the Responsible Person was adjudged liable on the basis that personal benefit was improperly received by such Responsible Person.

The indemnification and advancement of expenses granted pursuant to this Article 10 shall not be deemed exclusive of any other rights to which a Responsible Person seeking indemnification or advancement of expenses may be entitled, whether contained in this Article 10, the Articles of Organization, the Act, a resolution of the Board, or an agreement providing for such indemnification; provided, however, that no indemnification may be made to or on behalf of any Responsible Person if a judgment or other final adjudication adverse to the Responsible Person establishes his or her liability:

10.2.1. For any breach of duty of loyalty to the LLC or its Members;

10.2.2. For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

10.2.3. For any liability for unlawful distributions incurred under Section 48-249-307 of the Act.

**10.3. Advances for Expenses.** To the full extent permitted by law, the indemnification and advances provided for herein shall include expenses (including attorneys' fees), judgments, fines and amounts paid in settlement. If the LLC advances expenses to a Responsible Person pursuant to this Article 10 and it is subsequently determined that the Responsible Person is not entitled to indemnification, the Responsible Person will repay such advances within fifteen (15) days of such determination.

**10.4. Indemnification of Officers, Employees and Agents.** An Officer or employee of the LLC who is not a Responsible Person is entitled to indemnification and advancement of expenses to the same extent as a Responsible Person. The LLC shall also indemnify and advance expenses to other Agents of the LLC who are not Responsible Persons to the extent required, consistent with public policy, by specific action of the Board or by contract.

## 11. FISCAL MATTERS

**11.1. Books and Records.** The LLC's books and records (including a current list of the names and addresses of all Members) and an executed copy of this Agreement, as currently in effect, shall be maintained at the principal executive office of the LLC, and each Member shall have access thereto at all reasonable times.

11.2. **Fiscal Year.** The fiscal year of the LLC shall be the calendar year.

11.3. **Tax Status; Elections.** Notwithstanding any provision hereof to the contrary, solely for purposes of the federal income tax laws, each of the Members hereby recognizes that the LLC will be subject to all provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of a U.S. Partnership Return of Income shall not be construed to extend the purposes of the LLC or expand the obligations or liabilities of the Members. Upon the transfer of an interest in the LLC or in the event of a distribution of the LLC's property, the Tax Matters Member may, but is not required to, elect pursuant to Section 754 of the Code to adjust the basis of the LLC's property as allowed by Sections 734(b) and 743(b) thereof.

11.4. **Reports to Members.** As soon as reasonably practicable after the end of each fiscal year, but not later than ninety (90) days after the end of each fiscal year, the LLC shall make available to each Member an unaudited balance sheet of the LLC at the end of the previous fiscal year and unaudited statements of income or loss of the LLC for such year. In addition, the LLC will deliver to each Member unaudited monthly summaries of its operations.

All such financial statements shall be prepared on an accrual basis of accounting in accordance with generally accepted accounting principles consistently applied. The LLC shall also furnish to each Member not later than ninety (90) days after the end of each fiscal year whatever information may be necessary for Members to file their federal income tax returns. The LLC will also make available to each Member upon request a copy or summary of all state and/or local tax returns which are filed by the LLC.

11.5. **Banking.** All funds of the LLC shall be initially deposited in a separate bank account or accounts or in an account or accounts of a savings and loan association as shall be determined by the Board, but such funds may be invested as provided in Section 9.3.2.10 hereof.

11.6. **Tax Matters Member.** AmSurg shall be the Tax Matters Member within the meaning of the Code.

## 12. ASSIGNMENT AND TERMINATION OF MEMBERSHIP INTERESTS AND ADMISSION OF NEW MEMBERS

12.1. **Assignment of Membership Interests.** No assignment of all or any part of a Membership Interest in the LLC (including any Financial Rights, Governance Rights or other rights pertaining to a Membership Interest) shall be made except as follows:

12.1.1. Subject to the provisions of Section 12.2 hereof, a Member may assign all or any part of such Member's Membership Interest to another Member, without the consent of any Member other than the assignee;

12.1.2. Subject to the provisions of Section 12.3 hereof, a Member may assign such Member's Membership Interest to any person who is not a Member who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

12.1.3. Notwithstanding any other provision of this Agreement to the contrary, a Member may assign all or any part of his Membership Interest to a physician who is not a Member who meets the credentialing requirements of the Center and who is a member of such Member's medical practice entity without the consent of any Member if: (a) the assignee accepts such assignment and executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c) the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned;

12.1.4. A Member may not assign all or any part of such Member's Financial Rights in the LLC except pursuant to a simultaneous assignment of the Governance Rights and other rights pertaining to the entire Membership Interest to which such Financial Rights relate pursuant to this Article 12;

12.1.5. Governance Rights may not be assigned to another person except pursuant to a simultaneous assignment of the Financial Rights and other rights pertaining to the entire Membership Interest to which such Governance Rights relate pursuant to this Article 12;

12.1.6. AmSurg may assign all or any part of its Membership Interest to an Affiliate of AmSurg, to another Member, or to a person who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center;

12.1.7. The LLC need not recognize any assignment of all or any part of a Membership Interest other than an assignment described in

Sections 12.1.1 through 12.1.6 hereof. Any other assignment or attempted assignment shall be void. No assignment shall be effective until written notice thereof has been provided to the LLC and any other applicable requirements set forth in this Agreement or the Articles of Organization have been satisfied.

12.2. **Assignment of Membership Interest to Another Member.** A Member may assign all or any portion of such Member's Membership Interest to another Member if: (a) the assignee accepts such assignment, (b) the assignor and the assignee give written notice of such assignment to the LLC, and (c) the assignment is approved by the Board. Upon satisfaction of the conditions specified in the foregoing sentence, the LLC will cause Exhibit A hereto to be amended to the extent required by Section 12.9 hereof and the assignee will become the holder of the Membership Interest so assigned.

12.3. **Assignment of Membership Interest with Consent of Other Members.** Except as provided in Section 12.1.3 above, if an Owner (the "Transferor") desires to transfer, assign or sell all or any portion of his or her Membership Interest (the "Offered Interests") to a third party who is a physician licensed to practice medicine in the State of Connecticut and who is a member of the medical staff of the Center (the "Transferee"), the Transferor shall obtain from the Transferee a bona fide written offer to purchase the Offered Interests, stating the terms and conditions upon which the purchase is to be made and the consideration offered therefor (the "Offer"). The Transferor shall give notice to the LLC and the remaining Member(s) of his or her intention to sell, furnishing a copy of the entire Offer (the "Notice").

12.3.1. **Right of First Refusal.**

12.3.1.1 Within thirty (30) days of the receipt of Notice (the "LLC Option Period"), the LLC may exercise an option to purchase all but not less than all of the Offered Interests proposed to be sold by the Transferor, upon the terms and conditions and for the same consideration stated in the Offer. The LLC, at the direction of the Board, shall exercise such option by giving written notice both to the Transferor and each other Member within the LLC Option Period. Should the LLC fail to give written notice within such LLC

Option Period, the LLC shall be deemed to have waived such option.

12.3.1.2 If the LLC does not exercise its option to purchase all (but not less than all) of the Offered Interests, each Member other than the Transferor, within thirty (30) days beginning on the earlier of the expiration of the LLC Option Period or the date of the written notice from the LLC waiving such option (the "Member Option Period"), may exercise an option to purchase the Offered Interests upon the same terms and conditions and for the same consideration stated in the Offer, on a basis pro rata to their Membership Percentage (or on a basis pro rata to the interest of those remaining Member(s) exercising this second option to purchase.) The other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Member Option Period. Should a Member fail to give written notice within the Member Option Period, the Member shall be deemed to have waived such option.

12.3.1.3 In the event any Member shall not have exercised his or her option to purchase the Offered Interests, each other Member who exercises in full its option pursuant to subsection (ii) above may, within ten (10) days after the expiration of the Member Option Period (the "Over-Allotment Period"), exercise an option to purchase the remaining Offered Interests upon the terms and conditions and for the same consideration

stated in the Offer. In the case of a single Member, his or her option shall be to purchase all of the remaining Offered Interests. In the case of two or more other Members, each such other Member's option shall be to purchase the amount all such other Members may determine by agreement among themselves, or if they cannot agree, by one or more successive allocations in the proportion that the Membership Interest owned by each of the eligible other Members bears to the total Membership Interests owned by all such eligible other Members. Such other Members shall exercise such options by giving written notice both to the Transferor and each other Member within the Over-Allotment Period. Should a Member fail to give written notice within the Over-Allotment Period, the Member shall be deemed to have waived such option.

12.3.1.4 The LLC and the other Members must, in the aggregate, exercise their options to purchase all of the Offered Interests; otherwise, their options shall be forfeited.

12.3.1.5 Notwithstanding anything contained herein to the contrary, the rights under this Section 12.3.1 may be waived with respect to any proposed transfer or assignment by an Owner provided that such transfer or assignment is approved by the Board and the Members elect to waive their rights under this Section 12.3.1.

12.3.2. If the right of first refusal options set forth above are forfeited or waived, then within ten (10) days after the expiration of the

last option period granted above, the Transferor may transfer the Offered Interests to the Transferee named in the Notice upon the terms specified therein, provided (i) such Transferor has provided the Notice set forth in subsection (a) above, (ii) such transfer, sale or assignment is in compliance with the Securities Act of 1933, as amended (the "Securities Act"), and all applicable state securities laws; and, if requested by the Board, such Transferor has delivered an opinion of such Transferor's counsel to the LLC, in form and substance reasonably satisfactory to the LLC, to the effect that such transfer is either exempt from the requirements of the Securities Act and the applicable securities laws of any state or that such registration requirements have been complied with, (iii) the Board approves such transfer, sale or assignment (iv) the proposed transfer, assignment or sale is made in compliance with subsection 12.2.3.1 above, and (v) the Transferee executes a joinder to this Agreement and agrees in writing to be bound by the terms hereof. Upon the satisfaction of the conditions set forth in the preceding sentence and the making of the assignment, the LLC will cause Exhibit A hereto to be amended in accordance with Section 12.9 hereof and the assignee will become a Member holding the Membership Interest so assigned.

12.4. Termination of a Membership Interest. Notwithstanding any provisions to the contrary contained in the Act, a Member's Membership Interest shall be terminated only on the application of the LLC or another Member as described in Section 48-249-503(a)(6) of the Act. In the event a Member's Membership interest is terminated:

12.4.1. If the business and existence of the LLC are not continued, the Member whose Membership Interest is terminated is entitled to receive the Member's distribution pursuant to Article 13; and

12.4.2. If the business and existence of the LLC are continued, the Member whose Membership Interest is terminated is entitled to receive the lesser of:

12.4.2.1 The value of the Member's Membership Interest on a going concern basis as determined by the LLC within 90 days of the termination date, or

12.4.2.2 The value of the Member's Membership Interest on a liquidation basis as determined by the LLC

within 90 days of the termination date.

If a Member's Membership Interest is terminated in contravention of this Agreement or the Articles of Organization, the Member forfeits its Governance Rights and shall be liable to the other Members for damages incurred by the other Members and the LLC as a result of the wrongful termination. Such damages may be offset against any amount to be paid to the terminating Member. Any payment to a terminating Member shall be paid to the terminating Member within six months of the determination of the amount of the payment.

**12.5. Restrictions on Assignment.** No Member shall be permitted to assign such Member's Membership Interest, Financial Rights or Governance Rights if such assignment would result in the LLC being taxed for federal income tax purposes as an association taxable as a corporation or would constitute a violation of any applicable federal or state law. Each of the Members hereby agrees and acknowledges that the restrictions on assignment contained in this Article 12 are not unreasonable in view of the nature of the parties and their relationships to one another and the nature of the business of the LLC.

**12.6. Rights and Obligations of Former Members.** A Member who assigns all of the Governance Rights of such Member or whose Membership Interest is otherwise terminated shall cease to be a Member; provided, however, that such former Member or any Successor shall remain liable to the LLC for any obligations of such Member for unlawful distributions under Section 48-249-307 of the Act.

**12.7. Admission of New Members.** The admission of a new Member pursuant to the issuance of a new Membership Interest which is not acquired pursuant to any assignment by or from any existing or former Member (a "New Member") must be approved by the Board. The purchase price for any such Membership Interest issued to a New Member shall be equal to fair market value, as determined by the Board.

**12.8. Government Regulation.** If a Fundamental Regulatory Change should occur, AmSurg or its Affiliates or assigns may, at their option, purchase some or all of the Membership Interests of Owners for a purchase price equal to (a) three (3) times the LLC Profit plus the LLC's interest expense for the preceding twelve (12) calendar months, minus (b) the LLC's outstanding Principal Indebtedness, with this amount multiplied by the Membership Interest of Owners being purchased hereunder.

The determination that a Fundamental Regulatory Change has occurred shall be made by (a) counsel to AmSurg, with the concurrence of counsel to Owners, (b) counsel to Owners, with the concurrence of counsel to AmSurg or (c) if counsel to AmSurg and

Owners cannot concur, by a nationally recognized law firm with expertise in health care law jointly selected by AmSurg and Owners.

The Membership Interest that may be purchased by AmSurg pursuant to this Section will not exceed the minimum Membership Interest required to be purchased as a result of the Fundamental Regulatory Change.

In the event of a Fundamental Regulatory Change and the exercise by AmSurg of its option as described above, the purchase price of the Membership Interest purchased shall be determined and payable in the manner hereinafter set forth:

12.8.1. Owners shall be paid 20% of the purchase price (net after reduction for any obligations owed by any Owner to the LLC), in cash and 80% by AmSurg Corp.'s non-negotiable promissory note payable in four (4) approximately equal annual installments of principal, commencing twelve (12) months after the closing, together with interest at a rate equal to one-half percentage point over the Prime Rate.

The note shall contain provisions for (a) the acceleration of the entire unpaid balance of principal and accrued interest at the option of the holder in the event of default in payment of any principal or interest when due, (b) the payment of reasonable attorneys' fees in the event of default, and (c) prepayment, without penalty, of all or any part of the unpaid principal, any prepayment being first applied to then accrued interest.

12.8.2. If in dispute, all determinations of LLC Profit required under this Section 12.8 shall be made by an independent certified public accountant acceptable to both Owners and AmSurg and any such determination so made shall be binding on all parties.

12.8.3. If an Owner's Membership Interest is acquired pursuant to this Section 12.8, such Owner will be distributed a pro rata share of the Available Cash Flow allocated to that Membership Interest for the month in which AmSurg purchases the Membership Interest based upon the number of days during such month prior to such purchase in relation to the total number of days in such month. Such distribution shall be made within ninety (90) days after the end of such month.

12.8.4. No payment other than those specifically provided for herein shall be due or payable with respect to the Membership Interest of any Owner. Any debt due by the

LLC to any Owner shall be payable according to its terms.

12.8.5. Any closing of the purchase of an Owner's Membership Interest pursuant to this Section 12.8 shall be held at the principal office of the LLC within thirty (30) days following the exercise by AmSurg of its option to purchase such Membership Interest as described above.

At the closing, AmSurg shall pay, upon the terms specified hereinabove, the determined value of such Membership Interest to such Owner, after receiving appropriate releases and satisfactions.

12.8.6. AmSurg may transfer or assign any of its rights to purchase the Membership Interest of an Owner to AmSurg's Affiliates or assigns.

12.8.7. If AmSurg or its Affiliate purchases some or all of the Membership Interest of an Owner pursuant to this Section 12.8, AmSurg will use its best efforts to have such Owner released from the appropriate portion of Principal Indebtedness, if any, guaranteed by such Owner. In the event that an Owner is not so released, AmSurg and AmSurg Corp. will indemnify and hold harmless such Owner from liability resulting from that portion of such guaranty.

12.9. **Amendment to Exhibit A.** An appropriate amendment to the amounts shown for capital account balances and Membership Percentages on Exhibit A hereto shall be made upon: (a) any assignment or termination of a Membership Interest described in Sections 12.1.1 through 12.1.6 hereof; (b) the admission of any New Member under Section 12.7 hereof; or (c) any purchase of a Membership Interest pursuant to Section 12.8 hereof.

12.10. **Pledge of Membership Interest.** No pledge of an Owner's interest may be made without the approval of AmSurg. The pledge of or the granting of a security interest, lien or other encumbrance in or against any or all of a Member's Membership Interest shall not constitute an assignment or transfer of such Membership Interest for purposes of this Article 12 or cause such Member to cease to be a Member or to cease to have the power to exercise any of its rights or powers as a Member. Any such pledgee shall not be a Member and shall not be entitled to any rights of a Member, other than the right to receive profit and loss allocations and distributions to the extent permitted by applicable law, unless such pledgee becomes a Member pursuant to Section 12.3 hereof. In any event, the foreclosure of or exercise of other secured party remedies with respect to such pledge, security interest, lien or other encumbrance resulting in an Assignment of any such Membership

Interest shall nonetheless be an Assignment subject to the restrictions of Article 12. AmSurg shall have the right to pledge or grant a security interest, lien or other encumbrance in or against any or all of its Membership Interest.

### 13. DISSOLUTION, WINDING UP, AND TERMINATION OF THE LLC'S EXISTENCE

13.1. **Term.** The term of the LLC shall continue until earlier terminated in accordance with the provisions of this Agreement. The Members intend for the term of the LLC; and their involvement in the operation thereof, to continue until the Members mutually agree otherwise. Neither Member shall take any action unilaterally to terminate the LLC or withdraw as a Member.

13.2. **Events Causing Dissolution and Winding Up.** The LLC shall be dissolved and its affairs wound up only upon the occurrence of the following events (individually, a "Dissolution Event"):

13.2.1. At any time with the prior approval of those Members holding 100% of the voting power and 100% of the Membership Interests in the LLC; or

13.2.2. Termination of this Agreement pursuant to Section 14.13 hereof.

13.3. **Winding Up Affairs on Dissolution.** Upon dissolution of the LLC, the Officers or other persons required or permitted by law to carry out the winding up of the affairs of the LLC shall promptly notify all Members of such dissolution; shall wind up the affairs of the LLC; shall prepare and file all instruments or documents required by law to be filed to reflect the dissolution of the LLC; and, after collecting the debts and obligations owed to the LLC and after paying or providing for the payment of all liabilities and obligations of the LLC, shall distribute the assets of the LLC in accordance with Section 6.5. In determining the final balance of the Book Capital Accounts, assets of the LLC which are distributed in kind to the Members, if any, shall be treated as if sold for their fair market value and allocations shall be made pursuant to Sections 6.1 and 6.2 hereof.

13.4. **Waiver of Right to Partition and Decree of Dissolution.** As a material inducement to each Member to execute this Agreement, each Member covenants and represents to each other Member that, during the period beginning on the date of this Agreement, no Member, nor such Member's heirs, representatives, successors, transferees or assigns, will attempt to make any partition whatever of the assets of the LLC or any interest therein whether now owned or hereafter acquired, and each Member waives all rights of partition provided by statute or principles of law or equity, including partition

in kind or partition by sale. The Members agree that irreparable damage would be done to the goodwill and reputation of the LLC if any Member should bring an action in a court to dissolve the LLC. The Members agree that this Agreement provides fair and just provisions for payment and liquidation of the interest of any Member in the LLC, and fair and just provisions to prevent a Member from selling or otherwise alienating its interest in the LLC. Accordingly, each Member hereby waives and renounces its right to such a court decree of dissolution or to seek the appointment by court of a liquidator or receiver for the LLC.

#### 14. GENERAL PROVISIONS

14.1. **Notices.** Except as otherwise provided in this Agreement, any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement shall be duly given

14.1.1. if delivered in writing, personally to the person to whom it is authorized to be given; or

14.1.2. if sent by certified or registered mail, overnight courier service or facsimile to the address of the Member or Director reflected in the records of the LLC.

Any such notice shall be deemed to be given as of the date so delivered, if delivered personally, as of the date on which the same was deposited in the United States mail, postage prepaid, addressed and sent as aforesaid, or on the date received if sent by overnight courier services or electronic facsimile.

14.2. **Section Captions.** Section and other captions contained in this Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or any provision hereof.

14.3. **Applicable Law.** This Agreement and the rights of the Members shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee.

14.4. **Severability.** In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby. Without limiting the foregoing, the Members agree that in the event a court or arbitrator with appropriate jurisdiction determine that the geographic area and/or the time restrictions set forth in Section 8.2 hereof are unenforceable as a matter of law, then the court or arbitrator may modify the unenforceable provision in order to make it enforceable and such modification will

be deemed to be valid amendment to this Agreement to which each Owner and his or her Affiliates will be bound.

14.5. **Binding Effect.** Except as herein otherwise provided to the contrary, this Agreement shall be binding upon, and inure to the benefit of, the Members and their respective heirs, executors, administrators, successors, transferees and assigns.

14.6. **Terminology.** All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; and the singular shall include the plural, and vice versa.

14.7. **Amendment.** This Agreement may be amended in writing (a) with the consent of AmSurg and Owners holding a majority of the Membership Interest held by the Owners and (b) with respect to Exhibit A hereto, under the circumstances set forth in Sections 4.8 and 12.9 hereof. In the event that the parties hereto agree to admit a New Member pursuant to Section 12.7 hereof, the parties will amend this Agreement accordingly.

14.8. **Parties in Interest.** Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the Members hereto and, to the extent permitted by this Agreement, their respective heirs, legal representatives, successors and assigns.

14.9. **Counterparts.** This Agreement may be executed in multiple counterparts and by way of facsimile or scanned email transfer, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Each party may rely upon machine copies of the signed Agreement to the same extent as a manually signed original copy hereof.

14.10. **Interpretation in Accordance with Requirements for Partnership Tax Treatment.** The LLC is intended to be treated as a partnership for federal income tax purposes, and this Agreement shall be interpreted in a manner consistent with such intended tax treatment.

14.11. **Arbitration.** All disputes with respect to interpretation of the provisions of this Agreement shall be resolved by binding arbitration pursuant to the rules of the American Health Lawyers Association Dispute Resolution Service ("AHLA") then pertaining. The arbitration proceedings shall be held in Philadelphia, Pennsylvania. The procedures for conducting discovery in connection with any such arbitration proceeding shall be determined by the mutual agreement of the Members party to the arbitration proceeding or, if the Members cannot agree, by the arbitrators. The arbitrators shall apply the substantive laws of the State of Tennessee and the United States.

The Members may, if they are able to do so, agree upon one arbitrator; otherwise, there shall be three arbitrators selected to resolve disputes pursuant to this Section 14.11, one named in writing by each Member party to the arbitration proceeding within thirty (30) days after notice of arbitration is served upon any Member by another Member and a third arbitrator selected by the two arbitrators selected by the Members within fifteen (15) days thereafter.

If the two arbitrators cannot select a third arbitrator within such fifteen (15) days, either Member may request that the AHLA select such third arbitrator. If one Member does not choose an arbitrator within thirty (30) days, the other Member shall request that the AHLA name such other arbitrator. No one shall serve as arbitrator who is in any way financially interested in this Agreement or in the affairs of any Member.

Each of the parties to the arbitration shall pay its own expenses of arbitration and one-half of the expenses of the arbitrators. If any position by any party to the arbitration, or any defense or objection thereto, is deemed by the arbitrators to have been unreasonable, the arbitrators shall assess, as part of their award against the unreasonable Member or reduce the award to the unreasonable Member, all or part of the arbitration expenses (including reasonable attorneys' fees) of the other Member and of the arbitrators.

**14.12. Access to Books and Records by Governmental Officials.** Upon written request of the Secretary of Health and Human Services or the Comptroller General or any other duly authorized representatives thereof, each Member shall make available to the Secretary those contracts, books, documents and records necessary to verify the nature and extent of the cost of providing its services to the Center. Such inspection shall be available up to four (4) years after such services are rendered. If either Member carries out any of the duties of this Agreement through subcontract with a value of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period with a related individual or organization, such Member agrees to include this requirement in such subcontract. If a request from the Secretary or his representative is served on a Member, that Member will notify the LLC in writing prior to responding to the request.

**14.13. Limited Renegotiation.** This Agreement shall be construed to be in accordance with any and all federal and state laws, including laws relating to Medicare, Medicaid and other third party payors. In the event there is a change in such laws, whether by statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or otherwise that has any material effect on any term of this Agreement, then the applicable term(s) of the Agreement shall be subject to renegotiation and any Member may request renegotiation of the affected term or terms of this

Agreement, upon written notice to the other Member, to remedy such condition.

The Members expressly recognize that upon request for renegotiation, each Member has a duty and obligation to the others only to renegotiate the affected term(s) in good faith and, further, each Member expressly agrees that its consent to proposals submitted by the other Members during renegotiation efforts shall not be unreasonably withheld.

Should the Members be unable to renegotiate the term or terms so affected so as to bring it/them into compliance with the statute, regulation, agency or judicial decision, interpretation, pronouncement, guidance or other reason that rendered it/them unlawful or unenforceable within sixty (60) days of the date on which notice of a desired renegotiation is given, then the Members shall be entitled, after the expiration of said sixty (60) day period, to terminate this Agreement upon thirty (30) additional days written notice to the other Members.

**14.14. Integrated Agreement.** This Agreement constitutes the entire understanding and agreement between the Members with respect to the subject matter hereof, and there are no agreements, understandings, restrictions, representations or warranties among the Members other than those set forth herein or herein provided for.

The Members acknowledge that they have independently negotiated the provisions of this Agreement, that they have relied upon their own counsel as to matters of law and application and that no Member has relied on any other Member with regard to such matters. The Members expressly agree that there shall be no presumption created as a result of any Member having prepared in whole or in part any provision of this Agreement.

[Remainder of page intentionally left blank]



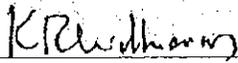
**CERTIFICATE**

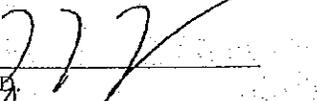
IN WITNESS WHEREOF, the undersigned hereby agree, acknowledge and certify that the foregoing Agreement constitutes the Operating Agreement of Eastern Connecticut Endoscopy Center, LLC adopted by the Members.

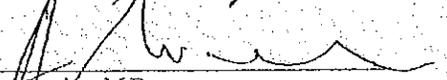
**AMSURG HOLDINGS, INC.**

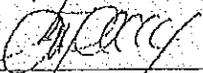
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OWNERS:**

  
\_\_\_\_\_  
Kolala Sridhar, M.D.

  
\_\_\_\_\_  
You Sung Sang, M.D.

  
\_\_\_\_\_  
Ashan Manohar, M.D.

  
\_\_\_\_\_  
Abera H. Abay, M.D.

  
\_\_\_\_\_  
Shiwani Sood, M.D.

EXHIBIT A

<u>Member Name and Address</u>	<u>Membership Percentage</u>
AmSurg Holdings, Inc. 20 Burton Hills Boulevard Nashville, TN 37215 FEIN: 62-1595888	51.00%
Kolala Sridhar, M.D. 12 Royal Oaks Drive Norwich, CT 06360	8.80%
You Sung Sang, M.D. 27 Sandpiper Lane East Lyme, CT 06333	15.80%
Ashan Manohar, M.D. 3 Blue Bird Circle East Lyme, CT 06333	8.70%
Abera H. Abay, M.D. 44 Canterbury Turnpike Norwich, CT 06360	8.70%
Shivani Sood, M.D. 400 Bank Street, #401 New London, CT 06320	7.00%
<b>TOTAL:</b>	<b>100%</b>

11687027.2



**STATE OF CONNECTICUT**  
DEPARTMENT OF PUBLIC HEALTH  
*Office of Health Care Access*

December 18, 2014

Kolala Sridhar, MD, FACG, AGAF  
Eastern Connecticut Endoscopy Center  
Wawcus Medical Center  
79 Wawecus Street, Suite 107  
Norwich, CT 06360

RE: Eastern Connecticut Endoscopy Center  
Docket No. 13-31848-CON

Dear Dr. Sridhar:

Your letter dated November 24, 2014 to Commissioner Jewel Mullen, regarding Eastern Connecticut Endoscopy Center, LLC's ("ECEC") decision to utilize two independent groups of anesthesia providers, has been forwarded to our office for response.

As you are aware, OHCA issued a certificate of need ("CON") decision on May 1, 2014 permitting AmSurg to acquire a 51% ownership interest in ECEC. Included in that decision was a stipulation that "no provision of this agreement shall limit the independent medical judgment of practicing physicians with staff privileges at the center with regard to the provision of patient care".

According to the statements you make in your letter, it appears that ECEC is engaging in contractual negotiations with a potential provider of anesthesia services. However, it is not directing any of the physicians with respect to the actual care that the physician can or cannot provide to their patients. Therefore, it is OHCA's position that the aforementioned stipulation is not being violated by ECEC.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Martone".

Kimberly R. Martone  
Director of Operations

C: Deputy Commissioner Janet M. Brancifort, MPH  
Wendy Furniss, Facility Licensing and Investigations

*An Equal Opportunity Provider*

*(If you require aid/accommodation to participate fully and fairly, contact us either by phone, fax or email)*  
410 Capitol Ave., MS#13HCA, P.O.Box 340308, Hartford, CT 06134-0308  
Telephone: (860) 418-7001 Fax: (860) 418-7053 Email: OHCA@ct.gov

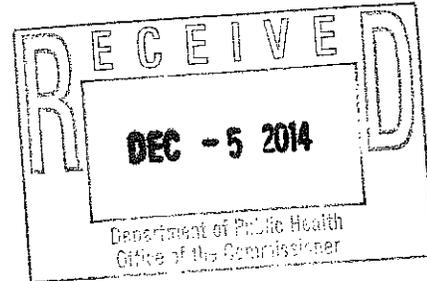


**EASTERN CONNECTICUT**  
**ENDOSCOPY CENTER**

**Wawcus Medical Center**  
79 Wawcus Street, Suite 107  
Norwich, CT 06360-2182  
Tel: (860) 886-7800 • Fax: (860) 886-7808

November 24, 2014

Jewell Mullen, MD, MPH, MPA  
Commissioner  
Office of Health Care Access  
410 Capitol Avenue  
PO Box 340308  
Hartford, CT 06134



Dear Commissioner Mullen,

My name is Kolala Sridhar and I am a practicing gastroenterologist and a member of the Board of Directors of Eastern Connecticut Endoscopy Center, LLC (ECEC) in Norwich, Connecticut. My practice owns 24.6% of the limited liability company, serving citizens of Eastern Connecticut by providing ambulatory surgical services – gastrointestinal endoscopies and colonoscopies.

Our center was founded in 1999 and operated independently until May 1, 2014 when AmSurg, a corporation based in Nashville, Tennessee acquired 51% of the company and majority control of the operations of ECEC after going through certificate of need process by Office of Health Care Access of the Department of Public Health, State of Connecticut.

OCHA approved the CON with a specific decree which states “no provision of this agreement shall limit the independent medical judgment of practicing physicians with staff privileges at the center with regard to the provision of patient care”. (Article 3 of the approved operating agreement dated May 1, 2014). The decree also specifies that the Center shall abide by the process served in the state of Connecticut in any proceeding or enforcement of any obligation.

Since ECEC was founded in 1999 until currently, anesthesia and sedation in the center was provided by practicing gastroenterologists themselves or by a single anesthesia group with an excellent safety record.

In the last few weeks, the business management of the Endoscopy Center has, in spite of disagreements from three physicians who provide services at the Center, decided to approach two independent groups of anesthesia providers to provide anesthesia services simultaneously in the Center with each group providing a sole anesthesia provider at the center.

I have discussed this decision with my fellow physicians in our group extensively. It is our judgment that having two anesthesia providers from different groups working at the Center simultaneously jeopardizes the safety of our patients in the event of an unforeseen emergency.

In the case of an unforeseen event, having a similarly qualified provider with predetermined and contractual obligations for backup is crucial. If there are two independent anesthesia providers

working at the Center without any obligation to provide backup to one another, we may end up in a situation where patient safety is jeopardized.

I am writing to request you to review this matter and render an opinion as to whether the business management of Eastern Connecticut Endoscopy Center can override the clinical judgment of three physicians with privileges at the Center and whether such a decision will have a negative impact on the safety of patients who are served at the Center.

I realize that this may be a time-consuming process but in case management proceeds with contracting with two groups of anesthesia providers, I hope that you will issue a stay order until we are satisfied that patients served at the Center will be safe.

Respectfully,



Kolala Sridhar, MD, FACP, AGAF  
Member of the Board of Directors  
Eastern Connecticut Endoscopy Center

KS/laf