



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD
525 WEST JEFFERSON ST, SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

DOCKET NO: I-01	BOARD MEETING: October 29, 2024	PROJECT NO: 24-009	PROJECT COST:
FACILITY NAME: Peterson Surgery Center, LLC		CITY: Chicago	Original: \$1,603,408
TYPE OF PROJECT: Substantive			HSA: VI

PROJECT DESCRIPTION: The Applicants (Peterson Surgery Center, LLC. and Narjisha Thowfeek Declaration of Trust), propose to establish an Ambulatory Surgical Treatment Center (“ASTC”) located at 2300 W. Peterson Avenue, Chicago, Illinois. The cost of the project is \$1,603,408. The expected completion date is June 30, 2025.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (Peterson Surgery Center, LLC. and Narjisha Thowfeek Declaration of Trust) propose establishing an ASTC at 2300 W. Peterson Avenue, Chicago, Illinois. The Applicants propose to provide podiatry, pain management, orthopedic, and general surgery surgical specialties. The project costs \$1,603,408 and is expected to be completed by June 30, 2025.
- The Applicants have also submitted a discontinuation Application for the ASTC located at 7616 N. Paulina Street, Chicago, Illinois (**Project #24-010**). Should the Health Facilities & Services Review Board (“State Board” or “HFSRB”) approve the current Application, the surgery center will be discontinued.

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The project is before the State Board under a Certificate of Need Permit Application (“CON Application”) because the proposed project proposes to establish a healthcare facility as set out in the Illinois Health Facilities Planning Act (“Planning Act”) [20 ILCS 3960/].

PURPOSE OF THE PROJECT:

- The project's purpose is to allow for the relocation of Peterson Surgery Center LLC, located at 7616 North Paulina Street, Chicago, Illinois, to 2300 West Peterson Avenue, Chicago, Illinois.

PUBLIC HEARING/COMMENT:

- No requests for a public hearing were made, and the State Board did not receive any letters of support or opposition.

RESPONSE TO INTENT TO DENY:

- This project received an Intent to Deny at the September 19, 2024, State Board Meeting. The Applicants provided additional information to address the concerns of the State Board Members. The Applicants’ response documented existing building issues preventing the ASTC at 7616 N. Paulina Street, Chicago, Illinois, from being certified for Medicare participation. **The Applicants’ complete response is attached at the end of this report.** The Applicants outlined the upgrades made at the ASTC located at 7616 N. Paulina Street, costing, according to the Applicants, hundreds of thousands of dollars in capital expenditures, including a new handicap ramp, a new generator, additional sprinkler lines and new heads, new flooring in clinical areas, an additional storage room, and parking lot upgrades for security and roof repairs. According to the Applicants, the facility failed to comply with CMS CFRs 416.44 and 416.51¹.

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- ¹CFR 416.44 regulation focuses on the physical environment of Ambulatory Surgical Centers (ASCs). **Safe and Sanitary Environment:** ASCs must be appropriately constructed, equipped, and maintained to ensure patient health and safety. **Physical Environment:** Each operating room must be designed and equipped to protect all individuals' lives and physical safety. **Fire Safety:** ASCs must comply with the Life Safety Code, including the provisions of fire safety and hazardous areas. 42 CFR 416.51 This regulation mandates that ASCs maintain an infection control program to minimize infections and infectious diseases. **Sanitary Environment:** ASCs must adhere to professionally acceptable standards of practice to provide a functional and sanitary environment. **Infection Control Program:** The program must be ongoing and include documentation of nationally recognized infection control guidelines. (Source CMS)

SUMMARY:

- There are 14 ASTCs and 10 hospitals within the 10-mile geographical service area (“GSA”) with sufficient capacity to accommodate the demand identified by the Applicants. The Applicants addressed a total of 22 criteria and have not met the following:

Criterion	Non-Compliant
77 Ill. Adm. Code 110.235(c)(6) - Service Accessibility	There are existing ASTCs and hospitals in the 10-mile GSA that currently provide surgical specialties and are not at capacity (see Table Three and Table Four).
77 Ill. Adm. Code 110.235(c)(7) - Unnecessary Duplication of Service	The surgical specialties provided by the proposed ASTC can be provided at existing underutilized facilities in the GSA that currently provide these services.



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Project #24-009
 Peterson Surgery Center LLC
 State Board Staff Report

APPLICATION/CHRONOLOGY/SUMMARY	
Applicant(s)	Peterson Surgery Center LLC and Narjisha Thowfeek Declaration of Trust
Facility Name	Peterson Surgery Center LLC
Location	2300 West. Peterson Avenue, Chicago, IL
Permit Holder(s)	Peterson Surgery Center, LLC and Narjisha Thowfeek Declaration of Trust
Licensee/Operating Entity	Peterson Surgery Center LLC
Owner of Site	Narjisha Thowfeek Declaration of Trust
Application Received	March 15, 2024
Application Deemed Complete	March 18, 2024
Review Period Ends	May 17, 2024
Project Completion Date	June 30, 2025
Review Period Extended by the State Board Staff?	Yes
Can the Applicant request a deferral?	No

I. The Proposed Project

The Applicants (Peterson Surgery Center, LLC. and Narjisha Thowfeek Declaration of Trust) propose establishing an ASTC at 2300 West Peterson Avenue, Chicago, Illinois. The cost of the project is \$1,603,408. The expected completion date is June 30, 2025.

II. Summary of Findings

- A. The State Board Staff finds the proposed project is not in conformance with the provisions of Part 1110.
- B. The State Board Staff finds the proposed project is in substantial conformance with provisions of Part 1120.

III. General Information

The Applicants are Peterson Surgery Center, LLC. and Narjisha Thowfeek Declaration of Trust. The proposed ASTC will be in Health Service Area (“HSA”) VI—the City of Chicago. There are 19 ASTCs and 38 hospitals in the City of Chicago.

IV. Project Uses and Sources of Funds

The Applicants are funding this project with \$870,000 cash, the Fair Market Value of the Lease, \$413,408, and \$320,000 in other costs to be capitalized (see Table One).

TABLE ONE
Project Uses and Sources of Funds

Project Uses of Fund	Reviewable	Non-Reviewable	Total
Modernization Contract	\$399,500	\$150,000	\$549,500
Contingencies	\$25,000	\$15,000	\$40,000
Architectural/Engineering Fees	\$40,000	\$10,000	\$50,000
Consulting and Other Fees	\$40,000	\$65,000	\$105,000
Movable or Oher Equipment	\$97,000	\$28,500	\$125,500
Fair Market Value of the Lease	\$201,929	\$211,478	\$413,408
Other Costs to be Capitalized	\$320,000	\$0	\$320,000
Total	\$1,123,429	\$479,978	\$1,603,408
Sources of Funds			
Cash	\$601,500	\$268,500	\$870,000
Fair Market Value of the Lease	\$201,929	\$211,478	\$413,408
Other costs to be Capitalized	\$320,000	\$0	\$320,000
Total			\$1,603,408

V. Background of the Applicant, Purpose of Project, Safety Net Impact Statement, Alternatives to the Project

- A)** 77 Ill. Adm. Code 1110.110(a) – Background of the Applicant
- B)** 77 Ill. Adm. Code 1110.110(b) – Purpose of the Project
- C)** 77 Ill. Adm. Code 1110.110(c) – Safety Net Impact Statement
- D)** 77 Ill. Adm. Code 1110.110(d) – Alternatives to the Project

A) Background of the Applicant

An applicant shall document the *qualifications, background, character, and financial resources to adequately provide a proper service for the community* and also demonstrate that the project promotes the *orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of facilities or service.* [20 ILCS 3960/2]

The Applicants (Peterson Surgery Center, LLC. and Narjisha Thowfeek Declaration of Trust)² have attested that no adverse action has been taken against any facility owned and operated by the Applicants during the three (3) years before filing this CON Application. The Applicants have also authorized the State Board and the Illinois Department of Public Health access to any documents necessary to verify the information in its CON Application. The Applicants have demonstrated they are fit, willing, and able and have the proper qualifications, background, and character to adequately provide an appropriate standard

² **Declaration of trust** is the document used to establish the primary details of a [trust](https://www.law.cornell.edu/wex/declaration_of_trust). While some states allow oral declarations, many states require a written declaration of trust outlining the essential pieces of the trust in order for it to be legally recognized. Declarations generally state who the [trustee](https://www.law.cornell.edu/wex/declaration_of_trust) and [beneficiaries](https://www.law.cornell.edu/wex/declaration_of_trust) are, and they often state how the assets are to be distributed to the beneficiaries. Depending on the type of trust, declarations can include a variety of details like when to end the trust, how to manage the [assets](https://www.law.cornell.edu/wex/declaration_of_trust), or how to replace a trustee. In England and Wales, a declaration of trust is used as a document certifying the owner or joint ownership of something instead of creating a trust. (https://www.law.cornell.edu/wex/declaration_of_trust)

of health care services to the community at the proposed ASTC. (See page 39 of the CON Application)

B) Purpose of the Project

The applicant shall document that the project will provide health services that improve the health care or well-being of the market area population to be served. The applicant shall define the planning area, market area, or other area according to the applicant's definition.

The project's purpose is to allow for the relocation of Peterson Surgery Center, currently located at 7616 North Paulina Street, Chicago, Illinois, to its proposed new location at 2300 West Peterson Avenue, Chicago, Illinois. According to the Applicants, the existing ASTC is in an outdated building in an area that has experienced increased crime. According to the Applicants, these issues make it challenging to recruit staff and physicians. The Applicants state that relocating the ASTC will also alleviate parking issues, improve the size and design of the clinical areas for surgery, prep, recovery, and support space, and decrease maintenance expenses. (See Application for Permit pages 40-43)

C) Safety Net Impact Statement

All health care facilities, with the exception of skilled and intermediate long-term care facilities licensed under the Nursing Home Care Act, shall provide a safety net impact statement, which shall be filed with an application for a substantive project (see Section 1110.40). Safety net services are the services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation. [20 ILCS 3960/5.4]

According to the Applicants, the relocation of the existing ASTC will improve safety net services in the community by enabling the proposed ASTC to obtain Medicare certification. The Applicants state that the existing ASTC cannot get CMS verification due to code compliance limitations. The Applicants believe the proposed ASTC will be able to begin serving patients receiving benefits from the federal health program. The Applicants believe establishing the proposed ASTC will not adversely impact the ability of other healthcare systems providers in the relevant service areas to serve patients seeking safety net services.

D) Alternatives to the Proposed Project

The Applicants considered two alternatives to the proposed project.

1. Do Nothing
2. Modernize the existing ASTC.

The **first alternative** was rejected because it would not address the existing physical plant issues that prevent the existing ASTC from obtaining CMS certification and result in high ongoing maintenance costs. Furthermore, doing nothing would not alleviate safety concerns impacting patients and staff or parking shortages around the existing ASTC. According to the Applicants, not taking any action would adversely affect quality, patient and staff satisfaction, access, and the cost of care.

The **second alternative** was rejected because of the cost. According to the Applicants, to obtain Medicare certification at the existing ASTC, they would have to invest more than \$2.5 million. Modernizing the existing ASTC would not address the safety concerns associated with drug dealers and other criminal activity in the surrounding area and would not provide adequate parking for patients and staff.

VI. Project Scope and Size, Utilization and Unfinished/Shell Space

- A) 77 Ill. Adm. Code 1110.120(a) - Size of Project & Section 1110.Appendix B
- B) 77 Ill. Adm. Code 1110.120(b) - Project Services Utilization

A) Size of the Project

1) The applicant shall document that the physical space proposed for the project is necessary and appropriate. The proposed square footage cannot deviate from the square footage range indicated in Appendix B, or exceed the square footage standard in Appendix B if the standard is a single number, unless square footage can be justified by documenting, as described in subsection (a)(2).

2) If the project square footage is outside the standards in Appendix B, the applicant shall submit architectural floor plans (see HFSRB NOTE) of the project identifying all clinical service areas and those clinical service areas or components of those areas that do not conform to the standards.

The proposed project includes 5,022 departmental gross square feet (“DGSF”) of space. The Applicants indicate that 2,453 DGSF of space is associated with the proposed operating room (“OR”) ASTC. This amounts to 2,453 DGSF per OR. The State Standard for ORs is 2,750 DGSF per room. The project also includes 2,569 DGSF of space for non-clinical space. The Applicants have addressed the criterion.

B) Project Services Utilization

The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. At most, the number of years projected shall be the number of historical years documented. If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its utilization standard by providing published data or studies, as applicable and available from a recognized source.

The Applicants propose referring 449 patients to the facility for 642 hours, which will justify the one OR proposed. Referral letters were provided as required and are documented in Table Two below. The Applicants have met the requirements of this criterion.

VII. Establishment of Ambulatory Surgical Treatment Center 77 Ill. Adm. Code 1110.235(c)

- A) Formula Calculation
- B) (c)(2)(B)(i) & (ii) – Service to GSA Residents
- C) (c)(3)(A) & (B) or (C) – Service Demand – Establishment
- D) (c)(5)(A) & (B) - Treatment Room Need Assessment
- E) (c)(6) - Service Accessibility
- F) (c)(7)(A) through (C) - Unnecessary Duplication Maldistribution
- G) (c)(8)(A) & (B) – Staffing
- H) (c)(9) - Charge Commitment
- I) (c)(10)(A) & (B) – Assurance

A) Geographic Service Area Need

The applicant shall document that the ASTC services and the number of surgical/treatment rooms to be established, added, or expanded are necessary to serve the planning area's population based on the following:

77 Ill. Adm. Code 1100 (Formula Calculation)

As stated in 77 Ill. Adm. Code 1100, no formula needs determination for the number of ASTCs, and the number of surgical/treatment rooms in a geographic service area has been established. Need shall be established under the applicable review criteria of this Part.

The State Board has not developed a need methodology for establishing an ASTC.

B) Service to Geographic Service Area Residents

The applicant shall document that the project's primary purpose will be to provide necessary health care to the residents of the geographic service area (GSA) where the proposed project will be physically located.

i) The applicant shall provide a list of zip code areas (in total or part) that comprise the GSA. The GSA is the area consisting of all zip code areas that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project's site.

ii) The applicant shall provide patient origin information by zip code for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. Patient origin information shall be based upon the patient's legal residence (other than a health care facility) for the last six months immediately before admission.

The GSA for a project in Cook County is a 10-mile radius. Approximately 68 zip codes and 2.5 million residents are within the identified 10-mile GSA. The Applicants state that 70.1% of the cases performed at the relocated ASTC Peterson Surgery Center in the previous 12-month period resided within Cook County. The Applicants have demonstrated compliance with the requirements of this criterion.

C) Service Demand – Establishment of an ASTC Facility

The applicant shall document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant over the latest 2-year period, as evidenced by historical and projected referrals. The applicant shall document the information required by subsection (c)(3) and either subsection (c)(3)(B) or (C):

A) Historical Referrals

The applicant shall provide physician referral letters that attest to the physician's total number of treatments for each ASTC service that has been referred to existing IDPH-licensed ASTCs or hospitals located in the GSA during the 12 months prior to submission of the application. The documentation of physician referrals shall include the following information:

- i) patient origin by zip code of residence.

- ii) name and specialty of referring physician.
 - iii) name and location of the recipient hospital or ASTC; and
 - iv) number of referrals to other facilities for each proposed ASTC service for each of the latest 2 years.
- B) Projected Service Demand
The applicant shall provide the following documentation:
- i) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing IDPH-licensed ASTCs, or hospitals located in the GSA during the 12-month period prior to submission of the application.
 - ii) Documentation demonstrating that the projected patient volume, as evidenced by the physician referral letters, is from within the GSA defined under subsection (c)(2)(B).
 - iii) An estimated number of treatments the physician will refer annually to the applicant facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's experienced caseload. The percentage of projected referrals used to justify the proposed establishment cannot exceed the historical percentage of applicant market share within a 24-month period after project completion.
 - iv) Referrals to health care providers other than IDPH-licensed ASTCs or hospitals will not be included in determining projected patient volume.
 - v) Each physician referral letter shall contain the notarized signature, the typed or printed name, the office address, and the specialty of the physician; and
 - vi) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.

The Applicants propose referring 449 patients to the facility for 642 hours, which will justify the one OR proposed. Referral letters were provided as required and are documented in Table Two below. The Applicant has documented sufficient demand to justify the one OR.

TABLE TWO
Physician Referral Letters

Physician	Specialty	Average Hours ⁽¹⁾	Historic Referral	Proposed Referral	Total Hours	Hours Based on State Average ⁽²⁾
Dr. Anderson	Podiatry	4	11	11	44	19.8
Dr. Chunduri	Pain Management	1	55	55	55	33.55
Dr. Giannoulis	Orthopedic	5	2	2	10	3.8
Dr. Heilizer	General Surgery	3	1	1	3	1.4
Dr. Park	Orthopedic	5	17	17	85	32.3
Dr. Poepping	Orthopedic	5	5	5	25	9.5
Dr. Erickson	Neurosurgery	6	6	6	36	10.32
Dr. Fink	Orthopedic	5	5	5	25	9.5
Dr. Markarian	Orthopedic	5	2	2	10	3.8
Dr. Mohiuddin	Pain Management	1	344	344	344	209.84
Dr. Sompalli	Orthopedic	5	1	1	5	1.9
Total			449	449	642	335.71

1. Average Hours based upon actual utilization at Rogers Park One Day Surgery Center (See Application for Permit p. 55)

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2. In CY 2021 the average time per specialty for all ASTCs in the State of Illinois was: orthopedic 1.9 hours, podiatry 1.8 hours, general surgery 1.40 hours, neurosurgery 1.72 hours.
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D) Treatment Room Need Assessment

A) The applicant shall document that the proposed number of surgical/treatment rooms for each ASTC service is necessary to service the projected patient volume. The number of rooms shall be justified based upon an annual minimum utilization of 1,500 hours of use per room, as established in 77 Ill. Adm. Code 1100.

B) For each ASTC service, the applicant shall provide the number of patient treatments/sessions, the average time (including setup and cleanup time) per patient treatment/session, and the methodology used to establish the average time per patient treatment/session (e.g., experienced historical caseload data, industry norms or special studies).

The Applicants propose one OR for the ASTC. They estimate 642 hours, which will justify the one OR proposed.

E) Service Accessibility

The proposed ASTC services being established or added are necessary to improve access for residents of the GSA. The applicant shall document that at least one of the following conditions exists in the GSA:

A) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project.

B) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100.

C) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies.

D) The proposed project is a cooperative venture sponsored by 2 or more persons, at least one of which operates an existing hospital. Documentation shall provide evidence that:

i) The existing hospital is currently providing outpatient services to the population of the subject GSA.

ii) The existing hospital has sufficient historical workload to justify the number of surgical/treatment rooms at the existing hospital and at the proposed ASTC, based upon the treatment room utilization standard specified in 77 Ill. Adm. Code 1100.

iii) The existing hospital agrees not to increase its surgical/treatment room capacity until the proposed project's surgical/treatment rooms operate at or above the utilization rate specified in 77 Ill. Adm. Code 1100 for a period of at least 12 consecutive months; and

iv) The proposed charges for comparable procedures at the ASTC will be lower than those of the existing hospital.

There are 14 ASTCs and 10 hospitals within the 10-mile GSA (see Tables Three and Four). None of the 14 ASTCs are at the State Board's target occupancy of 80%. The procedures being performed by the Applicants consist of the following: general, orthopedic, pain management, plastic surgery, neurology, and podiatry, all of which are provided in the 10-mile GSA. The proposed project is not a cooperative venture with a hospital. The Applicants have not met the requirements of this criterion.

**TABLE THREE ^{(1) (2)}
ASTCs in the 10-mile GSA**

Facility	City	Surgical Specialties	Medicaid/ Charity	Operating/ procedure	Hours	Utilization
Chicago Surgery Center	Chicago	Orthopedic, Pain Management, Podiatry	No	1	686	36.59%
Fullerton Kimball Medical Surgical Ctr.	Chicago	General Surgery, Neurological, OB/GYN, Orthopedic, Pain Management, podiatry	No	3	1,689	30.03%
Fullerton Surgery Center	Chicago	Gastroenterology, Orthopedic, Pain Management, Urology	Yes	3	1,233	21.92%
Gold Coast Surgicenter	Chicago	Orthopedic, Plastic	No	4	4,788	63.84%
Illinois Sports Medicine & Orthopedic Surgery Center	Morton Grove	Orthopedic, Otolaryngology, Pain Management, Podiatry, Plastic	Yes	5	3,652	38.95%
Lakeshore Surgery Center	Chicago	Gastroenterology, Orthopedic, Pain Management	No	2	1,246	33.23%
Lincoln Park Gastroenterology Center	Chicago	Gastroenterology	No	2	1,988	53.01%
North Shore Surgical Center	Lincolnwood	General Surgery, OB/GYN, Ophthalmology, Plastic, Podiatry, Urology	No	3	3,297	58.61%
Novamed Surgery Center of Chicago Northshore	Chicago	Ophthalmology	Yes	2	1,105	29.47%
River North Sameday Surgery LLC	Chicago	Ophthalmology, Orthopedic, Otolaryngology, Pain Management, Plastic, Podiatry	No	4	1,517	20.23%
Rogers Park One Day Surgery Center	Chicago	General Surgery, Orthopedic, Pain Management, Podiatry	No	2	675	18.00%
Surgicare	Chicago	General Surgery/GYN, Orthopedic, Pain Management, Podiatry	No	3	658	11.70%
The Surgery Center At 900 North Michigan Ave	Chicago	OB/Gyn, Ophthalmology, Otolaryngology, Pain Management, Plastic, Podiatry, Urology	No	7	8,018	61.09%
Western Diversey Surgical Center	Chicago	OB/GYN, Pain Management	Yes	2	698	18.61%

1. Information from 2023 ASTC Survey.

2. Utilization based upon 1,875 total hours per operating/procedure room per year. State Board Standard is 80% of 1,875 hours = 1,500 hours per operating/procedure room.

TABLE FOUR ⁽¹⁾
Hospitals in the 10-mile GSA

Hospital	City	Operating Procedure Rooms	Hours	Utilization
Advocate Illinois Masonic Medical Center	Chicago	28	28,820	54.90%
Louis A. Weiss Memorial Hospital	Chicago	8	2,027	13.51%
Methodist Hospital of Chicago	Chicago	8	1,105	7.37%
NorthShore Univ. Health System Evanston Hospital	Evanston	22	37,055	89.83%
Presence Saint Elizabeth Hospital	Chicago	14	11,326	43.15%
Presence Saint Joseph Hospital - Chicago	Chicago	10	9,840	52.48%
Presence St. Francis Hospital	Evanston	15	9,748	34.66%
Skokie Hospital	Skokie	26	36,671	75.22%
Swedish Covenant Hospital	Chicago	25	20,445	43.62%
Thorek Memorial Hospital	Chicago	7	3,104	23.65%

1. Information from 2023 Hospital Survey

F) Unnecessary Duplication/Maldistribution

A) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information for the proposed GSA zip code areas identified in subsection (c)(2)(B)(i):

- i) the total population of the GSA (based upon the most recent population numbers available for the State of Illinois); and
- ii) the names and locations of all existing or approved healthcare facilities within the GSA that provide the ASTC services proposed by the project.

B) The applicant shall document that the project will not result in the maldistribution of services. Maldistribution exists when the GSA has an excess supply of facilities and ASTC services characterized by such factors as, but not limited to:

- i) a ratio of surgical/treatment rooms to a population that exceeds one and one-half times the State average.
- ii) historical utilization (for the latest 12-month period before application submission) for existing surgical/treatment rooms for the ASTC services proposed by the project that are below the utilization standard specified in 77 Ill. Adm. Code 1100; or
- iii) insufficient population to provide the volume or caseload necessary to utilize the surgical/treatment rooms proposed by the project at or above utilization standards specified in 77 Ill. Adm. Code 1100.

C) The applicant shall document that, within 24 months after project completion, the proposed project:

- i) will not lower the utilization of other area providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and
- ii) will not lower, to a further extent, the utilization of other GSA facilities that are currently (during the latest 12-month period) operating below the utilization standards.

There are 624 operating/procedure rooms in the 10-mile GSA with approximately 2.5 million residents. The State of Illinois has 2,850 operating/procedure rooms with a population of roughly 12.6 million residents. The ratio of operating/procedure rooms in the 10-mile GSA is 1 room per 3,962 residents. The ratio of operating/procedure rooms in the State of Illinois is 1 room per 4,403 residents. Based on these ratios, there is no surplus of operating procedure rooms in the relevant 10-mile GSA.

	Population	Operating/Procedure Rooms	Ratio	
GSA	2,472,016	624	1:3,962	Yes
State of Illinois	12,549,689	2,850	1:4,403	

As noted above, there are existing ASTCs and hospitals providing the proposed surgical specialties in this CON Application. Establishing an ASTC, as proposed in the CON Application, will result in unnecessary duplication of services. The Applicants have not successfully addressed this criterion.

G) Staffing

A) Staffing Availability

The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that the staffing requirements of licensure, The Joint Commission, or other nationally recognized accrediting bodies can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

B) Medical Director

It is recommended that the procedures to be performed for each ASTC service be directed by a physician who is board certified or board eligible by the appropriate professional standards organization or entity that credentials or certifies the health care worker for competency in that category of service.

The Applicants state the proposed ASTC will be open 8:00 am to 4:00 pm, Monday through Friday. The Applicants provided a narrative and a listing of individuals with initials that will fill the following positions:

- Director of Nursing: CB (RN)
- PACU Nurses: RF (RN); RV (RN); RR (RN)
- OR Nurse: TB (RN)
- Licensed Practical Nurse: NT (LPN)
- X-Ray Technician: TI (RT(R))
- Surgical Technician: JC (CST)
- Medical Assistant: MH
- Administrator
- Front Desk Receptionist
- Front Desk Manager
- Case Management
- Billing and Medical Records
- Housekeeping

The individuals with initials listed above are currently employed by Peterson Surgery Center, 7616 N. Paulina Street, Chicago, Illinois. The proposed ASTC's medical director will be Dr. Vicko Gluncic. The medical director's curriculum vitae can be found on pages 67-76 of the CON Application. The Applicants have successfully addressed the requirements of this criterion.

H) Charge Commitment

To meet the objectives of the Act, which are *to improve the financial ability of the public to obtain necessary health services and to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public and cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process* [20 ILCS 3960/2], the applicant shall submit the following:

- A) a statement of all charges, except for any professional fee (physician charge); and
- B) a commitment that these charges will not increase, at a minimum, for the first 2 years of operation unless a permit is first obtained under 77 Ill. Adm. Code 1130.310(a).

The Applicants listed proposed charges at the ASTC on pages 62-64 of the CON Application. They state that the charges will not be modified for a minimum of the first two (2) years after the opening of the proposed ASTC (CON Application, page 65). The Applicants have successfully addressed this criterion.

I) Assurances

A) The applicant shall attest that a peer review program exists or will be implemented that evaluates whether patient outcomes are consistent with quality standards established by professional organizations for the ASTC services, and if outcomes do not meet or exceed those standards, that a quality improvement plan will be initiated.

B) The applicant shall document that, in the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms will meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians), and the provision of new procedures that would increase utilization.

In the CON Application's supplemental material, the Applicants provided the peer review program they plan to utilize at the proposed ASTC. The Applicants documented that by the second year of operation after project completion, the proposed ASTC will meet or exceed the utilization standard of the State Board. The Applicants have successfully addressed the requirements of this criterion.

VIII. Financial

- 77 Ill. Adm. Code 1120.120 – Availability of Funds
- 77 Ill. Adm. Code 1120.130 – Financial Viability
- 77 Ill. Adm. Code 1120.140 (a) – Reasonableness of Financing Arrangements
- 77 Ill. Adm. Code 1120.140 (b) – Terms of Debt Financing
- 77 Ill. Adm. Code 1120.140 (c) – Reasonableness of Project Costs
- 77 Ill. Adm. Code 1120.140 (d) – Projected Operating Costs
- 77 Ill. Adm. Code 1120.140 (e) – Effect of the Project on Capital Costs

A) **Section 1120.120 - Availability of Funds – Review Criteria**

Applicants shall document that financial resources will be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.

The Applicants are funding this project with \$870,000 in cash, a Fair Market Value of the Lease of \$413,408, and other costs to be capitalized of \$320,000. The Applicants provided a letter from Millennium Bank stating that the Applicants can access more than \$635,000 within 24 hours. (See CON Application, page 77)

The Fair Market of the Lease was based on the property's appraised value. For tax purposes, the property was valued at \$1,266,648. The proposed ASTC will occupy 32.6% of the 2300 West. Peterson Avenue facility. (5,022 sf out of 15,387 total sf). The above Fair Market Value of the Leased Space amount equals 32.6% of the \$1,266,648 estimated property value of the tax assessment or \$413,408.

B) **Financial Viability – Review Criteria**

a) **Financial Viability Waiver**

The applicant is NOT required to submit financial viability ratios if:

- 1) all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or
HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.
- 2) the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA) or its equivalent; or
HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.
- 3) the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.

b) **Viability Ratios**

Applicants that are responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion. When the applicant's facility does not have facility specific financial statements and the facility is a member of a health care system that has combined or consolidated financial statements, the system's viability ratios shall be provided. If the health care system includes one or more hospitals, the system's viability ratios shall be evaluated for conformance with the applicable hospital standards.

Based on the data shown in Table Five below, the Applicants have met the State Board's Financial Ratios for the first year after project completion.

TABLE FIVE
Financial Ratios for the First Year after Project Completion

		State Standard	Year 1
Current Ratio	Current Assets/Current Liabilities	1.5	11
Net Margin %	Net Income/Income	3.5	16%
LTD to Capitalization	LTD Debt/LTD Debt + Net Assets	<80%	N/A
Projected Debt Service	Net Income + (Depreciation Plus Interest + Amortization)/ (Principal Payment + Interest Expense)	>1.75	N/A
Days Cash on Hand	Cash + Investments + Board Designated Funds/ (Operating Expense - Depreciation Expense)/365 days	>45 days	85 days
Cushion Ratio	Cash + Investments + Board Designated Funds/Principal Payments + Interest Expense	>3	N/A

IX. Economic Feasibility

- A) Reasonableness of Financing Arrangements
- B) Conditions of Debt Financing

The Applicants are funding this project with cash (\$870,000), the Fair Market Value of the Lease (\$413,408), and other costs to be capitalized (\$320,000). The State Board considers leasing as debt financing. The Applicants provided a non-binding letter of intent to lease the property. Narjisha Thowfeek Declaration of Trust (site owner) is the lessor, and Peterson Surgery Center is the lessee. The initial term of the lease will be 10 years, with two 5-year lease options. The annual lease for the space in the first year is \$16,000, with a \$500 increase annually.

- C) Reasonableness of Project and Related Costs

The applicant shall document that the estimated project costs are reasonable and shall document compliance with the State Board Standards.

Modernization and Contingency costs are \$424,500 or \$173.05 per gross square foot ("GSF"). These costs meet the reasonableness criterion based on the State Board Standard of \$325.75.

Contingency costs are \$25,000, or 6.3% of modernization costs. Based on the 10-15% State Board Standard, these costs meet the reasonableness criterion.

Architectural/Engineering Fees are \$40,000, or 9.42% of modernization and contingency costs. These fees meet the reasonableness criterion based on the State Board Standard of 8.81-13.23%.

Movable of Other Equipment Costs are \$97,000. These costs meet the reasonableness criterion based on the State Board Standard of \$567,748.

The State Board does not have standards for the costs referenced below.

Consulting and Other Fees	\$40,000
Fair Market Value of the Lease	\$201,929
Other Costs to be Capitalized ⁽¹⁾	\$320,000

1. Represents the equipment's net book value to be transferred from the existing ASC.

D) Projected Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct costs mean the fully allocated salaries, benefits, and supplies for the service.

The Applicants project \$1,183 in operating costs per procedure. The State Board does not have standards for this criterion.

E) Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

The Applicants project \$1,321 in capital cost per procedure. The State Board does not have standards for this criterion.

**Peterson Surgery Center
Pro-Forma
Income Statement**

	Year 1	Year 2	Year 3
Income			
Total Income	3,208,912	3,354,772	3,500,632
Total Cost of Goods Sold	596,134	606,940	700,218
Gross Profit	2,612,778	2,747,832	2,800,414
Margin	81.00%	82.00%	80.00%
Accounting Fees	4,200	4,200	4,200
Advertising & Marketing	6,000	6,000	6,000
Bank Charges & Fees	411	413	413
Car & Truck	187	150	198
Contractors	1,409,783	1,486,067	140,492
Cost of Labor	30,137	40,235	50,137
Dept of Revenue Tax	4,225	4,315	4,353
Insurance	32,865	32,883	33,252
Job Supplies	87	99	86
Legal & Professional Services	2,500	3,000	4,000
Meals & Entertainment	3,380	3,525	3,341
Office Supplies & Software	10,120	10,580	11,002
AXXESS Software Expense	27,892	28,550	28,940
Adm Expense	6,693	7,121	7,251
Payroll Expenses	215,464	219,568	227,777
Payroll Taxes Paid	75,413	76,849	79,722
Reimbursable Expenses	1,150	1,182	1,190
Rent & Lease	16,000	16,500	17,000
Repairs & Maintenance	20,214	24,110	34,890
Supplies & Materials	111,260	166,120	170,190
Taxes & Licenses	24,521	26,125	27,472
Travel	28,150	32,140	40,170
Utilities	54,895	59,862	57,245
Other Miscellaneous Expense	100	100	100
Total Expenses	2,085,647	2,249,694	949,421
Net Income	527,132	498,087	500,913
Net Margin %	16.43%	14.85%	14.31%

(1) Assumes conservative case volume and CMS fee schedule

(2) Includes 8 full-time clinical employees (2 RNs, 5 Others, 1 Admin)

(3) Full benefits assumed for all employees

(4) Includes base rent based on lease letter of intent

(5) Includes revenue cycle management services, compliance, operations, and administrative staff

**Peterson Surgery Center
Pro-Forma
Balance Sheet**

	Year 1	Year 2	Year 3
ASSETS			
Current Assets			
Checking	337,098	387,125	648,825
Accounts Receivable	12,720	21,457	141,236
Prepaid expenses	29,106	30,125	41,211
Inventory	731,875	857,085	968,295
TOTAL ASSETS	1,110,799	1,295,792	1,799,567
LIABILITIES AND EQUITY			
Current Liabilities			
Accounts Payable	11,211	32,542	51,240
American Express	81,920	95,478	101,256
Nexscard	7,168	8,254	8,817
Total Current Liabilities	100,299	136,274	161,313
Equity			
Owner's Investment	488,369	134,299	112,121
Retained Earnings	0	527,132	1,025,219
Net Income	527,132	498,087	500,913
Total Equity	1,015,501	1,159,518	1,638,253
TOTAL LIABILITIES AND EQUITY	1,115,800	1,295,792	1,799,566



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September 24, 2024

Kara Friedman
(312) 873-3639
kfriedman@polsinelli.com

Debra Savage, Chairperson
Illinois Health Facilities and Review Board
525 W. Jackson Boulevard, Second Floor
Springfield, Illinois 62761

Re: Peterson Surgery Center, Project 24-009 and 24-010

Dear Ms. Savage:

This letter is in response to the intent to deny that was issued by the Illinois Health Facilities and Services Review Board (HFSRB) relative to the above-referenced CON permit application (24-009) on September 19, 2024. As you know, the CON permit applications together relate to the relocation of an existing surgery center. Based on the results of that meeting, Peterson Surgery Center would like to appear at the October 29, 2024 HFSRB meeting to have its applications reconsidered. We appreciate that four of the members, including you, voted in favor of the project.

Based on the questions raised by certain members during the hearing last week, this letter provides more information on the building issues identified by accreditation surveyors that could not be overcome at the current ASTC location despite spending hundreds of thousands of dollars in capital expenditures to update the facilities. First, let me review the work that was done to the building after a 2019 accreditation survey.

1. A new handicap concrete ramp with steel handrails was added to the back alley.
2. A new generator was installed and significant electrical work was completed to add additional electrical outlets in each ORs and recovery area and a new electrical panel was installed among other electrical work.
3. More sprinkler lines and heads were installed and other plumbing work was completed.

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September 24, 2024

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4. The flooring in the clinical area was replaced based on chips and cracks being noticed in the previous flooring.
5. An additional storage room was built.
6. Negative pressure was established to keep certain rooms at lower air pressure than surrounding areas in order to enhance the clean/dirty supply rooms and other clinical spaces. With a negative pressure room, surrounding areas air flows into the room but cannot flow out. This upgrade required specialized ventilation systems with HEPA filtration and self-closing doors and thoroughly sealed walls/floors/ceilings.
7. The recovery nursing area was relocated and a clinician washroom and changing area was built.
8. For security, the parking lot was upgraded with steel fencing and with a new automatic parking lot door. Note that this work was done on leased property and now the lease is terminating so parking will be a significant problem unless and until the ASTC is relocated.
9. Roof repairs were completed and two new rooftop HVAC units were installed.

Despite all of this work and despite the finding that the ASTC maintains a clean and sanitary environment, the ASTC could not attain AAAHC accreditation and associated Medicare enrollment due to failure to accomplish compliance with CMS CfCs 416.44 and 416.51. The ASTC did discontinue the performance of GI endoscopy to eliminate some of the issues identified with infection control. Problems that remain and cannot be resolved due to physical plant limitations are as follows:

- The ASTC's recovery bays which were cited for being small and tight could not be updated to satisfy the size requirements and stretcher clearance requirements due to physical plant constraints.
- The proper ventilation, lighting and exhaust as required by NFPA 99 and NFPA 68 could not be fully accomplished based on the building configuration.
- There is a shortage of space for sterilizing equipment and the configuration of the soiled equipment, clinical area and supplies room cannot be fully remedied due to physical plan constraints.
- Adequate parking will not be available.

September 24, 2024

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- The current location uses oxygen gas cylinders rather than a centralized medical gas facility. This support function will be updated at the new location.

Each item reviewed above relates to the interior of the building and the parking lot. We do want to reinforce that the safety issues outside of the building are also a significant limiting factor in operating the ASTC at the current location. Two weeks ago, someone was shot outside the building and the police seem unable to keep drug trafficking out of the neighborhood. The difficulties are exacerbated by the location near the end of a subway line and near a soup kitchen so unhoused people, many suffering from substance use disorder, are consistently loitering around the block which creates safety issues. A point of interest and as a reflection of the problems the applicant is facing is that the soup kitchen operator learned of the planned relocation and has contacted the ASTC indicating interest in occupying the ASTC space to operate a drug rehabilitation program.

Please note that the surveyors found that the staff of the ASTC was adhering to the safety practices outlined in the written safety program and employees and physicians are diligent in following guidelines to protect patients, visitors and themselves.

As a final note, please recognize that as a provider located in the City of Chicago, the ASTC serves a population that is predominantly Black or Hispanic and these populations are often negatively affected by health disparities. As such, so we appreciate your consideration that the ASTC is helping to improve the health of these populations by providing access to services.

We appreciate the assistance of the staff in moving this plan forward. As it is a relocation without increasing capacity and, in fact, which right-sizes the center to meet current surgical services demand, we believe that we will be well-positioned for approval at the upcoming meeting. This would be consistent with the HFSRB's consideration of other health care facility relocations.

Sincerely,



Kara Friedman

24-009 Peterson Surgery Center - Chicago

