



STATE OF ILLINOIS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-03	BOARD MEETING: March 10, 2015	PROJECT NO: 14-025	PROJECT COST: Original: \$2,233,353
FACILITY NAME: Winchester Endoscopy Center		CITY: Libertyville	
TYPE OF PROJECT: Substantive			HSA: VIII

PROJECT DESCRIPTION: Winchester Endoscopy, LLC (the "Applicant") proposes to establish a limited-specialty ambulatory surgical treatment center ("ASTC") with 2 procedure rooms and 4 recovery stations in a medical office building at a cost of \$2,233,353. The anticipated date of completion is August 31, 2016.

The applicant received a State Board Deferral at the December 16, 2014 State Board Meeting. On January 16th 2015 the applicants provided additional information addressing issues in the State Board Staff Report. At the conclusion of this report is the December 16th 2014 State Board Transcript and the additional information submitted by the applicant.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- Winchester Endoscopy, LLC (the "Applicant") proposes to establish a limited-specialty ambulatory surgical treatment center ("ASTC") with 2 procedure rooms and 4 recovery stations in a medical office building at a cost of \$2,233,353.
- **The anticipated completion date is August 31, 2016.**

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- This project is before the State Board because the project proposes to establish a health care facility as defined by Illinois Health Facilities Planning Act (20 ILCS 3960(3)).
- **The State Board Staff Notes** that should the State Board approve this project for a limited specialty ASTC the facility will have to submit an application for permit to add an additional surgical specialty.

BACKGROUND

- Northshore Center for Gastroenterology a medical practice located in Libertyville, Illinois currently provides physician based endoscopy services to its patients. In **October 2014** the Illinois Department of Public Health issued a "cease and desist letter" to immediately cease operating as an Ambulatory Surgical Treatment Center.
- The Illinois Department of Public Health issued a final order on January 12, 2015 which dismissed the complaint and stipulated a number of operational requirements pursuant to a plan of correction and the payment of a \$20,100 fine. The applicant is to
 - obtain CON approval by February 1, 2015 (the deadline extended to March 15, 2015);
 - finalize construction drawings and submit to IDPH by April 15, 2015;
 - achieve substantial completion of the facility by September 1, 2015;
 - be ready for IDPH on-site inspection by December 1, 2015.
- The fine of \$20,100 has been paid.

PURPOSE OF THE PROJECT:

- The applicant stated the following regarding the purpose of the project. *"The Applicant seeks to convert its existing physician-office based endoscopy practice to an ambulatory surgical treatment center ("ASTC"). As part of that practice, one of the ancillary services the medical practice provides is endoscopy services. Due to increased endoscopy volumes, Northshore Center for Gastroenterology has determined it must segregate the endoscopy care it provides into a separate clinic which is licensed as an ASTC. This is required because IDPH rules place limits on offering ancillary surgical services in a medical practice setting and this application is required in order to conform with the requirements of the Illinois Ambulatory Surgical Treatment Center Act. The proposed ASTC will be a single-specialty ASTC limited to endoscopy (gastroenterology) services."*

NEED FOR THE PROJECT:

- The applicant currently performs gastroenterology procedures in an office-based setting located at 1880 Winchester Road, Suite 201, Libertyville, Illinois. The Ambulatory Surgical Treatment Act (210 ILCS 5) requires facilities used by physicians that perform surgical procedures in excess of 50% of the activities at that location be licensed as an Ambulatory Surgical Treatment Center. Per the applicant the need for this proposed facility is to comply with the Illinois Ambulatory Surgical Treatment Act (210 ILCS 5).
- There are 20 ASTC's and 14 hospitals within the proposed geographic service area. All of the hospitals and 10 of the ASTC's perform gastroenterology procedures.
- **The State Board Staff Notes:** To determine need for an ASTC facility the State Board relies on the physician referrals to health care facilities as defined by the Health Facilities Planning Act (20 ILCS 3960/3). Approximately 98% of the referrals for the proposed facility are from a physician-office based practice. While current State Board rules provide that these referrals cannot be taken into account to determine need for the proposed facility, the applicant is seeking a license for its endoscopy services to ensure the Northshore Center for Gastroenterology's compliance with IDPH requirements relating to the scope of care permitted for a gastroenterology's medical practice.

PUBLIC COMMENT:

- A public hearing was offered on this project no hearing was requested. **Five letters of support** were received from the following:
 - Jeanne Ang, MCRP, Director, Primary Care Services, Lake County Health Department and Community Health Center
 - Angie Underwood, Village President, Village of Long Grove
 - Mohina Gupta, MD, Medical Director, Winchester House
 - Dianne M. Yaconetti, President and CEO Lambs Farm
 - United States Senator Mark Kirk
- **One letter of opposition** was received by the State Board Staff.
- **Scott Urban, Center Director, North Shore Endoscopy Center stated** "As a physician-driven facility we respect the right of physicians to perform certain procedures within an office-based environment. Numerous gastroenterologists throughout the state perform office space procedures on a daily basis. The vast majority of these practices perform these procedures within the confines of the Illinois Department of Public Health ("IDPH") regulations and without operating a surgical center in violation of the Review Board's rules. This does not appear to be the situation here, however. In October of 2014, IDPH conducted an investigation of the Winchester facility and determined that the facility was operating as an unlicensed surgical center. IDPH then issued an order to cease and desist operating as an unlicensed surgical center and provided notice of its intent to impose a fine for violation of this requirement. Winchester subsequently paid the fine imposed by IDPH. It also entered into a plan of correction."
- **Letters from the Illinois Hospital Association and the Ambulatory Surgery Center Association of Illinois** were also received by the State Board Staff. At the conclusion of this report are copies of these letters.

WHAT WE FOUND:

- The applicant addressed a total of 21 criteria and did not meet the following:

State Board Standards Not Met	
Criteria	Reasons for Non-Compliance
1110.1540 (d) - Service Demand	4,233 referrals of the 4,317 referrals were from an office based setting and by State Board rule cannot be used to justify the demand for the project.
1110.1540 (f) - Treatment Room Need Assessment	4,233 referrals of the 4,317 referrals were from an office based setting and by State Board rule cannot be used to justify the number of treatment rooms being proposed.
1110.1540 (g) – Service Access	It does not appear that service access will be approved because there are 20 ASTC's and 14 hospitals within the proposed GSA. Of these 20 ASTC's 10 provide gastro procedures. Of these 10 ASTC's 3 are not operating at 80% target occupancy. Of the 14 hospitals that provide gastro procedures one-half (7) are not at target occupancy of 80%. See Table Five and Table Six
1110.1540 (h) – Unnecessary Duplication of Service	Because all existing facilities in the proposed geographic service area are not operating at target occupancy it would appear that unnecessary duplication of service may result with the approval of this facility.

STATE BOARD STAFF REPORT
Winchester Endoscopy Center
PROJECT #14-025

APPLICATION CHRONOLOGY	
Applicants(s)	Winchester Endoscopy, LLC
Facility Name	Winchester Endoscopy Center
Location	Libertyville, Illinois
Permit Holder	Winchester Endoscopy, LLC
Operating Entity/Licensee	Winchester Endoscopy LLC
Owner of the Site	Winchester Medical Building, Ltd
Application Received	June 11, 2014
Application Deemed Complete	June 11, 2014
Can applicants request a deferral?	Yes
Review Period Extended by the State Board Staff?	Yes
Applicant's Modified Project	September 2, 2014

I. The Proposed Project

Winchester Endoscopy, LLC (the "Applicant") proposes to establish a limited-specialty ambulatory surgical treatment center ("ASTC") with 2 procedure rooms and 4 recovery stations in a medical office building at a cost of \$2,233,353.

II. Summary of Findings

- A. The State Board Staff finds the proposed project does not appear to be in conformance with the provisions of Part 1110.
- B. The State Board Staff finds the proposed project appears to be in conformance with the provisions of Part 1120.

III. General Information

The applicant is Winchester Endoscopy, LLC. Winchester Endoscopy, LLC is an Illinois limited liability company organized April 30, 2014. A certificate of good standing from the Illinois Secretary of State was submitted as required. The limited liability company has the following members: Arkan Alrashid, M.D, Sean Lee, M.D., John N. Tasiopoulos, D.O. (Doctor of Osteopathic Medicine). Each member has a one-third interest in Winchester Endoscopy, LLC. Winchester Endoscopy, LLC is associated with Northshore Center for Gastroenterology S. C. The gastroenterology procedures are currently being performed at Northshore Center for Gastroenterology S. C. located at 1880 Winchester Road, Suite 146 Libertyville, Illinois.

The proposed ASTC will be located at 1870 West Winchester Road, Suite 146, Libertyville, Illinois in the HSA VIII service area. HSA VIII includes the Illinois counties of Kane, Lake and McHenry. HSA VIII includes 16 hospitals and 14

ASTC's. The operating entity/licensee will be Winchester Endoscopy, LLC and the owner of the site is.

The project is a substantive project and is subject to Part 1110 and Part 1120 review. Obligation will occur after permit issuance. **The anticipated project completion date is August 31, 2016.**

IV. The Proposed Project – Details

Winchester Endoscopy, LLC (the "Applicant") proposes to establish a limited-specialty ambulatory surgical treatment center ("ASTC") with 2 procedure rooms and 4 recovery stations in 4,166 GSF of leased space in a medical office building at a cost of \$2,233,353.

V. Project Costs and Sources of Funds

The applicant is funding the project with cash of \$369,500 a mortgage of \$400,000 and a lease with a FMV of \$1,463,853. Estimated start-up costs and operating deficit is \$256,122.

TABLE ONE		
Project Costs and Sources of Funds		
Uses of Funds	Clinical	Total
Site Preparation	\$30,000	\$30,000
Modernization	\$550,000	\$550,000
Contingencies	\$50,000	\$50,000
A&E Fees	\$42,500	\$42,500
Consulting Fees	\$72,000	\$72,000
Movable or Other Equipment	\$25,000	\$25,000
FMV of Leased Space	\$1,463,853	\$1,463,853
Total	\$2,233,353	\$2,233,353
Sources of Funds		
Cash	\$369,500	\$369,500
Mortgage	\$400,000	\$400,000
FMV of Leased Space and Equipment	\$1,463,853	\$1,463,853
Total	\$2,233,353	\$2,233,353

VI. Cost/Space Requirements

The State Board asks applicants to provide the cost and the gross departmental square footage for each department/service being proposed by the project. For each department the applicants specifies the amount of existing, the proposed gross square footage, the gross square footage that is new construction,

modernized, remains as is and the amount of vacated space. The applicant is proposing 4,166 GSF of modernized space for the proposed service.

VII. Section 1110.230 - Purpose of Project, Safety Net Impact Statement and Alternatives

A) Criterion 1110.230 (a) - 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 State Board asks all applicants to document the purpose of the project, that the project will provide care to residents of the market area, identify the existing problems the project will address, how the proposed project will address the problems identified, and the goals of the proposed project.

Purpose of the Project

The purpose of the project is to convert an existing physician-office based endoscopy practice to an ambulatory surgical treatment center ("ASTC") to meet the requirements of the Ambulatory Surgical Treatment Act (210 ILCS/5). This is due to increases in endoscopy volume at the physician office based endoscopy practice. The Illinois Department of Public Health requires all facilities performing more than 50% of surgical procedures at a physician-office based facility be licensed as an ambulatory surgical treatment center. The applicants also expect to improve access to colorectal cancer screening to patients residing in Libertyville and surrounding area.

Service Area

The Applicant expects the service area of the planned endoscopy center to be identical to the service area of Northshore Center for Gastroenterology. The service area consists of those Illinois areas within 45 minutes normal travel time of Winchester Endoscopy Center. Travel times to and from Winchester Endoscopy to the market area borders are as follows:

- East: Approximately 23 minutes normal travel time to Lake Michigan
- Southeast: Approximately 45 minutes normal travel time to Evanston
- South: Approximately 45 minutes normal travel time to Wood Dale
- Southwest: Approximately 45 minutes normal travel time to South Barrington
- West: Approximately 45 minutes normal travel time to Woodstock
- Northwest: Approximately 45 minutes normal travel time to Hebron
- North: Approximately 25 minutes normal travel time to Wisconsin border
- Northeast Approximately 37 minutes normal travel time to Winthrop Harbor, IL

Need for Project

This project is needed to ensure the Northshore Center for Gastroenterology's compliance with IDPH requirements relating to the scope of care permitted for a gastroenterologist's medical practice and to improve access to colorectal cancer

screening and other gastroenterology procedures to patients residing in Libertyville and the surrounding area.

The applicants stated the following:

“One of the reasons endoscopy services have increased is because of the payment policies of the Center for Medicare and Medicaid Services which now cover colorectal cancer screening as a preventative service. There are several barriers to effectively screening the population as a whole despite expanded coverage. While from a public health perspective, there is still a long way to go to reach a more optimal screening rate, enhancing the availability of colonoscopy services and providing a non-hospital based option for such care is progress toward an important public health care goal and saves the government money in the short term and long-term (by avoiding far more expensive cancer care treatment). Only 25% of Medicare beneficiaries were screened for CRC between 1998 and 2004. A recent Centers for Disease Control report found 65 percent of Americans reported being up to-date on CRC screening - a rate significantly lower than the Healthy People 2020 target of 70.5 percent. Individuals who do not get CRC screened at all or as often as recommended include low income individuals, those with a lack of education and those without health insurance

ASTCs play a vital role in ensuring patient access to preventive measures, such as colonoscopies, in a convenient and affordable setting. Today, ASTCs perform more than 40 percent of Medicare colonoscopies. They have the capacity to do more. When these life-saving procedures are performed in ASTCs, both beneficiaries and the Medicare program saves money because surgery centers perform the procedures at a lower cost than HOPDs. According to data from IDPH the median cost of a colonoscopy performed in one of the local hospital outpatient departments ranged from a high of \$7,291 to a low of \$3,569, the median cost of a colonoscopy at the proposed Winchester Endoscopy is \$1,525, which is less than half the cost of a colonoscopy at the hospital with the lowest charges”

See pages 36-47 of the application for permit for a complete discussion of the purpose of the project.

B) Criterion 1110.230 (b - Safety Net Impact Statement

All health care facilities, with the exception of skilled and intermediate long-term care facilities licensed under the Nursing Home Act [210 ILCS 45], 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]

The applicant stated the following to address the Safety Net Impact Statement:

“Winchester Endoscopy Center will not have a material impact on essential safety net services in the community, As documented in the physician referral letters, the procedures to be performed at Winchester Endoscopy Center are currently performed by Northshore Center for Gastroenterology physicians in their offices, No procedures will be transferred to Winchester Endoscopy Center from existing hospitals and surgery centers. The establishment of the ASTC will not impact the ability of other providers or other health care facilities to cross-subsidize safety net services. As noted above, no procedures will be transferred from existing hospitals and surgery' centers to Winchester Endoscopy Center. Accordingly, the proposed project will not impact the ability of other providers to cross-subsidize safety net services. By establishing an ASTC proximately located to Northshore Center for Gastroenterology, the Applicant's medical practice the ASTC will achieve operational efficiencies that cannot be created at other hospitals and ASTCs due to limited scheduling slots and anesthesia services.”

The applicant’s projected payor mix for the proposed facility is 18% Medicare, 10% Medicaid, 70% commercial insurance, and 2% charity care. Table Two and Three document the Hospitals and ASTCs in Health Service Area VIII. Table Four documents the applicant’s proposed payor mix, and the payor mix of the Hospitals and ASTC’s in Health Service Area VIII.

TABLE TWO
Hospitals in the Health Service Area VIII

- | | |
|--|--|
| 1. Advocate Good Shepherd | 8. Highland Park Hospital |
| 2. Advocate Condell Medical Center | 9. Mercy Harvard Memorial Hospital |
| 3. Advocate Sherman Hospital | 10. Midwestern Regional Medical Center |
| 4. Centegra Hospital – McHenry | 11. Northwestern Lake Forest Hospital |
| 5. Centegra Hospital –Woodstock | 12. Presence Mercy Medical Center |
| 6. Centegra Specialty Hospital – Woodstock | 13. Presence St. Joseph Hospital |
| 7. Delnor Community Hospital | 14. Rush Copley Medical Center |
| | 15. Vista Medical Center East |
| | 16. Vista Medical Center West |

TABLE THREE
ASTC’s in the Health Service Area VIII

- | | |
|--|---|
| 1. Algonquin Road Surgery Center | 8. Lake Forest Endoscopy Center |
| 2. Barrington Pain and Spine Institute | 9. Lindenhurst Surgery Center |
| 3. Castle Surgicenter | 10. Northwestern Grayslake Surgery Center |
| 4. Dreyer Ambulatory Surgery Center | 11. The Lake Bluff Illinois Endoscopy ASC |
| 5. Elgin Gastroenterology Endoscopy Center | 12. Tri City Surgery Center |
| 6. Fox Valley Orthopedic Institute | 13. Valley Ambulatory Surgery Center |
| 7. Hawthorne Surgery Center | 14. Vernon Square Surgery Center |

TABLE FOUR Payor Mix Health Service Area VIII			
	Proposed ASTC	HSA VIII Hospital	HSA VIII ASTC
	Payor Mix	Payor Mix	Payor Mix
Medicare	18%	23.27%	21.00%
Medicaid	10%	7.07%	1.90%
Other Public		0.61%	0.70%
Private Insurance	70%	63.53%	72.00%
Private Pay		5.52%	4.40%
Charity Care Expense	2%	2.35%	0.16%

- C) **Criterion 1110.230 (c) - Alternatives to the Proposed Project**
The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

To address this criterion the applicant considered two other alternatives to the proposed project. The applicant provided a narrative that stated the following:

1. “Continue to Perform Endoscopies in the Center for Gastrointestinal Health
As discussed at Attachment - 12, the Northshore Center for Gastroenterology operates a medical practice providing exclusively gastroenterology care. As part of that practice, one of the ancillary services the medical practice provides is endoscopy services. Due to increased endoscopy volumes, Northshore Center for Gastroenterology has determined that it must segregate the endoscopy care that it provides into a separate clinic which is licensed as an ambulatory surgical treatment center. This is required because IDPH rules place limits on offering ancillary surgical services in a medical practice setting and this application is required in order to conform with the requirements of the Illinois Ambulatory Surgical Treatment Center Act. The proposed ASTC will be a single-specialty ASTC limited to endoscopy (gastroenterology) services. There is no cost to this alternative.

2. Utilize Existing ASTCs and Hospitals
The Applicant considered utilizing existing ASTCs and Hospitals. This is not a viable option for several reasons. These facilities cannot efficiently accommodate the volume of colonoscopies the physicians at Northshore Center for Gastroenterology is performing and patients would lose the continuity of care they experience with their physicians. If procedures were moved, the physicians would be forced to travel to several facilities using small scheduling blocks, which pose an inconvenience for both the physicians and their patients. Setting aside the inconveniences and lack of consistency in care delivery, the physicians would have to travel some distance from their medical practice office on multiple

days of week which would make them far less accessible to their non-surgical patients as well as their staffs and for consultation with each other. By establishing an ASTC adjacent to Northshore Center for Gastroenterology, the Applicant's medical practice, the ASTC will achieve operational efficiencies that cannot be created at other hospitals and ASTCs due to limited scheduling slots and anesthesia services. As the gastroenterologist shortage worsens, it is important to ensure the efficient use of existing gastroenterologists in order to also ensure adequate access to CRC screening. There is no cost to this alternative.

3. Establish an ASTC

To better serve the needs of the residents of Libertyville and the surrounding area, the Applicant decided to establish a single-specialty ASTC. The estimated cost of this alternative is \$2,233,353.” See page 48 of the application for permit

State Board Staff Notes: In supplemental information (dated January 16, 2015 and attached to the end of this report) provided to the State Board the applicant provided information why utilizing existing licensed providers of surgical services is not a viable alternative.

VIII. Section 1110.234 - Project Scope and Size, Utilization and Unfinished/Shell Space

A) Criterion 1110.234(a) - Size of Project

The applicant shall document that the physical space proposed for the project is necessary and appropriate. To address this criterion the applicant provided the proposed gross square feet for the 2 procedure rooms and 4 recovery stations being proposed.

The applicant is proposing 4,166 gross square feet of space for 2 procedure rooms and 4 recovery rooms. The State Board Standard is 1660-2200 GSF per operating rooms and 180 GSF per recovery room. The State Board Standard is 5,120 GSF. The proposed facility is appropriately sized and in compliance with the Section 1110 Appendix B.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION SIZE OF THE PROJECT (77 IAC 1110.234(a))

B) Criterion 1110.234 (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. To address this criterion the applicant provided the number of the procedures expected to perform in Year 1 and Year 2 after project completion and the average procedure time and total surgical hours expected.

The applicant provided the necessary documentation to successfully address this criterion. The applicant is projecting that by the second year after project completion the facility will be at 1,500 hours per procedure room.

The applicant stated the following: “By the second year after project completion, the ASTC's annual utilization shall meet or exceed HFSRB's utilization standards. Pursuant to Section 1110, Appendix B of the HFSRB's rules, utilization for ambulatory surgical treatment centers is based upon 1,500 hours per operating/procedure room. Based upon historical utilization and projected procedures documented in the physician referral letter attached at Appendix - 1, approximately 4,233 procedures will be performed at the ASTC within the first year after project completion. Based upon current experience, the estimated procedure time, including prep and cleanup, is approximately 45 minutes. As a result, 3,175 surgical hours are projected for the first year after project completion, which is sufficient to support the need for two procedure rooms.”

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION PROJECT SERVICES UTILIZATION (77 IAC 1110.234(b))

IX. Section 1110.1540 - Non-Hospital Based Ambulatory Surgical Treatment Center Services

A) Criterion 1110.1540 (a) - Introduction

Ambulatory Surgical Treatment Centers required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5] are defined as healthcare facilities subject to the requirements of the Health Facilities Planning Act [20 ILCS 3960/3] and HFSRB rules (77 Ill. Adm. Code 1100, 1110, 1120 and 1130).

B) Criterion 1110.1540 (b) - 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]

To comply with this criterion the applicant must provide a list of all facilities owned by the applicant, a certified listing of any adverse action taken against any facility owned and/or operated by applicant during the three years prior to the filing of the application, and authorization permitting HFSRB and IDPH access to documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other States; when applicable; and the records of nationally recognized accreditation organizations.

The applicant currently does not own a health care facility as that term is defined by the Illinois Health Facilities Planning Act (20 ILCS 3960/3). The applicant provided the necessary attestation permitting the State Board and the Illinois Department of Public Health access to all documents to verify the information that has been submitted.

A survey was conducted by the Illinois Department of Public Health on October 2, 2014 to determine if Northshore Center for Gastroenterology was operating an ASTC without a license.

At the conclusion of this survey the Illinois Department of Public Health sent the applicant a cease and desist letter to immediately cease operating as an ASTC. The applicant complied with the order and a settlement was reached with the applicant and IDPH. The State Board Staff believes the applicant is compliant with this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH THE CRITERION BACKGROUND OF APPLICANT (77 IAC 1110.1540 (b))

C) Criterion 1110.1540 (c) - 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.

The applicant's proposed geographic service area is 45 minutes in all directions. The patient origin by zip code for all patients treated by Northshore Center for Gastroenterology physicians (referring physicians) for the latest 12-month period was provided as required. According to the applicant approximately 99.6% percent of the procedures performed in the physician office based setting were for patients residing in the proposed geographic service area. It would appear from the zip code information provided by the applicant the proposed facility will serve the residents of the proposed geographic service area. See page 57-61 of the application for permit.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH THE CRITERION GEOGRAPHIC SERVICE AREA NEED (77 IAC 1110.1540 (c))

D) Criterion 1110.1540 (d) - Service Demand – Establishment of an ASTC Facility or Additional ASTC Service

The applicant shall document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant, over the latest two-year period, as evidenced by historical and projected referrals.

To address this criterion the applicant must provide the number of referrals over the latest two year period. The referring physicians performed 4,317 procedures in CY 2013 in which 4,233 of these procedures were performed at a physician office practice (Northshore Center for Gastroenterology S.C.) and 84 procedures were performed at Advocate Condell Medical Center. Referrals from a physician office practice are not acceptable because the physician office practice is not a health care facility as that term is defined at 20 ILCS 3960/3. Under current State Board rules the applicant does not have sufficient demand to justify the proposed facility.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH THE CRITERION SERVICE DEMAND (77 IAC 1110.1540 (d))

E) Criterion 1110.1540 (f) - Treatment Room Need Assessment

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 applicant is proposing 2 procedure rooms at the proposed facility. Based upon the projected referrals the applicant can justify 1 procedure room and not the 2 rooms being proposed.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH THE CRITERION TREATMENT ROOM NEED ASSESSMENT (77 IAC 1110.1540 (f))

F) Criterion 1110.1540 (g) - Service Accessibility

The proposed ASTC services being established or added are necessary to improve access for residents of the GSA.

To address this criterion the applicant must document one of the following:

- 1) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project;
- 2) 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;
- 3) 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;

- 4) The proposed project is a cooperative venture sponsored by two or more persons, at least one of which operates an existing hospital.

There are 20 ASTC's and 14 hospitals within the proposed geographic service area. All of the hospitals and 10 of the 20 ASTC's are currently performing gastroenterology services. Of the 10 ASTC's that perform gastroenterology procedures only three facilities are not operating at the target occupancy of 1,500 hours (The Glen Endoscopy Center, Aiden Center for Day Surgery and Ashton Center for Day Surgery). One of the ten ASTC's (Apollo Health Center) that perform gastro procedure was licensed in March 2014 no data is available.

The proposed project is not a cooperative venture with an existing hospital. There are underutilized facilities within the proposed geographic service area; therefore it does not appear that the proposed facility will improve access.

The applicant stated the following:

There is not adequate space in any nearby endoscopy center to accommodate the volumes for this practice. In Lake County, there are three endoscopy centers but all have similar capacity as to what is proposed and similar caseloads. Accordingly, they are not an adequate alternative. Based on the State Board's rules and staff interpretations, the Applicant is not projecting growth in services although this flat utilization is not consistent with the referring physicians' practice base which is steadily growing. While the physicians did not project any growth in order to justify the conversion of its office-based service to a licensed center, this growth trend, likely associated with the aging population, is the primary basis for the need to obtain a license. Further, the establishment of Winchester Endoscopy Center will improve access to colorectal cancer screening for residents of Lake County and the surrounding areas.

One of the reasons that endoscopy services have increased is because of the payment policies of the Center for Medicare and Medicaid Services which now cover colorectal cancer screening as a preventative service. Preventative services are covered for a number of reasons but one primary reason from a public health and financing perspective is to avoid the high morbidity and mortality associated with colorectal cancer screening. Despite expanded coverage, a lack of access is one barrier to effectively screening the population as a whole. From a public health perspective, there is still a long way to go to reach a more optimal screening rate. Only 25% of Medicare beneficiaries were screened for colorectal cancer between 1998 and 2004. A recent Centers for Disease Control report found 65 percent of Americans' reported being up-to-date on CRC screening - a rate significantly lower than the Healthy People 2020 target of 70.5 percent.⁹ Individuals who do not get CRC screened at all or as often as recommended include low-income individuals, those with a lack of education and those without health insurance.

Further, HOPDs are more costly, less efficient and less convenient than ASTCs. The ASTC will allow physicians to schedule their surgeries to maximize efficiency. ASTCs provide high quality surgical care, excellent outcomes, and high level of patient satisfaction at a lower cost than HOPDs. Surgical procedures performed in an ASTC are reimbursed at lower rates than HOPDs and result in lower out-of-pocket expense for patients. Additionally, patients often report an enhanced experience at ASTCs compared to HOPDs due, in part, to easier access to parking, shorter waiting times and ease of access into and out of the operating rooms. Finally, surgeons are more efficient due to faster turnover of operating rooms, designated surgical times without risk of delay due to more urgent procedures, and specialized nursing staff. As a result of these efficiencies, more time can be spent with patients thereby improving the quality of care.

See pages 65-66 of the application for permit.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH THE CRITERION SERVICE ACCESSIBILITY (77 IAC 1110.1540(g))

- G) Criterion 1110.1540 (h) - Unnecessary Duplication/Maldistribution**
The applicant shall document that the project will not result in an unnecessary duplication or maldistribution of service. The applicant shall document that, within 24 months after project completion, the proposed project will not impact other providers.

To address this criterion the applicant must provide

- 1. the total population of the GSA (based upon the most recent population numbers available for the State of Illinois); and**
- 2. the names and locations of all existing or approved health care facilities located within the GSA that provide the ASTC services that are proposed by the project.**
- 3. a ratio of surgical/treatment rooms to population that exceeds one and one-half times the State average;**
- 4. historical utilization (for the latest 12-month period prior to submission of the application) 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**
- 5. 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.**
- 6. will not lower the utilization of other area providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and**

7. 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.

Proposed Geographic Service Area

Hospitals

There are 14 hospitals within the proposed geographic service area. All 14 hospitals perform gastroenterology procedures. Of the 14 hospitals 9 of the 14 hospitals' operating rooms exceed the State Board standard of 1,500 hours per operating room.

- (1) Northwestern Lake Forest Hospital
- (2) Advocate Good Shepherd
- (3) Glenbrook Hospital
- (4) Advocate Lutheran General Hospital
- (5) Midwest Regional Medical Center
- (6) Northwest Community Hospital
- (7) Alexian Brothers Medical Center
- (8) St. Alexius Medical Center
- (9) Centegra Woodstock

Of the 14 hospitals 7 of the 14 hospitals meet the State Board Standard of 1,500 hours per gastro procedure room.

- (1) Highland Park Hospital
- (2) Glenbrook Hospital
- (3) Midwest Regional Medical Center
- (4) Northwest Community Hospital
- (5) Alexian Brothers Medical Center
- (6) Skokie Hospital
- (7) St. Alexius Medical Center

Ambulatory Surgical Treatment Center

Of the 20 ASTC's in the proposed geographic service area, 14 are classified as multi-specialty ASTC's and 6 are considered limited specialty ASTC's. 10 of the 20 ASTC's perform gastroenterology procedures. Of the 10 ASTC's that perform gastroenterology procedures three facilities are not operating at the target occupancy of 1,500 hours (The Glen Endoscopy Center, Aiden Center for Day Surgery, and Ashton Center for Day Surgery). One of the ten ASTC's (Apollo Health Center) that perform gastro procedure was licensed in March 2014 and no data is available.

Maldistribution

The total population in the proposed geographic service area (GSA) is 1,940,443. The State of Illinois Population is 12,830,632. The number of operating rooms and procedure rooms is 341. The ratio of operating procedure rooms to

population in the proposed GSA is 1 operating procedure room for every 5,690 individuals. There are 4,395 operating procedure rooms in the State of Illinois. the ratio of operating procedure rooms to population in the State of Illinois is 1 operating procedure room per every 2,919 individuals. Based upon this information there is not a surplus of operating procedure rooms in the proposed geographic area. The proposed project will not result in a maldistribution of service in the proposed geographic service area.

Impact of Facility

The applicant provided documentation of 4,317 referrals in 2013. Of these referrals 4,233 were performed in an physician office based setting. Since these procedures were not performed in a health care facility it would not appear that the proposed facility will lower the utilization of other facilities in the planning area.

The applicant states “Winchester Endoscopy Center will not have an adverse impact on existing facilities in the GSA. As discussed throughout this application, the procedures proposed to be performed at the surgery center are primarily performed by the referring physicians in an office-based setting. The proposed facility will not lower the utilization of other area providers that are operating below the occupancy standards.”

The applicant states “Winchester Endoscopy Center will not have an adverse impact on existing facilities in the proposed GSA. As discussed throughout this application, the procedures proposed to be performed at the surgery center are primarily performed by the referring physicians in an office-based setting. The proposed facility will not lower the utilization of other area providers that are operating below the occupancy standards.” See pages 67-71 of the application for permit

It does appear that the proposed number of procedures could be accommodated at other underutilized facilities in the proposed geographic service area and that an unnecessary duplication of service could result within the proposed geographic service area.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH THE CRITERION UNNECESSARY DUPLICATION MALDISTRIBUTION (77 IAC 1110.1540(h))

TABLE FIVE
Hospitals within the Proposed Geographic Service Area ⁽¹⁾

Name	City	Adjusted Minutes (2)	Operating Rooms	OR Room Hours	Number of OR's Justified	Met Standard for OR's	Gastro Procedure Rooms	Gastro Procedures	Number of Gastro Rooms Justified	Met Standard for Gastro Procedure Rooms
Advocate Condell Medical Center	Libertyville	7	12	15,598	11	No	4	2,912	2	No
Northwestern Lake Forest Hospital	Lake Forest	18	8	11,793	8	Yes	5	1,820	2	No
Advocate Good Shepherd Hospital	Barrington	23	11	19,670	14	Yes	5	5,515	4	No
Highland Park Hospital	Highland Park	28	11	13,408	9	No	6	12,868	9	Yes
Glenbrook Hospital	Glenview	30	9	12,234	9	Yes	6	16,068	11	Yes
Centegra Hospital - McHenry	McHenry	32	10	13,371	9	No	4	3,682	3	No
Advocate Lutheran General Hospital	Park Ridge	35	24	44,677	30	Yes	8	10,055	7	No
Midwestern Regional Medical Center	Zion	36	4	5,794	4	Yes	1	634	1	Yes
Northwest Community Hospital	Arlington Heights	37	14	21,867	15	Yes	9	12,058	9	Yes
Alexian Brothers Medical Center	Elk Grove Villa	38	15	21,222	15	Yes	7	14,658	10	Yes
Skokie Hospital	Skokie	40	10	11,439	8	No	5	9,398	7	Yes
St. Alexius Medical Center	Hoffman Estates	41	11	23,096	16	Yes	5	10,242	7	Yes
Resurrection Medical Center	Chicago	41	14	12,023	9	No	5	4,196	3	No
Centegra Hospital - Woodstock	Woodstock	45	5	8,434	6	Yes	3	2,005	2	No

(1) Utilization information taken from 2013 Annual Hospital Questionnaire

(2) Adjusted minutes determined by 77 IAC 1110.510 (d)

TABLE SIX
Ambulatory Surgical Treatment Centers ⁽¹⁾

Facility	City	Perform Gastro Procedure	Adjusted Minutes (4)	Type of ASTC	Operating Rooms	Hours	Number of OR's Justified	Met Requirement	Gastro Procedure Rooms	Hours	Met Requirement
Lake Forest Endoscopy Center	Grayslake	Gastro	6	limited	0	2,280	2	Yes	2	2,280	Yes
North Shore Endoscopy Center	Lake Bluff	Gastro	14	limited	0	2,774	2	Yes	2	2,774	Yes
Lindenhurst Surgery Center	Lindenhurst	Gastro	20	multi	4	1,296	1	No	1	28	Yes
Golf Surgical Center	Des Plaines	Gastro	32	multi	5	4,961	4	No	1	261	Yes
The Glen Endoscopy Center	Glenview	Gastro	32	limited	0	2,861	2	No	3	2,861	No
Algonquin Road Surgery Center	Lake in the Hills	Gastro	41	multi	3	2,078	2	No	1	307	Yes
The Hoffman Estates Surgery Center	Hoffman Estates	Gastro	41	multi	3	4,050	3	No	1	750	Yes
Aiden Center for Day Surgery ⁽³⁾	Addison	Gastro	43	multi	4	1,175	1	No	0	467	No
Ashton Center for Day Surgery ⁽³⁾	Hoffman Estates	Gastro	45	multi	4	687	1	No	0	160	No
Apollo Health Center ⁽²⁾	Des Plaines	Gastro	40	multi			0				
Northwestern Grayslake Outpatient ASTC	Grayslake		6	multi	4	679	1	No	0	0	0
Hawthorne Surgery Center	Vernon Hills		13	multi	3	4,594	4	Yes	0	0	0
Vernon Square Surgicenter	Vernon Hills		13	multi	2	847	1	No	0	0	0
Barrington Pain and Spine Institute	Barrington		30	limited	2	533	1	No	0	0	0
Foot & Ankle Surgery Center	Des Plaines		32	limited	3	1,131	1	No	0	0	0
Ravine Way Surgery Center	Glenview		33	multi	3	2,826	2	No	0	0	0
Illinois Hand & Upper Extremity Center	Arlington Heights		37	limited	1	954	1	Yes	0	0	0
Northwest Surgicare	Arlington Heights		37	multi	5	1,298	1	No	1	6	Yes
Northwest Community Day Surgery	Arlington Heights		37	multi	10	10,120	7	No	0	0	0

TABLE SIX
Ambulatory Surgical Treatment Centers ⁽¹⁾

Facility	City	Perform Gastro Procedure	Adjusted Minutes (4)	Type of ASTC	Operating Rooms	Hours	Number of OR's Justified	Met Requirement	Gastro Procedure Rooms	Hours	Met Requirement
Illinois Sports Medicine & Orthopedic Surgery Center	Morton Grove		39	multi	4	4,473	3	No	0	0	0

(1) Utilization information taken from 2012 ASTC annual survey.

(2) Apollo Health Center was approved by the State Board on July 21, 2011 as Permit # 11-002 to establish a multi-specialty ASTC performing gastroenterology, obstetric/gynecology, and urology. The facility was licensed on March 17, 2014 no data available.

(3) Aiden Center for Day Surgery and Ashton Center for Day Surgery reported gastro procedures but did not report gastro procedure rooms.

(4) Adjusted minutes determined by 77 IAC 1110.510 (d)

H) Criterion 1110.1540 (i) - Staffing

To be in compliance with this criterion the applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that the staffing requirements of licensure and the Joint Commission or other nationally recognized accrediting bodies can be met.

To address this criterion the applicant attested that “*Winchester Endoscopy will be staffed in accordance with all State and Medicare staffing requirements.*” To be Medicare and Medicaid certified

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION STAFFING (77 IAC 1110.1540 (i))

I) Criterion 1110.1540 (j) - Charge Commitment

To be in compliance with this criterion the applicant must provide a statement of all charges, except for any professional fee (physician charge); and a commitment that these charges will not be increased, at a minimum, for the first two years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

The applicant provided a listing of procedures to be performed at the proposed facility and the necessary attestation at page 74 of the application for permit these charges will not be increased for a period of two year unless a permit is first obtained(Application of Permit Page 75).

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION CHARGE COMMITMENT (77 IAC 1110.1540 (j))

J) Criterion 1110.1540 (k) - Assurances

To be in compliance with this criterion 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. In addition 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.

The applicant has successfully addressed this criterion at page 76 of the application for permit.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION ASSURANCES (77 IAC 1110.1540 (k))

FINANCIAL

X. Section 1120.120 - Availability of Funds

The applicant shall document that financial resources shall 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 applicant is proposing to fund this project with cash of \$369,500, a mortgage of \$400,000, and leases with a fair market value of \$1,463,853. The applicant provided the following as evidence of the availability of funds:

A letter of commitment for the mortgage financing was provided by the applicant from The Northern Trust Company in supplemental information provided by the applicant.

A letter from The Northern Trust Company that Winchester Endoscopy, LLC has \$370,000 in an account at the Northern Trust Company to be used for renovation of the proposed ASTC.

A non-binding letter of intent was provided from **Winchester Medical Building, Ltd** for the lease of 4,166 GSF of space for 10 years with two 5 year renewal options. The letter states in part *“The lease rate will be based upon the Lessor's costs associated with the Subject Property, which shall include but not be limited to debt service on the mortgage, property taxes, and insurance on the Subject Property with a reasonable rate of rate of return. The anticipated annual costs for the Subject Property are projected to be \$140,400.”* **See pages 79-80 of the application for permit for the non binding letter of intent.**

A transfer and assumption agreement between Olympus America, Inc. and Northshore Center for Gastroenterology, S.C. (transferee) and Winchester Endoscopy Center S.C. (transferor) was provided by the applicant for the lease of the equipment for the proposed ASTC. **See pages 81-89 of the application for permit for the transfer and assumption agreement and the list of equipment.**

The State Board Staff requested that a commitment letter be provided from applicant for the mortgage financing and a binding letter of intent contingent of the approval of the Illinois Health Facilities and Services Review Board. This information was provided on September 2, 2014. It would appear that sufficient funds are available to fund the project.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 IAC 1120.120)

XII. Section 1120.130 - Financial Viability

The applicant did not qualify for the financial viability waiver because the project is not being funded from internal sources.

The applicant is a new entity and did not have historical financial information. Forecasted information was provided by the applicant. This compilation of the forecasted balance sheet, statements of income, and cash flows was performed by PBC Advisors. PBC Advisors stated the following:

“We have compiled the accompanying forecasted balance sheet, statements of income, retained earnings, and cash flows of Winchester Endoscopy Center for the first two years of operations, in accordance with attestation standards established by the American Institute of Certified Public Accountants.”

“We have compiled the accompanying forecasted balance sheet, statements of income, retained earnings, and cash flows of Winchester Endoscopy Center for the first two years of operations, in accordance with attestation standards established by the American Institute of Certified Public Accountants. A compilation is limited to presenting in the form of a forecast, information that is representation of management and does not include evaluation of the support for the assumptions underlying the forecast. We have not examined the forecast and, accordingly, do not express an opinion or any other form of assurance on the accompanying statements or assumptions. Furthermore, there will usually be differences between the forecasted and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material. We have no responsibility to update this report for events and circumstances occurring after the date of this report.”

TABLE SEVEN		
Projected Compiled Financial Information		
	Year 1	Year 2
Cases	4,832	5,074
Projected Income Statement		
Revenues	\$2,347,690	\$2,465,075
Operating Expenses	\$988,489	\$1,016,708
Depreciation	\$0	\$0
Net Income	\$1,359,201	\$1,448,367
Projected Balance Sheet		
Cash	\$248,114	\$234,159
Current Assets	\$541,575	\$542,293
Fixed Assets	\$0	\$0
Total Assets	\$541,575	\$542,293
Current Liabilities	\$82,374	\$84,726
Owners Equity	\$459,201	\$457,567
Total Liabilities & Equity	\$541,575	\$542,293

TABLE EIGHT			
Projected Ratios			
Ratio	Formula	State Standard	Projected Year 2
Current Ratio	Current Assets/Current Liabilities	1.5	8.88
Net Margin	Net Income/Net Operating Revenue	>3.5	55%
Debt to Total Capitalization	Long term Debt/Long Term debt +Net Assets	<80%	23%
Debt Service Coverage	Net Income + Depreciation + Interest/Current Year Principle + Interest	>1.75	7.97
Days Cash on Hand	Cash/ Operating Expenses-Depreciation/365	>45 days	202
Cushion Ratio	Cash/Current Year Principle Interest	>3.0	3.33

The projected information meets the requirements of the State Board. The applicant is estimating a net income of approximately \$1.3 million in Year 1 and \$1.45 million in Year 2 after project completion. Based on the financial information above, the State Board Staff concludes that the immediate and long range capital and operating costs of the project can be met. **See pages 90-98 of the application for permit for the forecasted information.**

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY (77 IAC 1120.130)

XIII. Section 1120.140 - Economic Feasibility

A) Criterion 1120.140 (a) – Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements.

The applicant is proposing to fund this project with cash of \$369,500, a mortgage of \$400,000, and leases with a fair market value of \$1,463,853. The applicant has secured a term loan of \$400,000 from Northern Trust for a period of five years and at an interest rate of 4.83% secured by business assets and the personal guaranty of the members of Winchester Endoscopy, LLC contingent on approval of the State Board. The financing of the project appears reasonable when compared to previously approved projects.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS (77 IAC 1120.140 (a))

B) Criterion 1120.140 (b) - Conditions of Debt Financing

The applicant shall document that the conditions of debt financing are reasonable.

The applicant is proposing to fund this project with cash of \$369,500, a mortgage of \$400,000, and leases with a fair market value of \$1,463,853. The interest rate is 4.83% on the mortgage financing. The term of the loan is for 5 years secured by the business assets and the personal guaranty of the members of Winchester Endoscopy, LLC. The conditions of the debt financing appear reasonable when compared to previously approved projects.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION CONDITIONS OF DEBT FINANCING (77 IAC 1120.140 (b))

C) Criterion 1120.140 (c) - Reasonableness of Project and Related Costs

The applicant shall document that the estimated project costs are reasonable.

Site Preparation – These costs are \$30,000 and 5% of modernization and contingencies. This appears reasonable when compared to the State Board Standard of 5%

Modernization Costs and Contingencies – These costs are \$600,000 or \$144.02 per GSF. This appears reasonable when compared to the State Board Standard of \$264.87 per GSF.

Contingencies Costs – These costs are \$50,000 and are 9% of modernization costs. This appears reasonable when compared to the State Board Standard of 10-15%.

Architectural and Engineering Fees – These costs are \$42,500 and are 7.02% of modernization and contingencies. This appears reasonable when compared to the State Board Standard of 8.81%-13.23%.

Consulting Fees – These costs are \$72,000. The State Board does not have a standard for these costs.

Movable of Other Equipment – These costs are \$25,000 and this appears reasonable when compared to the State Board Standard of \$461,631.36 per operating room.

FMV of Leased Space and Equipment – These costs are \$1,463,853. The State Board does not have a standard for these costs.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 IAC 1120.140 (c))

D) Criterion 1120.140 (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 cost means the fully allocated costs of salaries, benefits and supplies for the service.

The projected operating costs per procedure are \$99.80 per procedure. The operating cost appear reasonable when compared to previously approved projects.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION PROJECTED OPERATING COSTS (77 IAC 1120.140 (d))

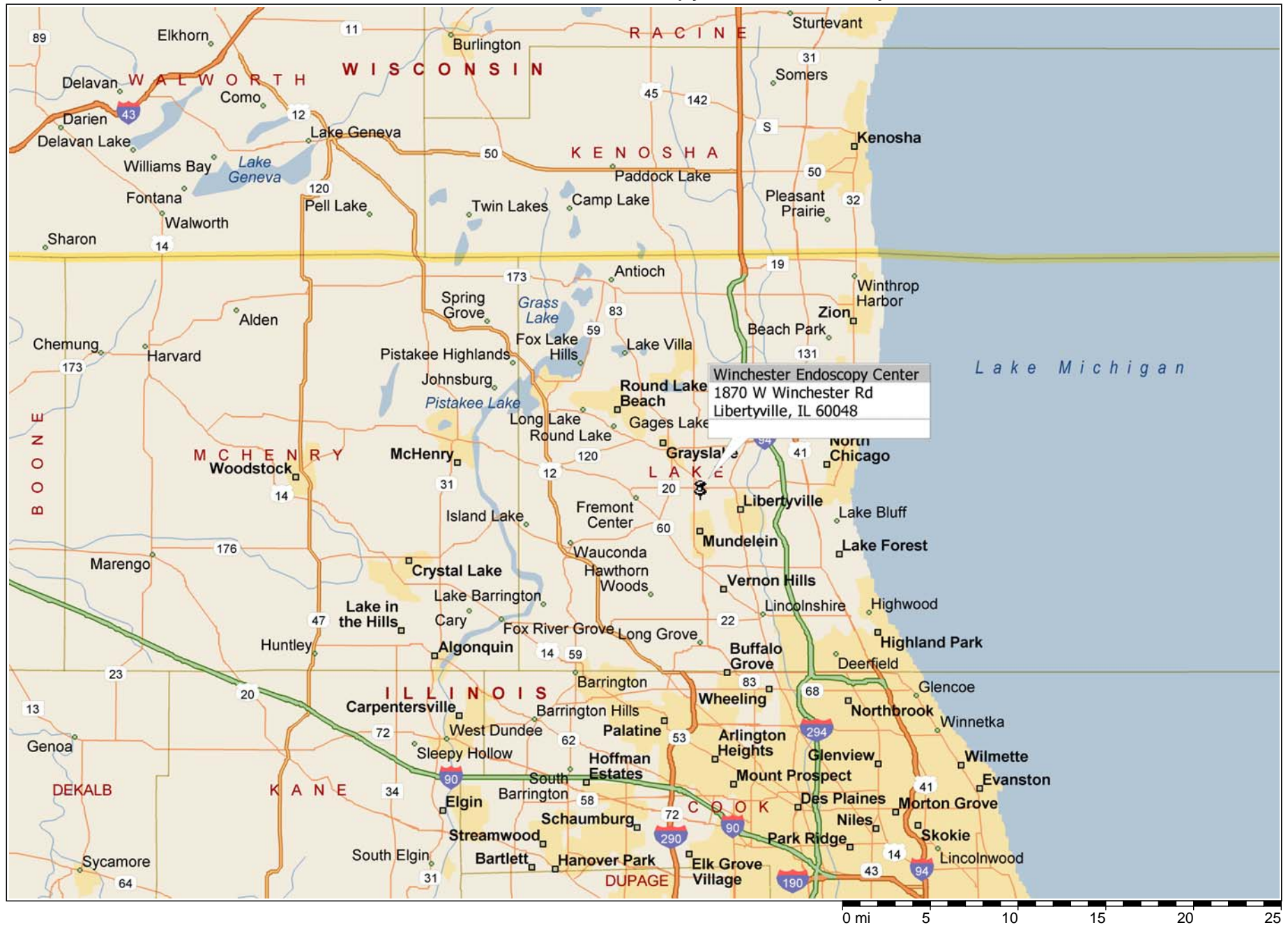
E) Criterion 1120.140 (e) - Total Effect of the Project on Capital Costs

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 total effect of project on capital costs per procedure is \$81.39 per procedure. The capital cost appear reasonable when compared to previously approved projects.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION TOTAL EFFECT OF THE PROJECT ON CAPITAL COSTS (77 IAC 1120.140 (e))

14-025 Winchester Endoscopy Center - Libertyville



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January 15, 2015

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Via Federal Express

RECEIVED

JAN 16 2015

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Ms. Courtney Avery
Administrator
Illinois Health Facilities and Services Review
Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Winchester Endoscopy Center (Proj. No. 14-025)

Dear Ms. Avery:

I am writing on behalf of Winchester Endoscopy, LLC ("Winchester") to provide information subsequent to the December 16, 2014 Illinois Health Facilities and Services Review Board ("State Board") meeting and to address the negative findings in the State Board Report. Importantly, as anticipated, the our client has entered into a Consent Agreement and Final Order ("Consent Agreement") with the Illinois Department of Public Health ("IDPH"), which resolved the compliance issue alleged by IDPH. A copy of the Consent Agreement, which we received today, is included with this letter. As you can see, as part of the Consent Agreement, IDPH is requiring our client to obtain a CON permit and ambulatory surgical treatment center license. IDPH anticipated that a CON permit would be issued at the upcoming State Board meeting on January 27, 2015 and set a February 1, 2015 deadline for that event. We believe there are no further issues, which should delay consideration of the Winchester Endoscopy Center certificate of need ("CON") application at the January 27, 2015 State Board meeting.

1. Previous State Board Findings

a. Background of the Applicant

State Board Staff based its finding on the Background of Applicant criterion on the results of the October 2, 2014 IDPH survey of the affiliated medical practice's operations. Based upon the allegations raised by IDPH in the October 29, 2014 Cease and Desist Letter and the related provisions of the Consent Agreement, IDPH is requiring the endoscopy service operated by the applicant's affiliate, NorthShore Center for Gastroenterology, S.C. ("NSCG") Suite 146 to be licensed. However, pursuant to the Consent Agreement, IDPH specifically exculpates the respondent from wrongdoing. Specifically, Section 6 of the Consent Agreement states: "The parties agree that this Consent Agreement is entered into solely for the purpose of settlement and,

except for future actions between the Department and Respondent, does not constitute an admission of any liability or wrongdoing by the Respondent, its parent, subsidiaries or other related entities, or each of its directors, officers, employees, agents, successors, assigns and attorneys.” Moreover, the Consent Agreement permits the affiliated medical practice to operate Suite 146 under a plan of correction, which requires a CON permit be obtained by February 1, 2015 and Suite 146 to be survey-ready for an ASTC licensure survey by December 1, 2015. The Consent Agreement dismisses the IDPH compliance action against the affiliated medical practice. Importantly, it is a compromise and settlement of the violations alleged in the October 29, 2014 Cease and Desist Letter; it is not an admission of fault, liability, or wrongdoing of any kind by Winchester or its affiliated medical practice. As a result, there is no final determination against Winchester or its affiliated medical practice, and there should be no negative finding regarding background of the applicant.

As a further point of reference, the applicant, Winchester Endoscopy Center, LLC, which is owned by the three principal physicians who practice as part of NSCG, does not operate the endoscopy service that is the subject of the Consent Agreement. Rather, it is a shell entity that has been formed for the purposes of operating the endoscopy service as a separate entity which would be an affiliate of medical practice.

b. Service Access and Unnecessary Duplication of Service

The State Board Report included negative findings for Service Access and Unnecessary Duplication of Services citing the possibility that other area providers could serve as a substitute. Importantly, while the State Board’s rules define an ASTC’s geographic service area as the area consisting of all zip code areas located within 45 minutes of the project’s site,¹ the primary service area for Winchester Endoscopy Center, which is based on the associated medical practice’s patient base, is much smaller. As shown in Attachment 1, Winchester Endoscopy Center’s primary service area is located within Lake County and is approximately one third of the size of the State Board’s defined geographic service area. In fact, 88 percent of the patient volume (or 3,793 cases) for the 12 month period prior to filing the CON application came from the primary service area. As discussed in greater detail in this submission, there are no feasible alternatives within Lake County for these patients to receive high quality, low cost gastroenterology procedures. Given the large concentration of patients residing in Lake County, it is not in the best interests of patients to require them to travel outside of the county for gastroenterology services, and it is infeasible for the affiliated physicians to travel far from their practice location to provide services that they routinely provide. The population of Lake County is over 700,000 and grew 9% from 2000 to 2010. Despite a large and growing population, physician resources in Lake County, including gastroenterology, are scarcer in northern Lake County than they are in other parts of metropolitan Chicago. The NSCG physicians work long hours juggling a large patient base. It is important for their efficiency and to ensure patient access that they are able to stay at their practice office on normal office days.

¹ 77 Ill. Admin. Code §1110.1540(c)(2)(A)

While the State Board Report states that other area providers might be an appropriate alternative to this proposal, none of these suggested alternatives is feasible for the patients of NSCG who require endoscopy. As shown in Attachment – 2, NSCG physicians do not meet criteria for privileges at three of the hospitals² and three of the ASTCs.³ The only hospital where the NSCG physicians have privileges, Advocate Condell Medical Center, has a large caseload of endoscopy cases and no block time available for the physicians who perform their procedures at NSCG. A fifth hospital, Midwestern Regional Medical Center, which is part of Cancer Treatment Centers of America, specializes in oncology care and is not the appropriate setting for patients who have not been diagnosed with cancer.

Further, even if the NSCG physicians could perform gastroenterology procedures in a hospital outpatient department (“HOPD”), such an option would not be a good use of limited health care dollars. ASTCs play a vital role in ensuring patient access to preventive measures, such as colonoscopies, in a convenient and affordable setting. When these life-saving procedures are performed in ASTCs, patients, employers and payors benefit. ASTCs perform the procedures at a lower cost than HOPDs. Specifically, according to data from IDPH, the median charge for a colonoscopy at the area hospitals ranged from \$4,367 to \$8,070, which is three to five times greater than the median procedure charge of \$1,480 which Winchester committed to charging in Section 1110.1504(j) of the CON application.⁴ In addition to the cost savings, patients benefit from having the procedure performed at a location adjacent to the NSCG offices. The familiarity with the location and continuity of care improves colorectal cancer screening rates. Timely screening and treatment not only improve patient outcomes, but lowers costs to the health care system as colorectal cancer can be diagnosed and treated in the early stages.

As noted above, there are six existing ASTCs within Winchester Endoscopy Center’s primary service area. Only three of the existing ASTCs have an open medical staff; however, these facilities either do not provide gastroenterology services⁵ or are not authorized by the State Board to provide gastroenterology services.⁶ Accordingly, there is no viable option for NSCG patients to receive gastroenterology services within Lake County.

2. December Board Meeting Inquiry

The primary issue raised by the State Board members regarding this project was why NSCG did not obtain an ambulatory surgical treatment center (“ASTC”) license prior to performing endoscopy procedures in its suite located at 1870 West Winchester Road, Suite 146 (“Suite 146”). An ASTC license was not initially sought because NSCG planned to operate Suite 146 as part of its medical practice under the IDPH office-based surgery exception. Importantly,

² Advocate Good Shepherd Hospital, NorthShore University HealthSystem Highland Park Hospital, and Northwestern Lake Forest Hospital.

³ Lake Forest Endoscopy Center, North Shore Endoscopy Center, Northwestern Grayslake Outpatient ASTC

⁴ See Winchester CON Application p 73.

⁵ Hawthorn Surgery Center; Lindenhurst Surgery Center

⁶ Hawthorn Surgery Center; Lindenhurst Surgery Center

Suite 146 does not meet the Centers for Medicare and Medicaid Services (“CMS”) definition of an ambulatory surgical center as it is not a distinct entity from the medical practice, and it is not certified as an ambulatory surgical center. Suite 146 is used solely by NSCG physicians. At this time, while its volumes are growing (and this necessitating adding another endoscopy treatment area), endoscopy procedures do not constitute 50 percent of the activities of NSCG’s medical practice. Finally, Suite 146 was built to comply with the Joint Commission accreditation standards for office-based practices and not IDPH licensure standards. In fact, a significant amount of capital will need to be invested in Suite 146 so it may be licensed as an ASTC.

NSCG acquired Suite 146 because the volume of endoscopy procedures continued to increase and created patient flow issues in its medical office located at 1880 West Winchester Road, Suite 210 (“Suite 210”). While space immediately adjacent to Suite 210 was not available, NSCG identified space within the same medical office park. NSCG was informed by its counsel that it could operate Suite 146 as part of its medical practice, provided it was located within the same medical office complex and otherwise complied with the requirements for the office-based surgery exception. Importantly, the IDPH office-based surgery exception is unclear regarding the proximity of the surgical area to the main office. In addition to the endoscopy procedure rooms, the Suite 146 houses NSCG’s imaging equipment, and a patient consult exam room and these services are also provided in Suite 146. All procedures are performed by NSCG physicians and billed under NSCG’s physician’ provider numbers as part of the professional service. Accordingly, it was NSCG’s understanding that Suite 146 complied with IDPH’s office-based surgery exception and no license was needed as long as endoscopy procedures are less than 50 percent of NSCG’s activities. As is evident from recent proceedings, IDPH has now taken a contrary position.

3. Comments from Third Parties

a. Illinois Hospital Association

On July 31, 2014, IHA submitted a comment questioning NSCG’s office volumes to justify the need for the proposed Winchester Endoscopy Center, citing 77 Ill. Admin. Code §1110.1540(d). According to IHA, the rationale for this rule is the State Board should not facilitate collection of a facility fee for procedures that might otherwise be performed within a physician’s office. The likely source of this comment is that the IHA members may fear competition from a provider whose charges are substantially lower than its average member’s charges. The rule requiring referrals only from licensed ASTCs or hospitals, however, is problematic given these circumstances where IDPH has, in a binding legal document, imposed a requirement on the applicant to obtain an ASTC license. The Service Demand and Treatment Room Need Assessment review criteria (77 Ill. Admin. Code §1110.1540(d), (f)) should allow an applicant seeking authority to convert from an office-based surgical practice to an ASTC to use office-based surgical procedures to demonstrate need for the number of proposed procedure rooms in circumstances where licensure is required by IDPH.

Allowing an office-based practice that is confronted with such a situation to convert its operations to an endoscopy center is consistent with IDPH requirements and will not adversely impact hospitals or other licensed ASTCs, particularly, where the ASTC will operate a closed medical staff limited to the physicians who are members of the affiliated medical practice. In such cases, surgical procedures that are clinically appropriate for an outpatient setting are already performed at the medical office at a level demonstrating a sufficient caseload exists to support the ASTC. Further, the closed medical staff limitation ensures physicians outside the affiliated medical practice cannot perform procedures at the ASTC, which limits the potential transfers from other licensed facilities. Given the minimal impact on other providers and the ASTC licensure requirements, the State Board rules should be amended to facilitate office-based surgical practices nearing the 50 percent threshold to convert to an ASTC.

It is important to note the proposed Winchester Endoscopy Center will not result in a duplication of services or adversely impact existing hospitals or ASTCs in the service area. The surgical procedures projected to be performed at Winchester Endoscopy Center are currently performed in Suite 146. Winchester Endoscopy Center will operate a closed medical staff, meaning only NSCG physicians will be permitted to perform procedures at Winchester Endoscopy Center. Further, only the procedures clinically appropriate in an outpatient setting will be performed at Winchester Endoscopy Center. NSCG physicians will continue to perform procedures that are not appropriate for an outpatient setting at Advocate Condell Medical Center.⁷

I believe this letter addresses the State Board's concerns with the Winchester Endoscopy Center CON application. We appreciate the State Board's consideration of the application at the January 27, 2015 meeting. Thank you for your time and consideration of this matter. If you need any additional information, please feel free to contact me.

Sincerely,



Anne M. Cooper

⁷ See Physician Referral Letters (Winchester CON App pp 109-122)

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH,
STATE OF ILLINOIS,

Complainant,

v.

WINCHESTER ENDOSCOPY CENTER,
Unlicensed

Respondent.

Docket No. ASTC 14-002

FINAL ORDER

The foregoing Consent Agreement of the parties is approved, and IT IS HEREBY ORDERED that this matter is dismissed pursuant to the terms contained herein.

ILLINOIS DEPARTMENT OF PUBLIC HEALTH

By:

Director

LaMar Hasbrouck, MD, MPH

Date

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH,)
STATE OF ILLINOIS,)

Complainant,)

v.)

WINCHESTER ENDOSCOPY CENTER,)
Unlicensed)

Respondent.)

Docket No. ASTC 14-002

CONSENT AGREEMENT
AND REQUEST FOR FINAL ORDER

NOW COME the Complainant and the Respondent, by and through their attorneys, and request the Director of the Illinois Department of Public Health to issue a Final Order in the above-captioned matter consistent with the following:

RECITALS

1. The Illinois Department of Public Health (Department) is designated as the State Agency to administer the provisions of the Ambulatory Surgical Treatment Center Act (210 ILCS 5/1et seq. (2013) (the Act).
2. NorthShore Center for Gastroenterology, S.C was operating Winchester Endoscopy Center, (Respondent) and was, at all pertinent times, unlicensed by the Department to operate a facility located at 1870 West Winchester Road, Suite 146, Libertyville, Illinois 60048.
3. On or about October 2, 2014, employees of the Department conducted a complaint investigation of Respondent's facility, which resulted in the issuance of the Order to Cease and Desist Operations ("Order to Cease and Desist"), Notice of Violation, Notice of Fine Assessment, Plan of Correction, and Notice of Opportunity for Hearing. The basis for the Department's decision is set forth in the Order to Cease and Desist. This case bears Docket No. ASTC 14-002.
4. Respondent timely requested hearings to contest the Department's allegations, determinations, and notices set forth in paragraph 3.

535 W. Jefferson, 4th Floor, Springfield, Illinois 62761.

- 1.4 Following the execution of the Department's Final Order in this matter, Respondent shall deliver to the Department check(s) which total the amount of Twenty Thousand Two Hundred Ten Dollars (\$20,210.00). The check(s) totaling Twenty Thousand Two Hundred Ten Dollars (\$20,210.00) shall be delivered to the Department within sixty (60) days following the Respondent's receipt of the Department's Final Order in this matter. The check(s) totaling Twenty Thousand Two Hundred Ten Dollars (\$20,210.00) shall be made out to the Illinois Department of Public Health, and delivered to the Illinois Department of Public Health, Division of Health Care Facilities and Programs 525 West Jefferson St 4th Floor Springfield, IL 62761 attention Karen Senger.
- 1.5 The agreed fine amount will be in full satisfaction of all matters in controversy for which this action was brought by the Department against Respondent in this matter. Should the payment described in paragraph 1.4 above not be made on a timely basis, the Department shall re-institute this action against Respondent, regardless of whether Respondent still exists as a legal entity.
- 1.6 If Respondent fails to comply with all rules in furtherance of the Act, and terms of the Consent Agreement, including but not limited to, use of the 1870 West Winchester Road, Suite 146, Libertyville, Illinois 60048 location as an Ambulatory Surgical Treatment Center, advertisement of the 1870 West Winchester Road, Suite 146, Libertyville, Illinois 60048 location as an Ambulatory Surgical Treatment Center, active and substantial steps towards obtaining licensure as an Ambulatory Surgical Treatment Center, including the following timeline, and full payment of the fine assessment the Department reserves the right to re-issue the Order to Cease and Desist Operations ("Order to Cease and Desist"), Notice of Violation, and the Respondent waives its right to contest the Order to Cease and Desist. If Respondent operates its medical practice in accordance with the Plan of Correction, previously accepted by the Department, no such activities shall be deemed to qualify as the operation of an Ambulatory Surgical Treatment Center for purposes hereof.

Timeline: The Respondent shall use its best efforts to accomplish the following milestones within the following timeframe:

- Obtain CON Approval by February 1, 2015
- Finalize construction drawings and submit said drawings to the Department's Division of Life Safety and Construction by April 1, 2015
- Achieve substantial completion of facility construction by September 1, 2015
- Be ready for the Department's on-site inspection by December 1, 2015 for license to issue

The Department and Respondent may amend this timeline by mutual agreement.

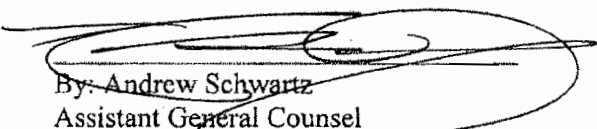
ARTICLE II
Department's Consideration

- 2.1 The Department hereby dismisses the Order to Cease and Desist.

ARTICLE III
General Provisions

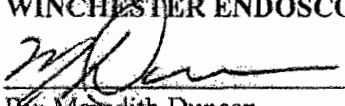
- 3.1 This Consent Agreement shall become binding on, and shall inure to the benefit of, the parties hereto, their successors, or assignees immediately upon the execution of this Consent Agreement by the Director of Public Health, or his designee, dismissing the above-captioned matter with prejudice.
- 3.2 The provisions of this Consent Agreement shall apply notwithstanding any transfer of Facility ownership or interest. Should Respondent fail to comply with any provisions of this Consent Agreement, the Department may reinstate this action against Respondent, and if Respondent no longer exists as a legal entity, said action shall proceed against any person having five percent (5%) or more interest in Respondent.
- 3.3 In the event that any of the provisions of Articles I are not complied with within the times specified therein, this Agreement will be held for naught, except for the provisions referred to in Paragraph 1.1 wherein Respondent has withdrawn its request for hearing to contest this matter.
- 3.4 It is hereby agreed that this matter be dismissed with prejudice, all matters in controversy for which this matter was brought having been fully settled, compromised, and adjourned.
- 3.5 This Consent Agreement constitutes the entire agreement of the parties, and no other understandings, agreements, or representations, oral or otherwise, exist or have been made by or among the parties. The parties hereto acknowledge that they, and each of them, have read and understood this Consent Agreement in all respects.

ILLINOIS DEPARTMENT OF PUBLIC HEALTH


By: Andrew Schwartz
Assistant General Counsel
Illinois Department of Public Health

1/7/15
Date

WINCHESTER ENDOSCOPY CENTER


By: Meredith Duncan
Attorney on behalf of Respondent

1/6/15
Date

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH,
STATE OF ILLINOIS,

Complainant,

v.

WINCHESTER ENDOSCOPY CENTER,
Unlicensed

Respondent.

Docket No. ASTC 14-002

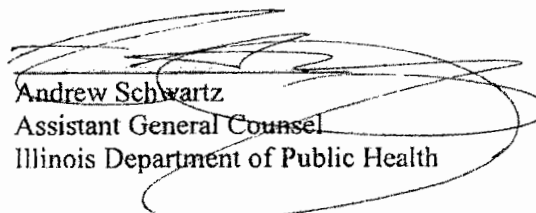
PROOF OF SERVICE

The undersigned certifies that he caused a true and correct copy of the attached Final Order was sent by certified mail in a sealed envelope, postage prepaid, or via e-mail, to:

Meredith Duncan
Polsinelli
161 North Clark Street
Suite 4200
Chicago, IL 60601

That said document was deposited in the United States Post Office at Chicago, Illinois, on the

15th day of January, 2014⁵


Andrew Schwartz
Assistant General Counsel
Illinois Department of Public Health

cc: Maura Shapiro, A.L.J.
Legal [Final Order File]
Karen Senger

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH, STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	Docket No. ASTC 14-002
)	
WINCHESTER ENDOSCOPY CENTER,)	
Unlicensed)	
Respondent.)	

ORDER TO CEASE AND DESIST OPERATIONS, NOTICE OF VIOLATION
NOTICE OF FINE ASSESSMENT, PLAN OF CORRECTION,
AND NOTICE OF OPPORTUNITY FOR HEARING

Pursuant to the authority granted to the Department of Public Health (hereinafter "Department") by the Ambulatory Surgical Treatment Center Act (hereinafter "Act"), 210 ILCS 5/1 *et seq.* NOTICE IS HEREBY GIVEN:

ORDER TO CEASE AND DESIST OPERATIONS

In accordance with Sections 4, 10b, 10f, and 10g of the Act, Sections 205.840, 205.118 of the Ambulatory Surgical Treatment Center Licensing Requirements Code (77 Ill. Admin. Code 205) (the "Code"), and Section 10-65(d) of the Illinois Administrative Procedure Act (5 ILCS 100/1-5 *et seq.*) (the "APA"), incorporated into the Act at 210 ILCS 5/10a, the Department hereby issues this Order to Cease and Desist Operations to the facility known as Winchester Endoscopy Center located at 1870 West Winchester Road, Suite 146, Libertyville, Illinois 60048 ("Respondent").

FINDINGS OF NONCOMPLIANCE

The Department conducted a complaint investigation survey of the facility on October 2, 2014 (the "October 2014 survey"). During the October 2014 survey, a Department employee met with two facility principals and the facility attorney. The Department surveyor made the following findings:

1. Winchester Endoscopy Center is located at 1870 West Winchester Road, Suite 146, Libertyville, Illinois 60048.
2. Respondent does not hold an ambulatory surgical treatment center license issued by the Department.
3. Respondent maintains two (2) pre operation examination rooms, two (2) operating suites, five (5) recovery bays, and one (1) physician examination room.
4. Respondent is operated by Dr. Arkan Alrashid, Dr. Sean Lee and Dr. John Tasiopoulos ("Physicians").



5. Respondent maintains eight (8) upper endoscopy scopes and eight (8) lower endoscopy scopes, utilizes a sterilization/cleaning room for the scopes and a hanging closet for clean scopes.
6. Respondent offers three procedures: Colonoscopy, Esophagogastroduodenoscopy (EGD) and flexible sigmoidoscopy.
7. On or about January 2014, Physicians began performing surgery procedures at Respondent's location.
8. Since January 2014, approximately three thousand two hundred eighty four (3,284) procedures have been performed at Respondent's location.
9. On June 6, 2014, the Illinois Health Facilities Services and Review Board received an application for a Certificate of Need to establish an ambulatory surgical treatment center. To date, Respondent has not received said Certificate of Need.
10. Physicians also operate Northshore Center for Gastroenterology ("Northshore"). Northshore is located at 1880 West Winchester Road, Suite 210, Libertyville, Illinois 60048.
11. Northshore is a physician's office regulated under the authority of the Medical Practice Act of 1987, 225 ILCS 60.
12. Northshore maintains three (3) examination rooms and three (3) physician offices at this location.
13. Winchester and Northshore are distinct and separate locations but all procedures are performed at Winchester.

NOTICE OF VIOLATION

Winchester failed to obtain a license prior to beginning its operations as an ambulatory surgical treatment center as required by 210 ILCS 5/4 and 77 Ill. Admin. Code 205.118.

Winchester's failure to obtain a license prior to beginning its operations as an ambulatory surgical treatment center is a violation of the Act and with the rules and regulations promulgated under the Act.

NOTICE OF FINE ASSESSMENT

Pursuant to Section 10d of the Act and Section 205.850 of the Code, the Department hereby assesses a fine of Twenty Thousand Two Hundred Ten Dollars (\$20,210.00) for the violations as previously set forth herein.

PLAN OF CORRECTION

Respondent shall file with the Department a written plan of correction as required by 210 ILCS 5/10c and 77 Ill. Admin. Code 205.830 which is subject to approval of the Department, within ten (10) days of receipt of this notice. Such plan of correction shall state with particularity the method by which the facility intends to correct the violation and shall contain a stated date by which each violation shall be corrected.

NOTICE OF OPPORTUNITY FOR HEARING

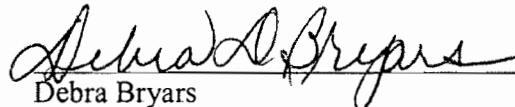
The licensee has a right to a hearing to contest this action pursuant to, without limitation, Section(s) 5/10c, 5/10f, and 5/10g of the Act and Section 205.860 of the Code. **A written request for hearing must be sent within ten (10) days of receipt of this Notice.** Such request for a hearing must be sent to Andrew Schwartz the Illinois Department of Public Health, Division of Legal Services, 122 South Michigan Ave., 7th Floor, Chicago Illinois 60603.

**FAILURE TO REQUEST THE HEARING AS SPECIFIED HEREIN
SHALL CONSTITUTE A WAIVER OF THE RIGHT TO SUCH HEARING.**

ANSWER BY RESPONDENT

In accordance with Section 100.7(d) of the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Admin. Code 100), a copy of which is enclosed, the **Respondent shall file a written answer to the Allegations of Noncompliance, within twenty (20) days after receiving this Notice.** Such answer must be sent to Andrew Schwartz the Illinois Department of Public Health, Division of Legal Services, 122 South Michigan Ave., 7th Floor, Chicago Illinois 60603.

**FAILURE TO FILE AN ANSWER WITHIN TWENTY (20) DAYS
OF THE RECEIPT OF THIS NOTICE SHALL CONSTITUTE
RESPONDENT'S ADMISSION OF THE ALLEGATIONS OF NONCOMPLIANCE**



Debra Bryars
Acting Deputy Director
Illinois Department of Public Health

Dated this 28th day of October 2014.

DEPARTMENT OF PUBLIC HEALTH
STATE OF ILLINOIS

THE DEPARTMENT OF PUBLIC HEALTH,)	
STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	Docket No. ASTC 14-002
)	
WINCHESTER ENDOSCOPY CENTER,)	
<i>Unlicensed</i>)	
Respondent.)	

PROOF OF SERVICE

The undersigned certifies that a true and correct copy of the attached ORDER TO CEASE AND DESIST, NOTICE OF FINE ASSESSMENT, and NOTICE OF OPPORTUNITY FOR HEARING was sent by certified US mail in a sealed envelope, postage prepaid to:

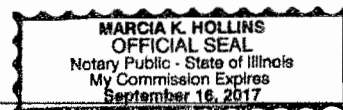
REGISTERED AGENT:
TFA REGISTERED AGENT CORP
Winchester Endoscopy Center, S.C.
321 North Clark Street
Suite 1301
Chicago, Illinois 60654

Arkan Alrashid MD
CEO Winchester Endoscopy LLC
1870 West Winchester Road
Suite 146
Libertyville, IL 60048

ATTORNEY:
Kara Friedman
Polsinelli
161 North Clark Street
Suite 4200
Chicago, IL 60601

Anne Cooper
Polsinelli
161 North Clark Street
Suite 4200
Chicago, IL 60601

That said document was deposited in the United States Post Office at Chicago, Illinois, on the
29th day of October, 2014.



Marcia Hollins

Marcia Hollins
Illinois Department of Public Health



Existing Providers

Lake County Hospitals

- Advocate Condell Medical Center
 - Four gastroenterology procedure rooms
 - 11 physicians have block time for the gastroenterology procedure rooms. When a physician is provided block time, the hospital or surgery center dedicates one or more rooms to those physicians without accommodation for other physicians
 - While NSCG physicians provide call coverage at this facility, no block time is available for NSCG physicians and Condell cannot accommodate their volume
 - Proposed charge for colonoscopy at Winchester Endoscopy Center is less than 20 percent of the median charge at Advocate Condell Medical Center (\$1,480⁸ versus \$8,070⁹)
- Advocate Good Shepherd Hospital
 - Five gastroenterology procedure rooms
 - To obtain privileges, a GI physician must obtain a commitment from an existing member of the medical staff to cover for physician when unavailable, e.g., vacation, sick leave and other extended absences. NSCG physicians are too far from the facility to cover call and could not obtain commitment from competing physicians to provide that coverage
 - Proposed charge for colonoscopy at Winchester Endoscopy Center is 30 percent of the median charge at Advocate Good Shepherd (\$4,920¹⁰)
 - Location is relatively distant from the residence of the targeted patients, particularly those coming from the northern and northeast segments of Lake County.
- Midwestern Regional Medical Center
 - Part of Cancer Treatment Centers of America which focuses on surgery to diagnose, stage and treat cancer, and to manage certain cancer-related symptoms.
 - Even if the hospital was not focused on oncology care, its capacity for additional endoscopy services is inadequate with only one room which is already utilized.

⁸ See Winchester CON Application p 73

⁹ See Ill. Hospital Report Card and Consumer Guide to Health Care *available at* <http://www.healthcarereportcard.illinois.gov/hospitals/view/101256> (last visited Jan. 13, 2015).

¹⁰ See *Id.* *available at* <http://www.healthcarereportcard.illinois.gov/hospitals/view/101286> (last visited Jan. 13, 2015).

- NorthShore University HealthSystem Highland Park Hospital
 - Hospital is undertaking a major modernization which will include right-sizing the surgical department. The hospital justified its projected surgical volume without depending on the referrals of the physicians involved in Winchester Endoscopy Center (Project 13-075 which is intended to be complete in 2019)
 - Closed medical staff for endoscopy limited to employed physicians or those who have been grandfathered.
 - Endoscopy services are operating over target capacity
- Northwestern Lake Forest Hospital
 - According to the 2013 Annual Hospital Profile, the hospital currently operates 5 gastroenterology procedure rooms, which will be reduced to 2 gastroenterology procedure rooms at the replacement hospital.
 - Only physicians employed by Northwestern Medicine are eligible for endoscopy privileges.

Lake County Surgery Centers

- Lake Forest Endoscopy Center
 - Center has a closed medical staff. Only physicians employed by Northwestern Medicine are eligible for privileges.
- North Shore Endoscopy Center
 - This was originally a practice-based endoscopy center which converted to a licensed center and similar to the plan for Winchester Endoscopy Center, privileges will be limited to physicians of the affiliated medical practice.
- Lindenhurst Surgery Center
 - No longer performs gastroenterology procedures
- Hawthorn Surgery Center
 - Does not provide gastroenterology services. The applicants communicated with center administrator who confirmed it has no plans to add gastroenterology due to space/block time constraints for its other services and other factors.
- Northwestern Grayslake Outpatient ASTC
 - Does not provide gastroenterology services (per 2013 ASTC Profile)
 - Closed medical staff. Only physicians employed by Northwestern Medicine are eligible for privileges.
- Vernon Square Surgicenter
 - Not authorized by the State Board to perform gastroenterology procedures.



RECEIVED

SEP 18 2014

HEALTH FACILITIES &
SERVICES REVIEW BOARD

September 15, 2014

Illinois Health Facilities and Services Review Board
525 West Jefferson Street – 2nd Floor
Springfield, IL 62761

RE: Project No. 14-025
Winchester Endoscopy, LLC ASTC

Dear Chairwomen Olson and Board Members:

Some may think it unusual when both the Illinois Hospital Association (IHA) and the ASC Association of Illinois (ASCAI) agree on something but such was the case with SB 3465 passed into law this year and is the case with regard to the above-referenced project now before the Board. IHA wrote to you on July 31, 2014 to encourage adherence to your current rule, at 77 IL Adm. Code 1110.1540(d), that requires an applicant to establish a new ASTC to document the total number of cases previously performed at existing IDPH-licensed hospitals or ASTCs that will be referred to the proposed project (the to-be-established ASTC).

Our Association fully agrees with the IHA's position that cases cannot and should not come from a less restrictive office-based environment and migrate into a more restrictive licensed ASTC setting.

The applicant, Winchester Endoscopy Center, in its Project No. 14-025 application states that the three physician owners of Northshore Center for Gastroenterology located at 1880 West Winchester Road – Suite 201, Libertyville, IL 60084 have been performing endoscopy procedures in their office setting. They seek a CON Permit to establish a single-specialty ASTC (Winchester Endoscopy Center) at 1870 West Winchester Road – Suite 146, Libertyville, IL 60048 where they propose to transfer over 4,000 procedures now performed in their office.

Our Association is concerned that the proposed Winchester Endoscopy Center may already be in operation at the same location as the proposed new ASTC based on a site visit on September 9, 2014 where staff confirmed that GI Endoscopy cases (at least two that day) were being performed at Winchester Endoscopy Center.

Our Association fully supports P.A. 98-214 that states: *"A person or facility not licensed under this Act [the ASTC Licensing Act] or the Hospital Licensing Act shall not hold itself out to the public as a "surgery center" or as a "center for surgery".*

ASCAI ~ Promoting Excellence 821 N Edinburgh Ct., No. 107 Round Lake, IL 60073

Our Association supports ASTC's and the value they bring to the healthcare system. That system requires ASTCs to first obtain a valid CON Permit and maintain a valid IDPH ASTC License in order to function as an ASTC and in order to hold themselves out to the public (such as in person or via websites).

Our Association thinks that it may be appropriate for the Board to first conduct a fact-finding investigation before taking any action on the merits of this application. We believe that IDPH should also be urged to conduct its own investigation into this matter.

Respectfully Submitted,
ASC Association of Illinois



Joseph Ollayos
President



Mark Mayo, CASC
Executive Director

Cc: Illinois Department of Public Health



OFFICERS

CHAIR

Kevin Poorten

KishHealth System

CHAIR-ELECT

Dean Harrison

Northwestern Memorial HealthCare

IMMEDIATE PAST CHAIR

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Rex Conger

Perry Memorial Hospital

David Crane

Adventist Midwest Health

Edgar Curtis

Memorial Health System

Pam Davis

Edward-Elmhurst Healthcare

Richard Floyd

Advocate Lutheran General Hospital

Mark Frey

Alexian Brothers Health System

Larry Goodman, MD

Rush University Medical Center

Jesse Peterson Hall

NorthShore University HealthSystem

Highland Park Hospital

Phillip Kambic

Riverside Medical Center

Colleen Kannaday

Advocate BroMenn Medical Center

Brian Lemon

Cadence Health

Central DuPage Hospital

Michael McManus

Memorial Hospital

Bruce Merrell

St. Mary's Hospital

Sharon O'Keefe

University of Chicago Medical Center

Michael Perry, MD

FHN Memorial Hospital

Jay Purvis

Wabash General Hospital

José Sánchez

Norwegian American Hospital

William Santulli

Advocate Health Care

Robert Schmitt

Gibson Area Hospital

& Health Services

Kevin Schoepfle

OSF Healthcare System

Larry Schumacher

Hospital Sisters Health System

Richard Seidler

UnityPoint Health

Trinity Regional Health System

Brenda Wolf

La Rabida Children's Hospital

July 31, 2014

Ms. Kathryn J. Olson

Chairwoman

Illinois Health Facilities and Services Review Board

525 West Jefferson, 2nd Floor

Springfield, IL 62761

Re: Project #14-025

Dear Chairwoman Olson:

The Illinois Hospital Association, which represents more than 200 hospitals and nearly 50 health systems statewide, has a longstanding position of support for the Illinois Health Facilities and Services Review Board and the role it plays. Our primary interest in the Certificate of Need program has been in the overall policy decisions that are made both in the General Assembly and by the Board itself as it develops its regulations.

An important concern of our members is for there to be predictability with respect to the Board's decisions. To this end, it is important for the Board to make decisions that rely upon its own rules.

We call your attention to the application for Project #14-025. This project seeks to establish a limited specialty ambulatory surgery center. Under the Board's rules (77 Ill. Adm. Code 1110.1540 (d)) an applicant seeking to establish an ASTC must document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant, over the latest two-year period, as evidenced by historical and projected referrals. For historical referrals, the applicant must "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-month period prior to submission of the application." (d)(1). For projected service demand, "Referrals to health care providers other than IDPH-licensed ASTCs or hospitals will not be included in determining projected patient volume." (d)(2)(D). In other words, the rule does not allow physicians to use their office volumes to justify the need for an ASTC, as they attempt to do in this application. The rationale is that if a procedure can be done in a physician's office, the Board should not facilitate collection of a facility fee in addition to the physician fee.

The Review Board recently concluded a long process in rewriting its ASTC regulations. Those regulations adopted just this April reaffirmed the provision that office volumes do not count for referrals for ASTC projects. The IHA has long worked productively with the Review Board on the rule making process. If the

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AUG 01 2014

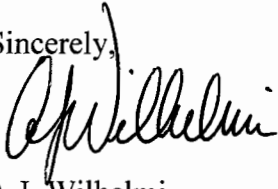
**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Board wished to repeal this rule we would hope that it would do so through the rule making process rather than by selective application of its rules.

IHA appreciates the hard work of the Review Board members in making decisions that shape the health care delivery system in Illinois. We know that sometimes these decisions are difficult ones. However, we did want to underscore this rule, highlight the rationale for it, and respectfully request that the Board follow its rule in this instance.

At an appropriate time, if you have questions, please feel free to contact Barb Haller, Senior Director, Health Policy and Regulation, at 630-276-5474 or via e-mail at bhaller@ihastaff.org.

Sincerely,

A handwritten signature in black ink, appearing to read "A.J. Wilhelmi". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

A.J. Wilhelmi
Chief Government Relations Officer

Check to Resolve IDPH Compliance Matter
THE NORTHERN TRUST COMPANY
2-15/710

2725

Northshore Center for Gastroenterology
1880 W Winchester Road, Suite 201
Libertyville, IL 60048
(847) 247-0187

02/01/2015

PAY TO THE ORDER OF Illinois Department of Public Health

\$ **20,210.00

Twenty thousand two hundred ten and 00/100 ***** DOLLARS



Illinois Depart of Public Health
Div of Hlth Care Fac & Prog
Attn: Karen Senger
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MEMO

[Handwritten Signature]



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Northshore Center for Gastroenterology

02/01/2015

Illinois Department of Public Health

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Northern Trust Check

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Northshore Center for Gastroenterology

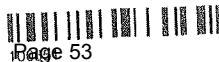
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ILLINOIS DEPARTMENT OF PUBLIC HEALTH
HEALTH FACILITIES AND SERVICES REVIEW BOARD
OPEN SESSION

REPORT OF PROCEEDINGS
Bolingbrook Golf Club
2001 Rodeo Drive
Bolingbrook, Illinois 60490
December 16, 2014
9:08 a.m. to 3:23 p.m.

BOARD MEMBERS PRESENT:

MS. KATHY OLSON, Chairperson;
MR. JOHN HAYES, Vice Chairman;
DR. JAMES J. BURDEN;
MR. DALE GALASSI; and
MR. RICHARD SEWELL.

Reported by: Melani e L. Humphrey-Sonntag,
CSR, RDR, CRR, CCP, FAPR
Notary Public, Kane County, Illinois

1 EX OFFICIO MEMBERS PRESENT:

2 MR. MATT HAMMOUDEH, IDHS; and

3 MR. MIKE JONES, IDHFS.

4
5 ALSO PRESENT:

6 MR. FRANK URSO, General Counsel;

7 MS. JEANNIE MITCHELL, Assistant General Counsel;

8 MS. COURTNEY AVERY, Administrator;

9 MS. CATHERINE CLARKE, Board Staff;

10 MR. MICHAEL CONSTANTINO, IDPH Staff;

11 MR. BILL DART, IDPH Staff; and

12 MR. GEORGE ROATE, IDPH Staff.

1	I N D E X	
2	CALL TO ORDER	5
	ROLL CALL	5
3	EXECUTIVE SESSION	7
	COMPLIANCE ISSUES/SETTLEMENT AGREEMENTS/FINAL	7
4	ORDERS	
5	APPROVAL OF AGENDA	10
	APPROVAL OF 11/12/14 TRANSCRIPTS	12
6		
	PUBLIC PARTICIPATION:	12
7	FMC Grayslake	14
	NorthPointe	16
8		
	POST-PERMIT ITEMS APPROVED	25
9		
	ITEMS FOR STATE BOARD ACTION	26
10	PERMIT RENEWAL REQUESTS:	26
	Addison Rehabilitation & Living Center	27
11	Victorian Village, Homer Glen	32
12	EXTENSION REQUESTS	35
13	EXEMPTION REQUESTS:	36
	Advocate and NorthShore	36
14	Interstate Alliance, Inc.; Mercy Alliance,	56
	Inc.; Rockford Health; Mercy Harvard Hospital,	
15	Inc.; and Rockford Memorial	
	Alexian Brothers, Ascension Health, Adventist	74
16	Health System, Sunbelt Healthcare Corporation,	
	and St. Alexius Medical Center	
17	University of Wisconsin Hospitals and Clinics	86
	Authority, University Health Care, Inc.,	
18	University of Wisconsin Medical Foundation,	
	Inc., SwedishAmerican Health System	
19	Corporation, and SwedishAmerican Hospital	
20	ALTERATION REQUESTS	91
21	DECLARATORY RULINGS/OTHER BUSINESS:	92
	Sarah Bush Lincoln Health Center	92
22	Jackson Park Hospital and Medical Center	94
23	HEALTH CARE WORKER SELF-REFERRAL ACT	97
	STATUS REPORT ON CONDITIONAL/CONTINGENT PERMITS	97
24		

I N D E X (Continued)

1		
2	APPLICATIONS SUBSEQUENT TO INITIAL REVIEW:	98
3	Proctor Community Hospital	98
	Winchester Endoscopy Center	101
4	Fresenius Medical Care, Grayslake	141
	Decatur Memorial Hospital	157
5	Central DuPage Hospital	174
6	APPLICATIONS SUBSEQUENT TO INTENT TO DENY:	205
	Fresenius Medical Care, New City	205
7	NorthPointe Health & Wellness Campus	220
8	OTHER BUSINESS	243
	RULES DEVELOPMENT	243
9	UNFINISHED BUSINESS	243
10	NEW BUSINESS	243
	Financial Report	243
11	Long-Term Care Discontinuation of Beds	243
	Review of Closed Meeting Transcripts	244
12		
	ADJOURNMENT	245
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

101

1 AFTERNOON SESSION

2 TUESDAY, DECEMBER 16, 2014

3 12:50 P.M.

4 (Member Hammoudeh left the
5 proceedings.)

6 CHAIRPERSON OLSON: Okay. We're back in
7 session.

8 Next on the docket is 14-025, Winchester
9 Endoscopy Center in Libertyville.

10 May I have a motion to approve
11 Project 14-025, Winchester Endoscopy Center, to
12 establish a limited specialty ambulatory surgery
13 center in Libertyville?

14 MEMBER GALASSI: So moved.

15 VICE CHAIRMAN HAYES: Second.

16 MEMBER SEWELL: Second.

17 CHAIRPERSON OLSON: And the Applicant is
18 at the table. May they be sworn in, please?

19 THE COURT REPORTER: Raise your right
20 hands, please.

21 (Four witnesses duly sworn.)

22 THE COURT REPORTER: Thank you. Please
23 print your names.

24 CHAIRPERSON OLSON: Mike, may I have the

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

102

1 State Board staff report, please?

2 MR. CONSTANTINO: Thank you, Madam
3 Chairwoman.

4 The Applicants are proposing to establish a
5 limited specialty ASTC to perform endoscopic
6 procedures at a cost of approximately \$2.2 million in
7 Libertyville, Illinois.

8 There was no public hearing. Four letters
9 of support were received, and no letters of opposition
10 were received. We did receive two letters, one from
11 IHA and the other from the ASC association of
12 Illinois, that are attached to the end of your report.

13 The State Board staff concluded the
14 Applicants did not successfully address five of the
15 criteria required by the State Board.

16 I would like to note, during the review
17 period, IDPH did a survey of the facility and
18 authorized a cease and desist order. The Applicants
19 were performing endoscopic procedures in an unlicensed
20 facility.

21 Thank you, Madam Chairwoman.

22 CHAIRPERSON OLSON: All right. I had
23 two . . . people in both ears.

24 You had a question?

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

103

1 MR. URSO: I did.

2 Mike, do we have comments from the State
3 agency report on this particular project?

4 MR. CONSTANTINO: No. We did not, no.

5 MR. URSO: Okay.

6 CHAIRPERSON OLSON: Because the IHA
7 letter and the ASCAI letter --

8 MR. CONSTANTINO: They're attached.

9 MR. URSO: They are part of the project
10 file?

11 MR. CONSTANTINO: Yeah. They're
12 attached to the end of the report, and they're part of
13 the project file.

14 MR. URSO: I didn't know if we had
15 anything else.

16 MR. CONSTANTINO: They were just
17 informing me how we should review the project.

18 MR. URSO: Okay. Thank you.

19 CHAIRPERSON OLSON: Comments for the
20 Board?

21 MS. FRIEDMAN: Hi. Good afternoon.
22 Can you hear me?

23 CHAIRPERSON OLSON: Yes.

24 MS. FRIEDMAN: Good afternoon. I'm

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
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104

1 Kara Friedman.

2 With me is Dr. Alrashid and his partners,
3 and I'll let him introduce them more formally in a
4 moment. But I did want to speak a little bit to some
5 of the State agency findings that I know that you're
6 looking at in front of you right now.

7 So the first finding on the background of
8 Applicant relates to a pending -- or an investigation
9 by the Illinois Department of Public Health. And
10 we've been working and talking to both your staff as
11 well as IDPH staff since September, when there was an
12 inquiry made as to how the medical practice was
13 operating its endoscopy service line.

14 We actually had been working very hard with
15 IDPH in the last week or two to enter into an
16 agreement as to how we should proceed with this
17 practice.

18 And just by way of background because this
19 probably doesn't make as much sense unless you
20 understand how the practice is operating currently,
21 this is a medical practice of gastroenterologists,
22 and, of course, part of their service is endoscopy
23 services. So they're providing endoscopy services in
24 the medical practice setting, but there was some

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

105

1 concern about whether or not they needed a license.

2 And based, really, on the concern that that
3 might be required under the ASTC Act, they'd applied
4 for this CON application permit in June, but there's
5 been a lot of discussion and investigation since that
6 time to figure out what exactly is happening at the
7 facility and how IDPH wants to move forward.

8 So yesterday we signed a settlement
9 agreement with IDPH that provides for us to operate
10 under a plan of correction, the first step of which is
11 to get a CON permit and then to apply for licensure
12 for an ASTC. The facility's not currently built as an
13 ASTC, and so we do have to undertake, you know,
14 significant capital investment to modify the layout of
15 the facility.

16 But as to the statement in the application
17 that there is a compliance issue because of the status
18 of where we are with IDPH, I don't think that's
19 technically correct because everything is pended
20 pending our completion of a settlement or a hearing
21 procedure with IDPH, and we've agreed on a settlement
22 that will allow us to move forward.

23 CHAIRPERSON OLSON: But if I understand
24 correctly, part of IDPH's directive at this point was

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

106

1 that you cease and desist services until these issues
2 were resolved.

3 MS. FRIEDMAN: Well, when we filed for
4 an appeal from their initial determination -- because
5 it is an initial determination, not a final decision
6 of IDPH -- then all actions that they assert to be
7 taken under their complaint are pended until there is
8 a final decision by IDPH.

9 We also submitted a plan of correction that
10 basically said that we would operate under the medical
11 practice exception to the ASTC licensure act, such
12 that we will not allow any physicians outside of the
13 practice group to provide procedures there, we will
14 not apply for Medicare certification as an ASTC, and
15 we will do less than 50 percent of the patient
16 encounters as surgical procedures.

17 So that plan and correction is in place, and
18 the cease and desist order is basically pended, and
19 there will be a settlement in the next several days so
20 that they won't have a cease and desist order for a
21 plan of correction.

22 MEMBER GALASSI: But you don't have
23 that now?

24 MS. FRIEDMAN: Well, the cease and

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

107

1 desist is not applicable because we've appealed an
2 initial determination.

3 Until there's a final decision after we've
4 exercised our hearing -- you know, our ability to
5 appeal and state our case -- then there is no cease
6 and desist order in place.

7 MEMBER GALASSI: I admit to being a
8 little confused, and I appreciate your explanations,
9 which are always helpful. But I guess I'm just going
10 to ask the dumb question.

11 Why didn't you have licensure before you
12 started those procedures?

13 MS. FRIEDMAN: Endoscopy is something
14 that's done on a regular basis in a medical practice
15 setting. I had my endoscopy at NorthShore in a
16 physician's office, for example.

17 MEMBER GALASSI: Who, I'm sure, were
18 licensed to provide those.

19 MS. FRIEDMAN: No. They're offering --
20 the office in Highland Park is a medical practice.
21 It's not licensed. It operates under the office-based
22 exception.

23 MEMBER GALASSI: So if IDPH goes to that
24 office tomorrow, are they going to get a cease and

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

108

1 desist order?

2 MS. FRIEDMAN: Well, I suppose it
3 depends on the volume of endoscopy procedures that
4 they're providing compared with the rest of the
5 procedures -- or patient encounters -- they're doing
6 at that location.

7 So that's why endoscopy is about --

8 MEMBER GALASSI: I need some help from
9 IDPH or staff or doc on this because we have a -- only
10 have a quorum. And I understand the importance of
11 today's votes, and I have some strong concerns.

12 MEMBER BURDEN: Listen, Madam Chair, if
13 I might. As a retired physician and a member of this
14 Board for quite some time, I think that we probably
15 ought to have an intent to deny and return when this
16 thing is straightened out. I don't believe that we
17 should be -- this is my opinion. The other Board
18 members may disagree.

19 I can't imagine resolving what you're here
20 to have done today without having that issue. There
21 are other issues regarding the criteria not met that
22 we haven't even touched, and there's no sense in
23 touching them, either, until this is resolved, in my
24 judgment, to satisfaction to return to us.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

109

1 That -- it seems like a waste of time for me
2 to discuss what I consider to be --

3 CHAIRPERSON OLSON: Right.

4 MEMBER BURDEN: -- objections to this
5 application without knowing what's going on.

6 CHAIRPERSON OLSON: We do have another
7 option, and that is to make a motion to refer this
8 project to legal counsel for review and filing of any
9 notices of noncompliance and possible sanctions, and
10 then -- which is kind of what you were saying.

11 MEMBER BURDEN: It is.

12 CHAIRPERSON OLSON: Except I -- my
13 question is I don't know -- based on what you just
14 said, I don't know that you're going to resolve your
15 issues without a CON.

16 MS. FRIEDMAN: That's right. That's a
17 requirement of our plan of correction, is to get a CON
18 and then to submit plans to IDPH for construction.

19 CHAIRPERSON OLSON: Well -- so I guess
20 what your -- my question to you is, based on every --
21 I mean, because this is not the only negative finding.
22 There's other negative findings.

23 Are you sure you want to proceed with trying
24 to get the CON approved when there's reservations on

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

110

1 the Board, all the other issues that are sort of out
2 there? It's kind of a chicken-and-egg thing.

3 MS. FRIEDMAN: Well, we do have a
4 deadline in our settlement agreement to receive a
5 CON permit.

6 I guess what I would like to do today is
7 explain what's going on here -- because it's a little
8 bit confusing -- and have some questions answered.
9 And then perhaps we can meet with your staff to
10 determine whether or not they have any concerns that
11 might be similar to IDPH, and then we could return
12 after deferring the application.

13 And we filed the application in June. We'd
14 very much like to present our case.

15 MR. URSO: I'd like to say a few words,
16 perhaps, to explain, as best I know, what the scenario
17 is with IDPH.

18 IDPH did consult with Board staff when we
19 discovered that perhaps there were some activities
20 going on at this facility that we were unaware of.
21 And IDPH did conclude a survey -- I believe it was
22 back in October of this year. They concluded that
23 they were an unlicensed -- they were functioning as an
24 unlicensed ambulatory surgical treatment center.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

111

1 That's why they sent out their notice of cease and
2 desist, along with a fine and a correction
3 requirement.

4 So that is the history of why IDPH did what
5 it did. From the Board's standpoint, I think the
6 Board has to look at this, also, and that's why
7 I think Chairman Olson did say that there should be a
8 motion considered by this Board for the Board to do an
9 independent legal review of what we consider to be an
10 alleged compliance issue. And so that would be
11 another factor for this Board to look at.

12 As far as Dr. Burden's suggestion, that's
13 entirely up to the discretion of the Board if they
14 took this to a vote and it wasn't approved.

15 CHAIRPERSON OLSON: So when you're
16 saying our own -- to do our own investigation, what
17 we'd look at, then, is their numbers to see if they
18 were, in fact, not in compliance with what IDPH felt
19 they should be?

20 MR. URSO: Yes. We would be working
21 closely with IDPH's information, as we often do.

22 So IDPH has already concluded, based upon my
23 understanding, that they were functioning as an ASTC
24 without a license.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

112

1 MEMBER GALASSI: Frank, let me ask --
2 and, again, your opinion is paramount here.

3 If we refer it to legal counsel and legal
4 counsel comes back with kind of where we are right
5 now, IDPH finds them noncompliant, I don't think
6 we've -- I'm not sure -- we've not moved the stick any
7 further.

8 Whereas, I'm thinking -- and correct me if
9 my thinking is wrong -- Dr. Burden's suggestion is
10 this brings it to a vote. If, in fact, it's denied,
11 then they've got to go back and do what they've got to
12 do to come back to, you know, their tent.

13 It just seems to me like it would be
14 furthering their need. Am I wrong? Is my thought
15 process wrong?

16 MR. URSO: No, I don't believe it's
17 wrong. I would --

18 CHAIRPERSON OLSON: Can I -- I'm sorry.
19 I didn't mean to interrupt you.

20 MR. URSO: Go ahead.

21 CHAIRPERSON OLSON: So is what the issue
22 became here is, when you tipped from that -- you were
23 doing over 50 percent of the endoscopies in the
24 offices? And so then they're saying now you're not an

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

113

1 endoscopy office, now you're an ASTC? Is that what
2 tipped you?

3 MS. FRIEDMAN: Well, I'll give you some
4 background.

5 And we actually did get an inquiry from your
6 staff in, I believe, September or October and
7 responded October 22nd. So the project file does have
8 some of this information, which is very similar to the
9 information that we provided IDPH.

10 But what happened was this practice, I
11 think, has been providing endoscopy services since
12 maybe 2007. And they had a limited amount of office
13 space in a medical building complex, and they had one
14 endoscopy room and exam rooms and doctors' offices and
15 things like that.

16 They got to a point where their volumes were
17 increasing -- in part because of all the improvements
18 they've had in colorectal cancer screening; the
19 primary care physicians are very consistently
20 referring to GIs for that care -- that they needed
21 more endoscopy space.

22 They couldn't break through a wall -- you
23 know, this is a condo building -- and so they had to
24 take the area that's closest to them, and so they

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

114

1 built additional medical office space in another
2 condo. And I think, really, the question is, are they
3 operating in conjunction with their medical practice
4 when they've got a few parked cars between the two
5 suites that they have?

6 CHAIRPERSON OLSON: So is it still your
7 opinion that they are actually operating within our
8 rules right now today?

9 MS. FRIEDMAN: I believe they are
10 because of the limited medical staff. It's closed
11 medical staff. They don't bill Medicare, they don't
12 bill anyone a technical fee, and they have not hit the
13 50 percent threshold. They just had a large increase
14 in the last year, and so endoscopy is really a more
15 and more significant part of what they're doing.

16 CHAIRPERSON OLSON: So it's like a
17 physical plant kind of thing just because there's
18 space in between the two buildings?

19 Did it never --

20 MS. FRIEDMAN: If they were a hospital,
21 they'd put a catwalk between the two.

22 CHAIRPERSON OLSON: Did it never occur
23 to you gentlemen that maybe you needed -- I mean, you
24 just thought, "Oh, my gosh, we need more space; we

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

115

1 need more" -- right?

2 DR. ALRASHID: Am I allowed to
3 speak now?

4 MS. FRIEDMAN: Sure.

5 CHAIRPERSON OLSON: Oh, you're allowed
6 to --

7 DR. ALRASHID: I'm sorry. I was
8 waiting.

9 CHAIRPERSON OLSON: No, no, no. You're
10 fine.

11 It never occurred that perhaps you needed to
12 seek --

13 DR. ALRASHID: Well, the practice over
14 the past few years has been growing. And our
15 endoscopy -- endoscopy volume became congested. And
16 the three of us are pretty busy gastroenterologists,
17 so we sought to increase the endoscopy space as we
18 have.

19 And as Kara said, we could not find a space
20 next to us, and so we acquired another suite in the
21 same complex, and we built it as an office-based
22 endoscopy, which is what we've been doing for many
23 years, and a lot of gastroenterologists do that in
24 this state and across the country.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

116

1 What we have -- our model was an
2 office-based endoscopy, almost always office-based
3 endoscopy. We never billed Medicare or public aid or
4 any entity a technical fee or facility fee. We always
5 billed global fee, which is the way it's allowed to do
6 in-office endoscopy.

7 When we purchased the new suite, our legal
8 counsel -- who has been our legal counsel for
9 10 years -- assured me and my partners that, since
10 it's the same medical complex and only a few cars --
11 two or three cars -- between the two spaces, then this
12 is an extension of our practice, and we treated it
13 that way.

14 We were doing office consultation; we were
15 doing office follow-ups and endoscopy in addition to
16 CT scan we put in the new space as a part of our
17 practice, as an extension of NorthShore Center for
18 Gastroenterology.

19 In -- I believe in April we were approached
20 by an endoscopy management company and their
21 attorney -- who became our attorney here, too -- and
22 we were trying to work with this management company in
23 order to cut our overhead because it's -- part of our
24 aim to reduce our overhead is working with them.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

117

1 And they brought to us -- brought to my
2 attention and my partners -- that the proper way of
3 doing things in this setting is that we should go and
4 apply for a CON for the new facility.

5 And I said, "If that's what we should do and
6 this is the right things -- this is the right way of
7 doing things, we'll do it."

8 We get a . . . unfortunately, it's going to
9 cost us a lot of money -- almost \$2 million,
10 something -- to renovate the place and rebuild it
11 again in a way that is agreeable to CON standard and
12 IDPH's standard. So that shows you -- and to the
13 whole Board -- that, when we did it, we really were
14 not in violation of anything because we were thinking
15 of it as office-based endoscopy.

16 CHAIRPERSON OLSON: You simply made your
17 exam rooms larger so they could be procedure rooms?

18 DR. ALRASHID: I'm sorry, ma'am?

19 CHAIRPERSON OLSON: You simply made your
20 exam rooms larger so they could be procedure rooms?

21 DR. ALRASHID: Well, we -- not only
22 that. Believe me, there are so many changes in the
23 number of bathrooms, number of -- how many
24 centimeters this has to be -- there's major

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

118

1 construction that needs to be done, which we're
2 willing to do to meet your --

3 CHAIRPERSON OLSON: No, no. I mean
4 prior to this, when you -- when you took the space
5 over, across the five parking spaces, whatever, you
6 were simply looking at making more procedure rooms to
7 do in-office endoscopy, not knowing that you were
8 maybe crossing this line of --

9 DR. ALRASHID: Absolutely.

10 CHAIRPERSON OLSON: -- but --

11 MS. FRIEDMAN: And, also, to recognize
12 it's really just like another suite of their medical
13 practice because they have nonsurgical activities
14 going on there. They've got the CT and the
15 physician --

16 DR. ALRASHID: We have a consultation
17 room and see patients because the space is so crowded
18 for our patients' flow that we decided to kind of
19 divide the services between the two suites. So when
20 we talked to Kara and those -- that company, we
21 decided to move on with our CON application. And
22 immediately I put -- we put things in action and we
23 applied for a CON in June.

24 Bear in mind we moved to the space in

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

119

1 January of this year. So between us finding that we
2 need to do a CON and hiring a new lawyer and putting
3 plans and getting all of our ducks in a row -- less
4 than five months we were able to do all of this.

5 And then Kara, our attorney, also contacted
6 IDPH early part of September and -- just to see if
7 everything is okay with IDPH. And I've been told that
8 they were okay with it, as far as the new suite is
9 concerned, because we are going for a CON application.
10 So they were fine with it and there is no violation.

11 Surveyor -- they sent the surveyor in
12 October. I went around with the surveyor, and she
13 gave us a very good review. She was a nurse,
14 actually, and looked through it and said, "Doctor, you
15 have no problem here. You will have no issue." In my
16 impression and my partners' impression, as well as our
17 attorney, her report was very favorable.

18 And -- but then we get consulted --
19 I'm sorry -- contacted by the attorney for IDPH
20 through Kara, saying "You have to do cease and desist;
21 you're operating an unlicensed ambulatory surgery
22 center."

23 And I asked the big questions. I said, "How
24 can we operate an ASC when we're not billing an ASC?"

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

120

1 We're billing global. We're billing an office-based
2 endoscopy. Doctors do that for them to be able to
3 bill a facility, which we have never done. There's no
4 financial incentive for us to more or less -- pardon
5 my language -- scheme the system. We didn't do that.

6 Then we have 10 days -- according to my
7 lawyer we have 10 days to appeal the cease and desist,
8 which is -- by the way, it's my understanding, too,
9 through -- and I'm not a lawyer -- that IDPH actually
10 has no jurisdiction to give us cease and desist. It
11 has to do through a Circuit Court and it has to be all
12 done by a Judge. That's my legal counsel notifying me
13 of that.

14 Nevertheless, I'm willing -- we all were
15 willing to work with IDPH to resolve this matter, so I
16 went back to them, and we appealed it within the
17 10 days-allowed period. And when you do an appeal
18 process, you're allowed to continue functioning until
19 this matter is settled.

20 And I pushed hard with my counsel, my
21 attorney, to work with IDPH because I really didn't
22 want to come here in front of you looking like
23 we're doing something wrong. I wanted this settled
24 with IDPH, and I kept pushing for it. They gave us a

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

121

1 fine of 20,000 for a mistake we have not done. We
2 agreed to pay. I said, "We'll pay it. Just let's
3 settle this issue. Let's move forward; let's do the
4 right things." And I did. We have a settlement
5 signed by IDPH and by me. I -- my attorney agreed on
6 it yesterday. And I think Ms. Avery has -- was
7 forwarded a copy of that, of our settlement.

8 So we -- the bottom line, we're trying to do
9 the right things here. We're not -- we have -- our
10 practice has been there since 2001. And . . .

11 CHAIRPERSON OLSON: Yes.

12 MEMBER BURDEN: I've got a thought here.
13 Why in heaven's name -- you can certainly -- you've
14 pointed out you didn't want to skim the system.

15 You were functioning doing endoscopy before.
16 Now you want to do endoscopy in an ambulatory surgical
17 treatment center; is that correct?

18 DR. ALRASHID: Yes, sir.

19 MEMBER BURDEN: Why?

20 DR. ALRASHID: Because --

21 MEMBER BURDEN: You're functioning --
22 what kind of endoscopy are you doing? Colonoscopy?
23 Sigmoidoscopy?

24 DR. ALRASHID: And the upper endoscopy.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

122

1 MEMBER BURDEN: And the upper endoscopy.
2 That's it?

3 DR. ALRASHID: Yes.

4 MEMBER BURDEN: You were doing it fine.
5 Now I hear all this discussion. To me, you're
6 functioning; you could function. Nobody's going to
7 come in and say you can't do it. You're licensed
8 physicians. You're, I presume, board or board-
9 eligible gastroenterologists. So who is going to
10 interfere with you doing that in your office?

11 MS. FRIEDMAN: Well, IDPH.

12 CHAIRPERSON OLSON: They just did.

13 MEMBER BURDEN: Well, that's nonsense.
14 This goes on all over. I agree with that.

15 But your attempt to become -- where I have a
16 problem is why you want to become an ambulatory
17 surgical treatment center when that adds -- you have a
18 service fee as well as a billing fee for the facility.
19 That's a -- that, to me, is an economic motive and you
20 denied it.

21 DR. ALRASHID: No, I didn't -- I did not
22 deny --

23 MEMBER BURDEN: When you said you --

24 THE COURT REPORTER: Wait, wait.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

123

1 MEMBER BURDEN: I'm sorry.

2 I don't see any reason to continue this
3 discussion when we're talking apples and oranges.

4 You can do what you do to make a living.
5 You can take care of your folks, doing endoscopy as
6 you have been doing, but suddenly you now have an
7 issue that doesn't concern me. You can do that. Now
8 you want to do it in an ambulatory surgical treatment
9 center, and that raises the specter, I believe, of the
10 IDPH stepping in.

11 Am I wrong?

12 DR. ALRASHID: No, that --

13 MS. FRIEDMAN: IDPH stepped in because
14 they don't like, I think, the two office suites as
15 they're constructed.

16 MR. URSO: I don't think you're right.

17 MEMBER BURDEN: I don't think that's
18 correct.

19 MR. URSO: No, that's not correct. No.

20 They did a survey and they have statistics,
21 and the statistics, according to IDPH, specify that
22 this was an unlicensed ASTC activity going on. That's
23 what IDPH concluded based on the documents I've seen.

24 MS. FRIEDMAN: Well, I do see that they

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

124

1 made a determination that it's an unlicensed activity.
2 Their allegations were not really very specific about
3 what the format was that they did not like because
4 we're not over the 50 percent threshold.

5 But given where we are today, I did want to
6 explain a couple of other things, but I think
7 Dr. Burden would probably rather have us go forward
8 with resolving any issues that we can with your staff.

9 You know, there -- the negative findings,
10 you know, appear significant, but we're prepared to
11 explain everything that's -- you know, the findings
12 that are summarized on page 3 of the report. But if
13 we're not feeling it today, you know, we can meet with
14 staff and move forward in January.

15 MEMBER GALASSI: If we're not feeling it
16 today, we can meet with staff and move forward in
17 January?

18 So what kind of action are you proposing?

19 MS. FRIEDMAN: Well, I think Dr. Burden
20 wants us to resolve our issues with IDPH, which we are
21 at the juncture of doing. And then I think we need to
22 meet with legal counsel to determine whether or not
23 they have an action that we -- that they want to move
24 forward with.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

125

1 And to the extent that we could go through
2 with the rest of the presentation and there are
3 additional questions, we could answer them subsequent
4 to appearing again.

5 MEMBER GALASSI: Well, we'd hope so.

6 MS. FRIEDMAN: Prior to, I should say.

7 MEMBER GALASSI: I would hope so. I,
8 for one, am ready to vote.

9 CHAIRPERSON OLSON: All right. Can we
10 let them move forward with addressing the rest of the
11 negative findings in the State Board staff report?

12 Is the -- are we agreeable to that?

13 MEMBER BURDEN: Sure.

14 MEMBER GALASSI: Sure.

15 CHAIRPERSON OLSON: Okay. Please
16 proceed.

17 MS. FRIEDMAN: Okay. Just a second.

18 (Discussion off the record.)

19 MS. FRIEDMAN: I think that we would
20 like to defer at this point. So if you'd like to hear
21 a little bit -- the IHA letter is on record, and I
22 think that it is -- you know, created some negative
23 findings in the State agency report. I would like to
24 just quickly touch on that and then --

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

126

1 CHAIRPERSON OLSON: I would like you to
2 do that.

3 MS. FRIEDMAN: Okay. Thank you.

4 So there are about 16 endoscopy centers in
5 the state of Illinois that started out in the same
6 place that our medical practice is at right now. They
7 were operating as an office-based endoscopy but then
8 they got to a point where endoscopy was too
9 significant of a component of their operation to
10 continue under that exception.

11 So despite the rule that you have that does
12 not allow you to transfer an office-based procedure to
13 a licensed procedure through, you know, using these
14 referral letters, a surgery center that is in the
15 position of requiring an IDPH license based on their
16 volumes or their office configuration is really in a
17 rock and a hard place.

18 We feel that, you know, we are adhering to
19 the restrictions of limiting this to the individuals
20 in our practice -- and I've already repeated a few of
21 those things. This is not a facility that we're going
22 to open for use by the public. This is also a
23 facility that we're going to have basically colocated
24 with our medical practice. But with IDPH requiring us

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

127

1 to get a license, we really ask dispensation that we
2 are permitted to go forward.

3 I don't know if you remember, but this is a
4 very similar situation that we dealt with with Metro
5 East Endoscopy Center when they were before you about
6 a year and a half ago for a similar reason. So we do
7 believe, because of that ASTC licensure act, there are
8 some facilities that need to convert notwithstanding
9 that rule.

10 CHAIRPERSON OLSON: So would you prefer
11 to continue to operate in the manner in which you are
12 if IDPH -- and I'm not suggesting IDPH is going to do
13 this; I just need to know this -- if IDPH agrees that
14 you do not need to have an ASTC license? Would you
15 prefer to be the way you are?

16 I mean, you talked about spending \$2 million
17 now at this point and . . .

18 DR. ALRASHID: Yes.

19 CHAIRPERSON OLSON: Because you're not
20 looking to like invite a bunch of other doctors in --

21 DR. ALRASHID: No. No, no, no.

22 Yes. We're agreeing to continue as we are
23 if IDPH does not press the issue that we have to go
24 out and obtain a CON license.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

128

1 MEMBER GALASSI: Have you spent the
2 2 million yet?

3 DR. ALRASHID: No, but we have to . . .

4 MS. FRIEDMAN: We did have to get a
5 letter of credit and put aside money for it but it
6 hasn't occurred.

7 MEMBER GALASSI: Okay. Thanks.

8 CHAIRPERSON OLSON: Can I ask you a
9 question that's sort of off the thing here? Because
10 I -- how long is it going to be that -- because I'm
11 not going back until they get this blood test. Aren't
12 they almost perfecting this blood test so that you're
13 going to see a decrease in the amount of endoscopies
14 or no?

15 DR. ALRASHID: For what? I'm sorry.
16 For colonoscopies?

17 CHAIRPERSON OLSON: For -- oh,
18 colonoscopy. I'm sorry.

19 DR. ALRASHID: I think that you're
20 thinking of something else for the blood test. Oh,
21 the genetic testing or --

22 DR. TASIPOULOS: There's one for -- can
23 I have the microphone a second?

24 No, you're absolutely right. There's a

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

129

1 genetic -- there's a stool test that's been looking at
2 the antigen, looking for polyps and for colon cancer.
3 Absolutely right.

4 If anything, that's going to increase what
5 we do because people in the past that have been
6 reluctant to have -- to be examined for a colonoscopy
7 are going to be coming out of the woodwork to have
8 this test done.

9 Now, whether the test gives false
10 positives -- and it's going to give a certain degree
11 of false positives, but, you know, it's going to show
12 you who has polyps. So it's going to detect polyps at
13 a much higher rate, which will prompt a patient to
14 say, "Oh, okay. I have to get a colonoscopy."

15 So if you're hoping that yours is
16 negative -- and I hope it, too -- Merry Christmas --
17 but my whole thing is that it's wonderful. We're
18 welcoming it with open arms because that's going to
19 help us out tremendously --

20 CHAIRPERSON OLSON: Okay. That's been
21 bothering me so thank you for clearing that up.

22 DR. TASIPOULOS: -- so that -- no, no.
23 You're welcome.

24 So -- no. So that's -- you know, so you're

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

130

1 right. That's going to take some screening away, but
2 it's going to give us more therapeutic colonoscopies
3 and endoscopies.

4 MEMBER BURDEN: That's exactly what I
5 was going to say.

6 It's going to decrease the screening amount,
7 the same problem I deal with with PSA targeting,
8 essentially, which is being government funded, because
9 of the numbers of false positive exams that occur
10 because of an elevated P -- same thing. It will -- to
11 end this discussion, you're right and you're right.

12 And it is FDA approved now --

13 DR. TASIPOULOS: Right.

14 MEMBER BURDEN: -- but it isn't, in
15 general, known. So this is new stuff; correct?

16 DR. TASIPOULOS: Right.

17 CHAIRPERSON OLSON: Okay. Well, let's
18 regroup here. Where are we at?

19 Do we want to -- should we accept the
20 deferral and allow these individuals some time to
21 continue to work with our staff and IDPH staff and try
22 to resolve . . .

23 MEMBER BURDEN: Can we put it in a
24 motion so everybody has a chance to come back and --

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

131

1 MEMBER GALASSI: Well, I think they
2 certainly have -- yeah. I'm sorry.

3 MEMBER BURDEN: Go ahead.

4 MEMBER GALASSI: I think they certainly
5 have a right to defer.

6 MEMBER BURDEN: They have asked for
7 it --

8 CHAIRPERSON OLSON: Well, I have a
9 motion on the floor, so we either need that motion
10 rescinded --

11 MR. CONSTANTINO: I think --

12 MEMBER GALASSI: That was my motion.

13 MR. CONSTANTINO: Can I make --

14 CHAIRPERSON OLSON: Yes, please.

15 MR. CONSTANTINO: Can I make one
16 comment, Kathy?

17 CHAIRPERSON OLSON: Yes.

18 MR. CONSTANTINO: I think they're going
19 to have to have a Board deferral. This is their
20 six-month time frame. I think the Board's going to
21 have to defer it --

22 CHAIRPERSON OLSON: Okay.

23 MR. CONSTANTINO: -- instead of the
24 Applicant deferring it.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

132

1 CHAIRPERSON OLSON: So if we rescind --
2 let me be sure I'm clear.

3 If we rescind a motion that's on the table
4 and a Board member makes the motion to defer and they
5 get the 5 votes to defer, then they're still within
6 their time frame so we're not going to jack them up on
7 their time frame?

8 MR. CONSTANTINO: Yes.

9 MS. AVERY: Yeah, it was deny.

10 MEMBER GALASSI: But are we just making
11 a motion with a general deferral period?

12 CHAIRPERSON OLSON: No. I have a motion
13 here that I'll read, but first we need to know if you
14 want to rescind your --

15 MEMBER GALASSI: I'll rescind the
16 original motion.

17 (Discussion off the record.)

18 CHAIRPERSON OLSON: So I'm looking for a
19 motion to refer this project and the Applicant to
20 legal counsel for review and filing of any notices of
21 noncompliance and possible sanctions and -- I'm going
22 to add -- and possible solutions.

23 MEMBER GALASSI: So moved.

24 MEMBER BURDEN: Second.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

133

1 THE COURT REPORTER: Sir, would you tell
2 me your name, please, on the end.

3 DR. TASIPOULOS: John Tasiopoul os,
4 T-a-s-i-o-p-o-u-l-o-s.

5 THE COURT REPORTER: Thank you.

6 MEMBER GALASSI: That was tough at 6.

7 DR. TASIPOULOS: I know. Right?

8 (Discussion off the record.)

9 CHAIRPERSON OLSON: Okay. All right.
10 So maybe I'm going to rescind this motion.
11 Did we get a second?

12 MEMBER BURDEN: Yes.

13 MEMBER GALASSI: Yes.

14 CHAIRPERSON OLSON: What Courtney's
15 telling me is, if we have the motion to defer and
16 unanimously vote for the motion to defer, we don't
17 have to put in all this other stuff. You would work
18 with . . . you'll work with our staff and . . .

19 (Discussion off the record.)

20 MEMBER GALASSI: But why not give that
21 direction?

22 CHAIRPERSON OLSON: Yeah. I think I'm
23 going to . . .

24 MEMBER GALASSI: I mean, otherwise --

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

134

1 CHAIRPERSON OLSON: Do you have a
2 problem with that, if we leave that language in there?

3 Or -- I mean, isn't that what you're saying
4 you want to do, is to work with IDPH and our legal
5 counsel and our staff to try to see if we can't find
6 some resolution or to help you?

7 Or would you prefer a motion just to defer?

8 MS. FRIEDMAN: Yeah, I --

9 MEMBER GALASSI: I'm sorry to interrupt.

10 CHAIRPERSON OLSON: Please.

11 MEMBER GALASSI: I don't think in this
12 situation I'm necessarily concerned with what they
13 want, with all due respect.

14 MR. URSO: Right.

15 MEMBER GALASSI: We need legal
16 definition because we don't know if we're going to be
17 between our legal staff and IDPH legal staff --

18 CHAIRPERSON OLSON: Yeah, I --

19 MEMBER GALASSI: -- or they're going to
20 be in agreement. I think --

21 CHAIRPERSON OLSON: I don't disagree
22 with what you're saying.

23 But I think -- I believe we have an
24 Applicant who's gotten like -- to take your words --

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

135

1 between a -- caught between a rock and a hard place.
2 There was no intention here to scam any system; there
3 was no -- I just want to try to help them resolve it.

4 And I understand the Board needs to know
5 that we're resolving it in a legal manner so we don't
6 have somebody come back to you six months from now and
7 go, "Oh, no, we can't do this."

8 And if I'm hearing what you're saying
9 correctly, this is probably a bigger issue than we're
10 even realizing here so we're setting precedent.

11 Yes, Doctor.

12 DR. ALRASHID: Before we leave, I just
13 want to bring to your attention that our practice
14 probably performs the most challenging work in the
15 county when it comes to GI service. We take care of
16 Lambs Farm and -- you know, those patients with mental
17 and developmental disabilities.

18 And it's very, very hard to take care of
19 those patients. They've -- you know, their care, they
20 do take forever to start an IV and to put them to
21 sleep. I mean, literally last week I have to promise
22 one of the patients I'll bring him a Big Mac if he
23 agrees that the IV gets started. I promise you.

24 We take care of Winchester House, which is a

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

136

1 nursing home, State run. And we -- we're exclusively
2 providing service to them.

3 We have a long relation with Lake County
4 Health Department. Personally in 2001, when I started
5 the practice, I volunteered at Lake County Health
6 Department for almost two years, volunteer job.
7 I started the hepatitis C. Dr. Ginsberg was the
8 medical doctor at that time, and I was taking care of
9 those patients for free.

10 We are now in agreement -- we have an
11 agreement with Lake County Health Department to
12 provide free-of-charge colonoscopies for uninsured
13 patients. Up to this year, since we signed the
14 agreement, we've done 23 colonoscopies for that -- for
15 those population.

16 So I just want to bring to your attention
17 what we do. And I want to -- the Board to be aware of
18 it. That's all.

19 MEMBER BURDEN: We probably should move
20 on, but I heard you mention "IV."

21 Are you using Versed or other agents in your
22 practice to take care of these Lambs Farm patients who
23 require sedation to go forward with colonoscopy?

24 DR. ALRASHID: Yes, we do.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

137

1 MEMBER BURDEN: Do you have a nurse
2 anesthetist -- do you have -- who does the anesthesia?

3 DR. ALRASHID: Actually, Dr. Burden, we
4 use propofol, and it's a -- we have a --

5 MEMBER BURDEN: So did Michael
6 Jackson --

7 DR. ALRASHID: -- nurse anesthetist
8 that --

9 THE COURT REPORTER: Wait, wait, wait,
10 please. Please make a record, one at a time.

11 MEMBER BURDEN: I'm sorry.
12 We were talking about what you use.

13 CHAIRPERSON OLSON: He said they have a
14 nurse anesthetist.

15 DR. ALRASHID: We have a nurse
16 anesthetist.

17 MEMBER BURDEN: You do have a nurse
18 anesthetist on board?

19 DR. ALRASHID: Yes.

20 MEMBER BURDEN: Fine. I'm married to
21 one. That's why I'm saying something about it.

22 DR. ALRASHID: We have a group of CRNAs
23 who work with us.

24 MEMBER BURDEN: Okay. Thank you.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

138

1 THE COURT REPORTER: Thank you.

2 CHAIRPERSON OLSON: Okay. I have a
3 motion and a second on the floor. Are we comfortable
4 with voting on that motion?

5 The motion is to defer this project and the
6 Applicant to legal counsel for review and filing of
7 any notices of noncompliance and possible sanctions
8 and -- I'm adding -- and solutions.

9 VICE CHAIRMAN HAYES: So moved.

10 MEMBER BURDEN: Second.

11 CHAIRPERSON OLSON: May I have a roll
12 call, please?

13 MR. ROATE: Motion made by Mr. Hayes;
14 seconded by Dr. Burden.

15 Dr. Burden.

16 MEMBER BURDEN: Yes, for the reasons
17 we've discussed at length today.

18 MR. ROATE: Mr. Galassi.

19 MEMBER GALASSI: Yes, based upon our
20 prior dialogue.

21 MR. ROATE: Mr. Hayes.

22 VICE CHAIRMAN HAYES: Yes, based on the
23 prior dialogue.

24 MR. ROATE: Mr. Sewell.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

139

1 MEMBER SEWELL: Yes, for reasons stated.

2 MR. ROATE: Madam Chair.

3 CHAIRPERSON OLSON: I vote yes, as well.

4 And for the record, Doctors, I think you're
5 really good guys and don't worry about that.

6 DR. TASIPOULOS: Thank you.

7 CHAIRPERSON OLSON: Your charity care is
8 very impressive.

9 MEMBER GALASSI: Yes, it is.

10 MR. ROATE: That's 5 votes in the
11 affirmative.

12 CHAIRPERSON OLSON: The motion passes.

13 And Kara will get with you and make sure
14 that we can get this worked out and see you in
15 January.

16 MS. FRIEDMAN: Yeah. I hope having
17 resolution with IDPH in the next couple days helps to
18 direct the way this needs to go because, as you said,
19 with them compelling licensure, I'm not sure what else
20 we're supposed to do besides come back to you again.

21 MEMBER GALASSI: I'm not, either.

22 MS. FRIEDMAN: Okay.

23 MEMBER GALASSI: For the record,
24 Winchester House is County run.

**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
WINCHESTER ENDOSCOPY CENTER**

140

1 DR. ALRASHID: Oh, that's right. Sorry.

2 MEMBER GALASSI: It's quite all right.

3 MS. FRIEDMAN: Okay.

4 DR. TASIPOULOS: Thank you.

5 CHAIRPERSON OLSON: Thank you. Thanks

6 for taking the time to come.

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**SUBSEQUENT TO INITIAL REVIEW -- 12/16/14
FRESENIUS MEDICAL CARE, GRAYSLAKE**

141

1 CHAIRPERSON OLSON: Next we have
2 Fresenius Medical Care, Grayslake.

3 Do I have a motion to approve
4 Project 14-029, Fresenius Medical Care, Grayslake, to
5 establish a 12-station ESRD facility in Grayslake?

6 MEMBER GALASSI: Are they licensed?

7 CHAIRPERSON OLSON: I'm looking for a
8 motion, not a license.

9 MEMBER GALASSI: So moved.

10 MEMBER SEWELL: Second.

11 CHAIRPERSON OLSON: Please be sworn in.

12 THE COURT REPORTER: Raise your right
13 hands, please.

14 (Three witnesses duly sworn.)

15 THE COURT REPORTER: Thank you. And
16 please print your names.

17 CHAIRPERSON OLSON: State Board staff
18 report, please, Mike.

19 MR. CONSTANTINO: Thank you, Madam
20 Chairwoman.

21 The Applicants are proposing to establish a
22 12-station ESRD facility in Grayslake, Illinois, at a
23 cost of approximately \$4.2 million.

24 There was no public hearing, one letter of