FOLEY
FOLEY & LARDNER LLP

ATTORNEYS AT LAW
321 NORTH CLARK STREET, SUITE 2800
CHICAGO, IL 60654-5313
312.832.4500 TEL
312.832.4700 FAX
WWW.FOLEY.COM

WRITER'S DIRECT LINE
312.832.4375
egreen@foley.com EMAIL

CLIENT/MATTER NUMBER
026141-0148

May 25, 2017

Via Email

Mr. Michael Constantino
Supervisor, Project Review Section
Illinois Health Facilities & Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, IL 62761-0001

Re: Silver Oaks Hospital, Project No. 17-009

Dear Mike:

As you know, we are counsel to Silver Oaks Behavioral LLC d/b/a Silver Oaks Hospital ("Silver Oaks Hospital"), Silver Oaks Behavioral Realty LLC ("Silver Oaks Realty"), New Lenox Behavioral Innovations LLC ("NLBI"), New Lenox Behavioral Innovations Realty LLC ("NLBI Realty"), US Healthvest LLC ("USHV"), and Silver Cross Hospital and Medical Centers ("Silver Cross Hospital," and collectively with Silver Oaks Hospital, Silver Oaks Realty, NLBI, NLBI Realty and USHV, the "Applicants") in regard to the above-referenced Project.

On behalf of the Applicants, please insert the attached pages between pages 257 and 258 of the Certificate of Need Application for the above-referenced Project.

Please call or write if you have any questions.

Sincerely,

Edward J. Green

cc: Ms. Ruth Colby, Senior Vice President & CSO, Silver Cross Hospital & Medical Centers
Ms. Martina Sze, Executive Vice President, US Healthvest LLC

4818-6069-1273, v. 1

The Applicants have submitted thirty referral affidavits in support of the Project. To meet the technical requirements of 77 Il. Admin. § 1110.730(c)(3)(B), a referral affidavit needs to: (1) list the number of patients who received care at an existing facility by zip code (emphasis added) in the past 12 months; (2) list the number of patients who will be referred to the new facility over the next 24 months; (3) be signed by a physician; and (4) contain an attestation that the referrals have not be used to support another pending or approved CON for the same services.

Unfortunately, in the context of mental health, many of the referral sources do not track the zip codes of the mental health patients they refer and/or do not employ a physician. In other words, a mental health referral does not follow the same course as, for example, a case count affidavit from a surgeon performing surgeries at a hospital or a surgery center. In the latter case, a surgeon can review his/her medical charts or billing records, which, by definition, are very precise and contain readily identifiable patient information. In the former case, a paramedic or a police officer responding to a 911 call, for example, may only know where they picked up the mental health patient (e.g., walking along a busy street causing a traffic delay) prior to transporting the 911 mental health patient to an emergency department at a local hospital.

And to state the obvious, in the above example, neither paramedics nor police officers (i.e., the original "referring sources") are medical doctors. So, under the technical requirements of 77 Il. Admin. § 1110.730(c)(3)(B), a referral affidavit from the fire department that employs the paramedic, or the police department that employs the police officer, listing the number of 911 mental health patients that the fire department or police department transported to an emergency department would fail to meet 2 of the 4 elements of 77 Il. Admin. § 1110.730(c)(3)(B). See Affidavit from Howard Stephens, Fire Chief, Mokena Fire Protection District, pages 306-307 of the CON Application, as amended.

Another real world example also highlights why the technical requirements of 77 Il. Admin. § 1110.730(c)(3)(B) are difficult to meet in the mental health context. If a mental health patient walks into an emergency department, the local hospital may not be able to ascertain the address for the mental health patient because the patient could be homeless and/or the mental health patient could refuse (or may be unable) to provide any information relative to their address. If the local hospital does not have an inpatient behavioral health unit, the local hospital could then transfer the mental health patient to another hospital (with an inpatient behavioral health unit) without ever knowing the address of the mental health patient. And throughout this entire process, a licensed crisis social worker (and not a licensed psychiatrist) could have been the main point of contact for the mental health patient and could have coordinated the transfer to the inpatient behavioral health unit at another hospital. In this example, because the address for the patient could not be obtained (and/or was not even asked for), and a medical doctor was not involved, a referral affidavit from the referring, licensed crisis social worker would fail to meet 2 of the 4 elements of 77 Il. Admin. § 1110.730(c)(3)(B). See Affidavit from Latreece Dickerson, Psy.D. Licensed Crisis Social Worker, Advocate South Suburban Hospital, page 314 of the CON Application, as amended.

That said, the Applicants understand that some of the thirty referral affidavits submitted by the Applicants in support of the Project do not meet the technical requirements of 77 Il. Admin. § 1110.730(c)(3)(B) because they lack a physician signature and/or fail to list the zip codes of the patients being referred. However, the Applicants firmly believe that the Review Board can exercise its discretion and rely on the referral affidavits (and not deem them invalid or deficient) given the real world examples/realities set forth above and given the high level of reliability associated with the referral affidavits. Indeed, every single referral affidavit was prepared by an individual or organization on the front lines of the mental health crisis.

4853-2347-8345, v. 1