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HEALTH FACILITIES &
SERVICES REVIEW BOARD



17-044

Please accept this as BRIA Health Services objection to the proposed Smith Crossing expansion project that is under review. In addition to the project failing to meet at least 4 of the 16 criteria to justify approval of the project as determined by this Board, we contend that the proposed project will result in maldistribution of services and will negatively impact the surrounding long term care facilities. A similar case was reviewed by the Illinois Appellate Court in the case of Highland Park Convalescent Center, Inc. v. Illinois Health Facilities Planning Board, 578 N.E. 2d 92, 217 Ill. App. 3d 1088, 160 Ill. Dec. 913 (1991). In that case, Highland Park Convalescent Center's application for a permit to construct a new nursing home facility was denied by this Board and the facility filed an appeal. In upholding the Board's decision the Court first looked to the guidelines imposed by statute on the Board in determining whether to grant a permit.

The Court, quoting from the Statute, stated "the Board should consider a number of factors, including the size, composition and growth of the population of the area to be served; and the number of existing and planned facilities offering similar programs." Ill.Rev. Stat. 1987, ch. 111 ½, par. 1162(1),(3) and (4). The Court went on to cite the Board's own review criteria which states "In assessing whether or not a maldistribution of facilities exists, the State Board will evaluate such factors as (but not necessarily limited to) accessibility, *patient flow patterns, travel time and distance to existing facilities or services and occupancy rates of existing facilities or services*" (Emphasis added).

Moreover, the applicant must demonstrate that the proposed project is intended to meet the needs of the population to be served and that the population to be served is in need of said services. 77 Ill.Adm.Code sec. 1110.230© and (1) (1985). In the Highland Park case, the primary reason the Board denied the project was that it was in an area of Lake County that was already saturated with nursing homes while other areas in the county were still underserved. That, the Board concluded, was maldistribution as defined in the Board's criteria.

In the Highland Park case, the Board's method of determining maldistribution was to divide the planning area into quadrants and then evaluated the geographic need in each area. However, the court noted that other tools are also used including natural barriers and other geographic dividing lines. The court further noted that there is no standard for defining maldistribution and the burden is on the applicant to show why the proposed project is appropriate. This includes the applicant showing what community would be served by the project.

BRIA contends that while the present case differs from the Highland Park case in that the proposed project will have a more negative impact on the neighboring planning area than the project's own planning area. The same criteria used by the Board in Highland Park should be applied to the present case. Smith Crossing is physically located in planning area HSA9. However, in reality, it is across the street from planning area HSA7E where BRIA is located. Smith Crossing's application clearly demonstrated that 87% of its admissions come from planning area HSA7E with only a small percentage of admissions coming from its own planning area. As such, the Board must evaluate the impact this project will have not only within its own planning area which may have a bed need, but also the impact on planning area HSA7E where admittedly, 87% of applicants' admissions come from. Planning area HSA7E is saturated with nursing facilities and there is a significant bed surplus in the area.

In addition, while there is a bed need of 283 beds in HSA9, the bed need is not in the geographical area of Smith Crossing. This is further evidenced by the fact that 87% of its residents are coming from another region that is to the north of Smith Crossing and Smith Crossing is on the Northern Border of HSA9. Furthermore, Alden has been approved to build a 140 bed SNF in HSA9 that is within the drive time and which is closer in proximity to Silver Cross Hospital, which Smith Crossing lists as a referral source for future residents. Based on the foregoing, clearly the bed need in HSA9 is further south and not on the northern border adjacent to HSA7E or near Silver Cross Hospital. Rather, the bed need in HSA9 is in those areas where there are not enough SNF beds to serve the need. Clearly, all the resident needs in the area of HSA9 where Smith Crossing is located is being met as evidenced by the fact that the facilities in the relevant geographical area under the State threshold for occupancy.