



# STATE OF ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

525 WEST JEFFERSON ST. • SPRINGFIELD, ILLINOIS 62761 • (217) 782-3516 FAX: (217) 785-4111

<b>DOCKET ITEM:</b> A-01	<b>BOARD MEETING:</b> August 6, 2019	<b>PROJECT NUMBER:</b> 17-073
<b>PERMIT HOLDERS(S):</b> Illinois Back & Neck Institute		
<b>FACILITY NAME and LOCATION:</b> Illinois Back & Neck Institute, Elmhurst		

## **STATE BOARD STAFF REPORT** **PERMIT RENEWAL REQUEST**

### **I. Background**

On July 24, 2018, the State Board approved Project #17-073. The permit authorized the establishment of an Ambulatory Surgery Treatment Center (ASTC), in Elmhurst.

The State Agency notes the project is obligated, and the current project completion date is June 30, 2019. Project cost: \$790,000.

State Board Staff notes the permit holders submitted the permit renewal request on June 10, 2019. This submittal was not in accordance with 77 IAC 1130.740(d), which states that the State Board must receive renewal requests at least 45 days prior to the permit expiration date. A \$500.00 permit renewal fee and a \$500.00 late fee accompanied the renewal request.

### **II. Findings**

State Board Staff notes this is the first renewal request for this project and the permit holders have submitted all of the information required in Section 1130.740 for a permit renewal.

### **III. The Permit Renewal Request**

- A. Requested Completion Date: The permit holders request a project completion date of June 30, 2020. This would extend the project's completion date twelve months, from June 30, 2019 to June 30, 2020.
- B. Status of the Project and Components Yet to be Finished: The permit holders state the project is proceeding with due diligence. Architectural plans have been submitted to IDPH for review/approval, and IDPH has advised of suggested modifications to the existing structure. The applicants are currently waiting for IDPH approval of their construction plan before initiating the construction phase.
- C. Reason(s) Why the Project Has Not Been Completed: The permit holders' state the project has proceeded with due diligence. However, delays in plan reviews and approvals from IDPH have resulted in the need for this renewal request. Once approved, the permit holders anticipate the construction phase to be no longer than 5-8 weeks.
- D. Evidence of Financial Commitment to Fund the Project: The permit holders indicate that \$5,000 (.06% of the overall project cost of \$790,000) has been expended to date, and can attest to the existence of sufficient financial resources to complete the project.
- E. Anticipated Final Cost of the Project: The permit holders estimate the project will not deviate from the original permit amount of \$790,000.

### **IV. Project Description & Other Background Information**

The permit authorized the conversion of a physician's office into a multi-specialty ASTC in Elmhurst. Project cost: \$790,000.

Permit Issuance Date: July 24, 2018

Project Obligation Date: July 24, 2018

Original Project Completion Date: June 30, 2019

Proposed Project Completion Date: June 30, 2020  
(12-month renewal request)

**V. Applicable Rules for Permit Renewal Requests**

77 IAC 1130.740 specifies that a permit holder may request a change in the approved project completion date by applying for a permit renewal.

77 IAC 1130.230(h)(5) states that failure to complete a project or to renew a permit within the prescribed timeframes will subject the permit holders to the sanctions and penalties provided in the Act and this Subpart.

77 IAC 1130.740(b) states that a permit renewal will commence on the expiration date of the original or renewed completion period.

77 IAC 1130.740(c) states that the State Board must be in receipt of a permit renewal request at least 45 days prior to the expiration date of the completion period, and include the following: 1) the requested completion date; 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date; 3) a statement as to the reasons why the project has not been completed; and 4) confirmatory evidence by the permit holders' authorized representative that the project's costs and scope are in compliance with what the State Board approved and that sufficient financial resources are available to complete the project.

77 IAC 1130.740(d) states the State Board staff will review the request and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, and if this is the first request for this project, then the request, staff's findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, will approve, deny or refer the request to the HFSRB for action. If staff finds that all criteria are not positive or, if this is not the first request for this project, or if the Chairman refers this to HFSRB for action, then HFSRB will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in 77 IAC 1130.140). Denial of a permit renewal request constitutes HFSRB's Notice of Intent to revoke a permit and the permit holders will be afforded an opportunity for an administrative hearing.

**VI. Other Information**

Appended to this report are the following: the permit holders' documents for a permit renewal.



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June 7, 2019

**RECEIVED**

JUN 10 2019

**HEALTH FACILITIES &  
SERVICES REVIEW BOARD**

**VIA FEDEX**

Courtney Avery  
Board Administrator  
Health Facilities and Services Review Board  
Illinois Department of Public Health  
525 West Jefferson Street, Second Floor  
Springfield, Illinois 62761

**Re: Permit Renewal Request-Illinois Back & Neck Institute, Project #17-073**

Dear Ms. Avery:

On July 23, 2018 16, 2016, the Illinois Health Facilities and Services Review Board ("HFSRB") approved Project #17-073, an application to establish an Ambulatory Surgical Treatment Center ("ASTC") that will provide orthopedic and pain management surgical services. The facility will be located at 360 West Butterfield Road, Suite 100, Elmhurst, Illinois 60126. The purpose of this letter is to request a Permit Renewal pursuant to 77 Ill. Admin. Code 1130.740. Enclosed you will find a check with the permit renewal fee. This is our first renewal request.

**Request Project Completion Date**

The permit holder requests that the HFSRB grant a permit renewal and establish Tuesday, June 30, 2020 as the project completion date for this project. If the new project completion date is approved we will be required to submit an annual progress report. Pursuant to 77 Ill. Admin. Code 1130.760, please accept this as our annual progress report.

**Status of the Project**

This project involves the conversion of an existing medical office practice into a limited specialty ASTC. The Illinois Department of Public Health ("IDPH") requires any ASTC that provides more than one category of service to meet the standards and requirements of a multi-specialty ASTC. The permit holders completed an ASTC project submission form and submitted the form and architectural rendering of the facility to the IDPH Life Safety and Construction Division for review.

IDPH architect William Bender provided comments to the permit holders and stated that modifications would be required to bring the existing facility into compliance with the applicable IDPH regulations. The permit holders have engaged an architect who has been in communication with Mr. Bender and IDPH and seeking approval of modified plans for the facility to begin the modifications necessary to bring the facility space into compliance with applicable IDPH regulations.

#### **Statement Regarding Project Completion**

Given the delays associated with obtaining approval from IDPH for the modifications necessary to bring the facility in compliance with IDPH regulations we have no choice but to seek a permit renewal at this time. Prior to our most recent submission of plans to IDPH we sought a waiver for one of the issues cited by the Department. However, IDPH is unable to grant a waiver for the width of the hallway between the procedure room and the recovery area of the facility. IDPH regulations for multi-specialty ASTCs require an 8 foot clearance, between the aforementioned areas and the facility does not currently meet that requirement.

Upon approval of our construction plan from IDPH Life Safety and Construction Division, work will begin immediately at the facility. A general contractor has already been selected at this time. The time and diligence we have undertaken over the last several month was dedicated to facilitating the orderly design and actualization of this project. Once construction is cleared to begin we do not anticipate it taking longer than 5-8 weeks. However, given the scope of the overall undertaking, we are requesting additional time to ensure appropriate completion of the project.

To date approximately \$5,000 of the approved \$790,000 has been expended on the project. The remaining components are design, construction, and related to lease costs. As a result of the modifications requested by IDPH we will be filing an alteration request to increase the project costs and gross square feet of the project.

#### **Confirmatory Evidence of Permit Compliance**

Enclosed is a verified statement from Neema Bayran, M.D. that confirms the permit holders are currently complying with the scope, costs, and conditions of the project approved by the HFSRB, pursuant to the permit letter issued for this project. Additionally, the aforementioned verified statement confirms that there are sufficient financial resources available to complete this project.

If you have any questions or need any additional information regarding the project or this permit renewal request, please feel free to contact me at 312-212-4967.

June 7, 2019

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Very truly yours,

BENESCH, FRIEDLANDER,  
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado, Jr.", with a stylized flourish at the end.

Juan Morado, Jr.

JM:

Enclosures

cc: Jeannie Mitchell, General Counsel (via email)  
Mike Constantino, Senior Project Reviewer (via email)

**State of Illinois  
County of Cook**

**Verification**

I, Neema Bayran, M.D., being first duly sworn, on oath, depose and state as follows:

1. I serve as Chief Executive Office for Illinois Back & Neck Institute, LLC ("IBNI").
2. This project involves the establishment of an ASTC at 360 Butterfield Road, in Elmhurst, Illinois 60126. The delays to date have concerned obtaining approval from the Illinois Department of Public Health for approval of our modification plans. We have otherwise met the commitments reflected in the permit letter issued for this project.
3. Our project costs remain consistent with the terms of the project approved by the Illinois Health Facilities and Services Review Board, Project #17-073.
4. The project's costs and scope currently comply with the application the HFSRB approved for Project # 17-073. We will be filing an alteration request to increase the size and cost of the project.
5. Sufficient financial resources remain available for IBNI to complete Project #17-073.

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

Neema Bayran (signature)

6/7/19 (date)