

July 13, 2018

**VIA HAND DELIVERY**

Courtney Avery  
Board Administrator  
Illinois Health Facilities and Services Review Board  
525 West Jefferson Street, Second Floor  
Springfield, IL 60602

**RECEIVED**

**JUL 16 2018**

**HEALTH FACILITIES &  
SERVICES REVIEW BOARD**

Re: Comments in Response to the State Board Staff Report, Project #17-073, Illinois  
Back & Neck Institute

Dear Courtney:

We represent Illinois Back & Neck Institute, LLC ("IBNI") in connection with Project #17-073, Illinois Back & Neck Institute. We would like to thank you and the Board Staff for your efforts in reviewing our application for this project. We would like to take this opportunity to provide comments in response to the findings of the recently released State Board Staff Report ("SBSR").

We fully anticipated a finding of non-conformance with the Service Accessibility (77 Ill. Admin. Code 1110.235(c)(6)), and Unnecessary Duplication of Service/Maldistribution/Impact on other Facilities (77 Ill. Admin. Code 1110.235(c)(7)(A)(B)(C)) review criteria. We look forward to making the case to the Board regarding the worthiness of this project and our desire to continue serving our existing patient base. We ask the Board members to look beyond the simple question of whether capacity exists, and to dig deeper into the type of capacity that exists. Of the top ten closest Ambulatory Surgical Treatment Centers ("ASTC") to the proposed project site (listed in table six), only four accept Medicaid, and only two provide the exact same services that this project does (DMG Surgery Center with 9 operating rooms and Loyola Ambulatory Surgery Center with 3 operating rooms). What makes this project unique is that this limited specialty facility with one surgery suite will be dedicated to providing services in the orthopedic and pain management categories exclusively. We have already begun efforts and intend to contract with all seven Medicaid managed care organizations, and we have a strong commitment to serving this vulnerable patient population. Finally, we can state with full confidence that this facility will not impact existing providers because we already have an existing patient population that we currently serve and will continue serve in this facility.

In regards to the finding of non-conformance for Financial Viability (77 Ill. Admin. Code 1120.130), the SBSR states that we did not supply projected financial viability ratios or audited

financial statements, to determine our ability to fund the project in its entirety. This is true, however, it is important to note that the rules states:

**Section 1120.130 Financial Viability – Review Criteria**

a) Financial Viability Waiver

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

- 1) all project capital expenditures, including capital expended through a lease, ***are completely funded through internal resources (cash, securities or received pledges)***; or

HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.

b) Viability Ratios

Applicants that are responsible for funding or guaranteeing funding of the project shall provide viability ratios for the latest three years for which audited financial statements are available and for the first full fiscal year at target utilization, but no more than two years following project completion.

As noted in the application submitted for this project, the entirety of the project will be ***completely funded through internal resources***, and for this project in particular those resources are ***cash***. Therefore, this project qualifies for the financial viability waiver and should have been found in conformance with the criteria. Because the project qualifies for the financial viability waiver, we are not required to supply projected financial viability ratios or audited financial statements (which do not exist as the LLC is newer and has not undergone an audit to date). As required under the rules we will make available documentation of the availability of internal resources as of the date the application is deemed complete. However, in an effort to provide this Board with additional assurance of our ability to not only complete this project but to sustain operations for the foreseeable future, we have attached viability ratios (Attachment A) for the 1st year of operation using information already submitted with the application. As you will see, this project meets all of the Board's financial viability ratios.

Finally, the SBSR states that the application is not in conformance with the Reasonableness of Project Costs (77 Ill. Admin. Code. 1120.140(c)) criteria. As you are aware from our request for a type B modification, we made significant reductions in the project costs associated with this application. Due to a Scribner's error we failed to include the reduced contingency costs in our original type B modification request. The contingency cost should reflect a reduction that would bring the contingency line in conformance with the Board standard and would have resulted in a finding of conformance for the criteria as a whole. This reduction would also be consistent with the other reductions made in the project costs. We would be grateful if the Board were to include this reduction in our original type B modification request, however, we are also open to a making the approval of this project contingent on the reduction in contingency line.

We thank you and your staff for your review of this project. If you should have any questions, please do not hesitate to contact me at 312-212-4967 or via email at [JMorado@beneschlaw.com](mailto:JMorado@beneschlaw.com), you can also contact my colleague, Mark J. Silberman at 312-212-4952 or via email at [MSilberman@beneschlaw.com](mailto:MSilberman@beneschlaw.com).

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:  
Attachment

# Illinois Back & Neck, LLC

## Viability Ratios

	Year 1 Annual Operations		Standard
<b>Current Ratio</b>	<b>2.23</b>		<b>1.5 or more</b>
Current Assets=Cash (Net Income)	799,500		
Current Liabilities= (Proect Costs + 1st Rent)	357,202		
Current Assests/ Current Liabilities	2.238230038		

<b>Net MarginPercentage</b>	<b>91%</b>		<b>3.5 or more</b>
Net Income	799,500		
Net Operating Revenues	871500		
Net Income/ Net Operating Income	91.7383821		

<b>Long-Term Debt to Capitalization</b>	<b>29%</b>		<b>80% or less</b>
Long-Term Debt	327,805.73		
Long-Term Debt plus Net Assests	1,127,305.73		
(Long-Term Debt/Long-Term Debt plus Net Assests) * 100	29.07868924		

<b>Project Debt Service Coverage</b>	<b>4.48</b>		<b>1.75 or more</b>
Net Income	799,500		
Princpal payment + interest	178,601		
Net Income plus (Depreciation plus intersts plus amortization)/Principal Payments plus Interest Expense for the Year of Maximum Debt Service after Project Completion	4.48		

<b>Days Cash on Hand</b>	<b>137</b>		<b>45 days or more</b>
Cash plus investments plus Board Designated Funds)	276,699		
Daily Operating Expenses	2010.77		
(Cash plus investments plus Board Designated Funds)/(Daily Operating Expenses)/365 Days	137.6084783		

<b>Cushion Ratio</b>	<b>4.48</b>		<b>3.0 or more</b>
Cash + Investment + Board Designated Funds	799,500		
Princpal & Interest Payments	178,601		