



April 21, 2019

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Via E-mail
Via Hand Delivery

Mr. Richard H. Sewell
Interim Chair
Illinois Health Facilities and Services Review
Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

**Re: Ophthalmology Surgery Center of Illinois (Proj. No. 18-047)
Response to State Board Report**

Dear Mr. Sewell:

Polsinelli PC represents the applicant in the above-referenced matter and are writing in response to the Illinois Health Facilities and Services Review Board's ("State Board") findings on the Ophthalmology Surgery Center of Illinois application for permit to establish an eye surgery clinic in Itasca, Illinois (the "Planned Eye Center"). Pursuant to Section 6(c-5) of the Illinois Health Facilities Planning Act (the "Planning Act"), we submit the following in response to the State Board's findings.

1. State Board Findings

As previously documented, the primary purpose of the Planned Eye Center is to improve access to cataract surgery to low income Medicaid patients. Until one's vision is materially impaired, it is easy to take for granted the essential role that vision plays in everyday life. Vision influences learning, communication, work, play and interacting with the world. Yet millions of Americans live with visual impairment that is correctable by cataract surgery. The eyes are an important, but often overlooked, part of overall health.

Optometrists are the primary care providers for vision-related conditions, and, as a key collaborator with those providers, the Planned Eye Center received strong support from

optometrists and the primary Illinois optometry school and state association. The providers supporting the Planned Eye Center have a large Medicaid patient base, and are not able to schedule their Medicaid patients for surgery with significant delays. As of March 25, 2019, the physicians who received Medicaid referrals from optometrist had 206 Medicaid patients on its wait list to schedule surgery at local hospitals. Further, hospitals are an inappropriate high-cost site for cataract surgery and scheduling those cases in hospitals rather than in an ambulatory surgery center is a waste of valuable resources. The Planned Eye Center will greatly improve access to cataract surgery for Medicaid patients and will provide such surgery in a lower cost setting, a benefit not available currently given the area surgery centers' policies not to accept Medicaid patients.

a. Geographic Service Area

The Planned Eye Center has a technical deficit in the State Board report on the did not Geographic Service Area criterion because Kovach Eye Institute ("KEI") provides care to patients in a large area of metropolitan Chicago out of four offices in the metropolitan Chicago area. Itasca was identified as an appropriate site for the planned center because it is the most centrally located place within the Planned Eye Center's catchment area. Because KEI has a regional reputation among area optometrists for accepting Medicaid patients, patients will come from throughout metropolitan Chicago as reflected in the zip code origin data provided in the application and as reflected on the map attached as Exhibit A. We do not believe the fact of KEI's broad acceptance of Medicaid patients should be an impediment to the project given the benefits of the Planned Eye Center to metro Chicago area Medicaid residents; rather it is a benefit. The Planned Eye Center will enhance the health care safety net for low income providers. Further as noted above and as discussed in the March 27, 2019 KEI support letter, KEI has a large Medicaid patient base and has had difficulty scheduling surgeries for its Medicaid patients. KEI has attempted to schedule procedures at area surgery centers but has been repeatedly informed those providers do not accept Medicaid patients. Given one of the primary purposes of the Planned Eye Center is to improve access to eye surgery to low income Medicaid patients, it is presumed the Planned Eye Center will treat many Medicaid patients who reside outside the 10 mile geographic service area.

b. Service Accessibility

State Board staff notes there are eight surgery centers within 10 miles of the Planned Eye Center and several have some level of Medicaid patients. The Planned Eye Center will provide both ophthalmology and laser eye surgical procedures and participate in Medicaid. To perform laser eye surgery requires specialized equipment housed in a dedicated procedure room. Surgery

centers in the geographic service area either do not have the specialized equipment or do not accept Medicaid, or do not have open medical staffs. Specifically, note the following:

- The objecting surgery centers from where KEI will transfer its cases which are affiliated with Surgical Care Affiliates (Naperville Surgical Center and Midwest Center for Day Surgery) do not accept Medicaid patients. This is documented with specificity in the March 27 KEI letter and is also reflected in the annual survey reports. Again, those centers do not accept Medicaid patients.
- Northwest Surgicare treated only one Medicaid patient in 2017 and it is highly unlikely it would accept all of KEI's Medicaid surgical patients. KEI physician applied for medical staff privileges and were told the surgery center was not open to KEI physicians.
- Northwest Community Day Surgery Center does not have the highly specialized equipment for laser eye procedures and does not perform those cases. They did not respond to inquiries from KEI physicians to join their medical staff.
- Loyola Surgery Center is approved for ophthalmology but only performed two ophthalmology cases in 2017 and does not have the eye lasers and specially trained clinical staff necessary to perform the ophthalmology procedures.
- Hoffman Estates Surgery Center does not accept Medicaid.
- DuPage Eye Surgery Center is the captive surgery center of Wheaton Eye Clinic and has a closed medical staff so is not an option for KEI physicians and their patients
- Golf Surgical Center does not have sufficient block time for the KEI cases and it is also too far east (near the edge of the 10 mile radius) such that it is not a good centralized location for the KEI patient base nor close to the KEI physician offices. Also, this center's commitment to Medicaid patients is negligible (51 of 6,312 cases in 2017 were Medicaid cases).
- Elmhurst Outpatient Surgery Center does not accept Medicaid patients.

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- The Oak Brook Surgical Centre does not have the laser eye procedure equipment necessary to perform the cataract surgeries of KEI. With 1.6% Medicaid (34 cases) and no charity care in 2017, it is not a good fit for KEI's patient base which is nearly 20% Medicaid. -

c. Availability of Funds

The pro forma financial statements submitted with the application for permit were prepared by an independent certified public accountant based upon projected case volume and assumptions provided by management for the first two years of operation. As these financial statements project future performance, there are no accounts that can be audited to confirm the accuracy of the projections. However, management used good faith and best efforts to provide valid assumption data consistent with the project costs identified in the CON application and the applicant believes that the pro forma financial statement is a valid prediction of future financial performance of the Planned Eye Clinic. Also, the terms of the planning financing were detailed in a commitment letter from CIBC dated January 28, 2019.

d. Reasonableness of Project Costs

The architect's fee is consistent with similar projects in this region. Architectural and engineering fees deviated from the State Board standard by only \$2,953. This is due to \$15,000 of interior design fees, which may have been better classified as consulting and other fees. If this amount was reclassified, it would lower architectural and engineering fees to within the State Board standard (10.53%).

Thank you for your consideration of the Applicants' response to the State Board's findings for the Ophthalmology Surgery Center of Illinois application for permit. We look forward to the State Board consideration of this project on April 30th.

Sincerely,



Kara M. Friedman

cc: Wes Becton

Exhibit A

Ophthalmology Surgery Center of Illinois Patient Zip Code Map

