



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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|  |                                  |                            |                     |
|--|----------------------------------|----------------------------|---------------------|
| DOCKET NO:<br><b>H-02</b>                    | BOARD MEETING:<br>April 30, 2019 | PROJECT NO:<br>18-050      | PROJECT COST:       |
| FACILITY NAME:<br>Associated Surgical Center |                                  | CITY:<br>Arlington Heights | Original: \$120,800 |
| TYPE OF PROJECT: Non-Substantive             |                                  |                            | HSA: VII            |

**PROJECT DESCRIPTION:** The Applicant (Associated Surgical Center, LLC) proposes to add orthopedic surgical specialty to a multi-specialty ASTC. The cost of the project is \$120,800 and the expected completed date is June 30, 2019.

## **EXECUTIVE SUMMARY**

### **PROJECT DESCRIPTION:**

- The Applicant (Associated Surgical Center, LLC f/k/a Chicago Surgical Clinic, Ltd.) proposes to add orthopedic surgical specialty to a multi-specialty ASTC. The cost of the project is \$120,800 and the expected completed date is June 30, 2019.

### **BACKGROUND**

- In December 2012 (Permit #12-076) the State Board approved the Applicant to establish a multi-specialty ASTC with two operating rooms, one procedure room and six recovery stations that would provide obstetrics/gynecology, dermatology, gastroenterology, general/other, ophthalmology, oral/maxillofacial, plastic, pain management, podiatry, otolaryngology, and urology [See #12-076 Application for Permit page 27]. The ASTC was licensed in June of 2016.
- At the time of approval, the Applicant provided 18 physician referral letters with 1,875 projected referrals with an expected utilization of 4,901 hours by the second year after project completion. That number of referrals has never materialized.
- On March 13, 2017 the Chairman of the State Board approved a change of ownership of Chicago Surgical Clinic, Ltd to Associated Surgical Center, LLC. This change of ownership was a related party transaction as Dr. Yelena Levitan owned 100% of Chicago Surgical Clinic, Ltd. and owns 100% of the membership interests of Associated Surgical Center, LLC.
- Below is the historical data for the facility as reported to the State Board.

|                      | 2016      |       | 2017      |       |
|----------------------|-----------|-------|-----------|-------|
| Surgical Specialties | Surgeries | Hours | Surgeries | Hours |
| Gastroenterology     | 39        | 25    | 324       | 202   |
| General Surgery      | 61        | 85    | 111       | 229   |
| Total                | 100       | 110   | 435       | 431   |

|                   | 2016     |         | 2017      |         |
|-------------------|----------|---------|-----------|---------|
| Medicare          | \$0      | 0.00%   | \$46,630  | 8.20%   |
| Medicaid          | \$0      | 0.00%   | \$0       | 0.00%   |
| Private Insurance | \$12,510 | 36.24%  | \$421,058 | 74.06%  |
| Private Pay       | \$22,008 | 63.76%  | \$89,386  | 15.72%  |
| Charity Care      | \$0      | 0.00%   | \$11,428  | 2.01%   |
| Total             | \$34,518 | 100.00% | \$568,502 | 100.00% |

- Between June and September of 2018, the ASTC enrolled in the following Medicaid programs, performing cases on 54 patients during that period:
  - Blue Cross and Blue Shield IL Community Family Health Plan
  - Blue Cross and Blue Shield Community MMAI
  - Meridian Health
  - IlliniCare
  - IPA Medicaid

**WHY THE PROJECT IS BEFORE THE STATE BOARD:**

- The proposed project is before the State Board because the project adds a surgical specialty to an existing licensed Ambulatory Surgical Treatment Center per 77 ILAC 1110.235 (b).

**PURPOSE OF THE PROJECT:**

- The Applicant stated: *“The purpose of the proposed project is to provide an avenue for orthopedic surgeons to perform cases at the Associated Surgical Center.”*

**PUBLIC HEARING/COMMENT:**

- No public hearing was requested, and no letters of opposition were received by the State Board Staff. Letters of support were received from
  - Daniel Maksimovich M.D.
  - Alex Etman, SVET International Publishing Group
  - Dr. John David Kane
  - Guiseppe Gaglaridi, M.D.

**SUMMARY:**

- This ASTC was approved as a multi-specialty ASTC based in part upon the 1,875 physician referrals that have not materialized (see Table above). The Applicant has not met the following criteria.

| State Board Standards Not Met   |   |
|---|---|
| Criteria  | Reasons for Non-Compliance  |
| 77 ILAC 1110.120 (b) – Projected Services Utilization                       | The Applicant is proposing to add a twelfth surgical specialty-orthopedics. As shown above, the ASTC operated at 10% utilization in 2017. Of the eleven specialties approved by the State Board only two specialties have been performed at the ASTC through 2017. No evidence has been provided by the Applicant that the approved ASTC will be at the State Board’s target occupancy of 80% utilization (1,500 hours per operating/procedure room). [See page 8 of this report] |
| 77 ILAC 1110.235 (c) (3) (A) & (B) – Service Demand-Additional ASTC Service | The Applicant has failed to provide enough demand for the existing surgical specialties currently approved for this ASTC and there is no evidence that this utilization will improve with the addition of another surgical specialty. The Applicant is projecting 70 orthopedic referrals to the ASTC or 140 hours. [See page 10-11 of this report]   |
| 77 ILAC 1110.235 (c) (6) – Service Accessibility                            | The proposed additional surgical specialty (orthopedic surgery) will not improve service accessibility because there are existing ASTCs and a hospital currently providing orthopedic surgery and are currently underutilized. Additionally, this ASTC is not a cooperative venture with a hospital. [See page 12 of this report]   |
| 77 ILAC 1110.235 (c) (7) – Unnecessary Duplication of Service               | The Applicant is proposing to add a 12 <sup>th</sup> surgical specialty (orthopedic) surgery to a multi-specialty ASTC. The Applicant is not adding operating/procedure   |

| State Board Standards Not Met |   |
|-------------------------------|---|
| Criteria                      | Reasons for Non-Compliance  |
|                               | rooms to this ASTC. It appears that adding the orthopedic surgical specialty to this ASTC in this 10-mile GSA when there is one hospital and three ASTCs that provide this specialty with existing unused capacity is an unnecessary duplication of service. [See page 13 of this report] |

**STATE BOARD STAFF REPORT**  
**Associated Surgical Center**  
**Project #18-050**

| APPLICATION/ CHRONOLOGY/SUMMARY                  |   |
|--|---|
| Applicants(s)                                    | Associated Surgical Center, LLC                 |
| Facility Name                                    | Associated Surgical Center                      |
| Location   | 129 West Rand Road, Arlington Heights, Illinois |
| Permit Holder                                    | Associated Surgical Center, LLC                 |
| Operating Entity/Licensee                        | Associated Surgical Center, LLC                 |
| Owner of Site                                    | Rand Road Center, LLC                           |
| Application Received                             | December 31, 2018                               |
| Application Deemed Complete                      | January 3, 2019                                 |
| Financial Commitment Date                        | June 30, 2019                                   |
| Anticipated Completion Date                      | June 30, 2019                                   |
| Review Period Ends                               | March 2, 2019                                   |
| Review Period Extended by the State Board Staff? | No  |
| Can the Applicants request a deferral?           | Yes   |

**I. Project Description**

The Applicant (Associated Surgical Center, LLC) proposes to add orthopedic surgical services to a multi-specialty ASTC. The cost of the project is \$120,800 and the expected completed date is June 30, 2019.

**II. Summary of Findings**

- A. State Board Staff finds the proposed project not in conformance with all relevant provisions of Part 1110.
- B. State Board Staff finds the proposed project in conformance with all relevant provisions of Part 1120.

**III. General Information**

The Applicant is Associated Surgical Center, LLC with 100% of the membership interest owned by Dr. Yelena Levitin. Dr. Levitin has stated that she will maintain, at minimum, a 50% ownership interest in the LLC for a minimum of two years. Dr. Yelena Levitin, MD, is a General Surgery specialist and is the medical director of Associated Surgical Center, LLC.

This is a non-substantive project subject to a Part 1110 and Part 1120 review. Non-substantive projects are all projects not considered substantive. Substantive Projects include no more than the following:

- o *Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.*
- o *Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*

- *Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

#### **IV. Project Details**

The Applicant is proposing to add orthopedic surgical specialty to its existing multi-specialty ASTC. The Applicant has been approved to perform obstetrics/gynecology, dermatology, gastroenterology, general/other, ophthalmology, oral/maxillofacial, plastic, pain management, podiatry, otolaryngology, and urology.

#### **V. Health Service Area**

The facility is located in the HSA VII Health Service Area. There are 46 ASTCs in this service area and 38 Hospitals.

#### **VI. Project Uses and Sources of Funds**

The Applicant is funding this project with cash in the amount of \$120,800.

| <b>TABLE ONE</b>                         |                  |
|--|------------------|
| <b>Project Uses And Sources Of Funds</b> |                  |
| <b>Uses of Funds</b>                     | <b>Total</b>     |
| Consultant & other fees                  | \$40,000         |
| Movable Equipment                        | \$80,800         |
| <b>Total Uses of Funds</b>               | <b>\$120,800</b> |
| <b>Sources of Funds</b>                  |                  |
| Cash and Securities                      | \$120,800        |
| <b>Total Sources of Funds</b>            | <b>\$120,800</b> |

**VII. Background, Purpose of the Project, Safety Net Impact and Alternatives to the Proposed Project**

**A) Criterion 1110.110 (a) (1) (3) – Background of the Applicant**

To demonstrate compliance with this criterion the applicant must document the *qualifications, background, character and financial resources to adequately provide a proper service for the community* and also demonstrate that the project promotes the *orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of facilities or service*.

1. The Applicant does not own any other health care facility as that term is defined at 20 ILCS 3960/3.
2. The Applicant provided the necessary attestation that no adverse action<sup>1</sup> has been taken against any facility owned or operated by the Applicant and authorization allowing the State Board and IDPH access to all information to verify information in the application for permit. [Application for Permit page 35]
3. The Applicant is a for profit entity in good standing with the Illinois Secretary of State as of July 5, 2018. **A certificate of good standing is a** legal status conferred by a state on a company incorporated within its jurisdiction that allows it to conduct business legitimately. The status is granted based on the company's current **standing** related to required state filings, fees and tax obligations.
4. As evidence of ownership of the site, the Applicant provided an attestation that Rand Road Center, LLC is the owner of the site. Rand Road Center, LLC is owned 100% by Dr. Yelena Levitin

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<sup>1</sup> "Adverse action is defined as a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations." (77 IAC 1130.140)

**B) Criterion 1110.110-Purpose of the Project**

To demonstrate compliance with this criterion the Applicant must document that the project will provide health services that improve the health care or well-being of the market area population to be served.

The Applicant stated in part: *“The purpose of the proposed project is to provide an avenue for orthopedic surgeons to perform cases at Associated Surgical Center.”*

**C) Criterion 1110.110 – Safety Net Impact Statement**

All health care facilities, with the exception of skilled and intermediate long term care facilities licensed under the Nursing Home Care Act, shall provide a safety net impact statement, which shall be filed with an application for a substantive project (see Section 1110.40). *Safety net services are the services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation.* [20 ILCS 3960/5.4]

A safety net impact statement is not required for non-substantive projects.

**D) Criterion 1110.110 – Alternatives to the Proposed Project**

To demonstrate compliance with this criterion the Applicant must document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

No other alternative was considered than to add orthopedic surgical specialty.



## **VIII. Project Scope and Size, Utilization and Unfinished/Shell Space**

### **A) Criterion 1110.120 (a) - Size of Project**

The applicant shall document that the physical space proposed for the project is necessary and appropriate. The proposed square footage cannot deviate from the square footage range indicated in Appendix B, or exceed the square footage standard in Appendix B if the standard is a single number, unless square footage can be justified by documenting, as described in subsection (a)(2).

No construction or modernization is being proposed by this project. This project is limited to adding a surgical specialty to an existing multi-specialty ASTC.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SIZE OF THE PROJECT (77 ILAC 1110.120 (a))**

### **B) Criterion 1110.120 (b) - Project Services Utilization**

The applicant shall document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented.

This project is limited to adding a surgical specialty to an existing multi-specialty ASTC. The facility is not at target occupancy and based upon CY 2017 Utilization of 431 hours it would require a 91% increase in the surgery hours to be at target occupancy of 4,501 hours [1,500 hours x 3 rooms = 4,500 hours] for the two operating rooms and one procedure room.

$$\begin{aligned} 4,501 \text{ hours} - 433 \text{ hours} &= 4,068 \text{ hours} \\ 4,068 \text{ hours} \div 4,501 \text{ hours} &= \\ &90.37\% \end{aligned}$$

As documented in the Executive Summary the expected referrals that the State Board relied upon when approving the initial project (#12-076) have not materialized and the 70 orthopedic referrals that are to materialize within two years after project completion will not substantially increase the number of hours at the surgery center. No information was provided on why the expected referrals have not materialized. The Applicant has not met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION PROJECT SERVICES UTILIZATION (77 ILAC 1110.120 (b))**

## **IX. Non-Hospital Based Ambulatory Surgical Treatment Center Services**

### **A) Criterion 1110.235 (c) (2) (B) (i) & (ii) - Service to Geographic Service Area Residents**

The applicant shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA) in which the proposed project will be physically located.

i) The applicant shall provide a list of zip code areas (in total or in part) that comprise the GSA. The GSA is the area consisting of all zip code areas that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project's site.

ii) The applicant shall provide patient origin information by zip code for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. Patient origin information shall be based upon the patient's legal residence (other than a health care facility) for the last 6 months immediately prior to admission.

The Applicant has been approved to provide gastroenterology, general, obstetrics/gynecology, dermatology, ophthalmology, oral/maxillofacial, plastic, pain management, podiatry, otolaryngology, and urology surgical specialties and are proposing to add orthopedic surgery. The established GSA for a facility located in Cook County is a 10-mile radius. The Applicant identified a total of 42 zip codes within this 10-mile radius with a population of approximately 900,723 residents. Of the 448 cases performed by the Applicant (Associated Surgical Center) in 2017 approximately 77% (345 cases ÷ 448 total cases = 77%) came from within the 10-mile GSA.

**TABLE TWO**  
**Population by Zip Code within 10-mile radius and Patients provided services at Associated Surgical Center**

| Zip   | City              | County | Population | Distance (Miles) | 2017 Patients |
|-------|-------------------|--------|------------|------------------|---------------|
| 60004 | Arlington Heights | Cook   | 52,645     | 0                | 32            |
| 60090 | Wheeling          | Cook   | 39,912     | 3.025            | 8             |
| 60070 | Prospect Heights  | Cook   | 17,120     | 3.028            |               |
| 60008 | Rolling Meadows   | Cook   | 23,546     | 3.494            |               |
| 60074 | Palatine          | Cook   | 40,575     | 3.691            |               |
| 60005 | Arlington Heights | Cook   | 31,052     | 3.767            | 51            |
| 60089 | Buffalo Grove     | Lake   | 42,970     | 4.062            | 21            |
| 60056 | Mount Prospect    | Cook   | 58,806     | 4.493            | 18            |
| 60067 | Palatine          | Cook   | 41,074     | 4.509            | 13            |
| 60173 | Schaumburg        | Cook   | 13,605     | 5.317            |               |
| 60069 | Lincolnshire      | Lake   | 7,764      | 5.955            | 21            |
| 60016 | Des Plaines       | Cook   | 62,752     | 6.243            | 17            |
| 60015 | Deerfield         | Lake   | 26,928     | 6.764            | 37            |
| 60195 | Schaumburg        | Cook   | 5,120      | 6.819            | 11            |
| 60007 | Elk Grove Village | Cook   | 34,710     | 7.018            |               |
| 60062 | Northbrook        | Cook   | 42,905     | 7.205            |               |
| 60026 | Glenview          | Cook   | 14,677     | 7.378            |               |
| 60047 | Lake Zurich       | Lake   | 44,310     | 7.448            |               |
| 60194 | Schaumburg        | Cook   | 20,767     | 8.337            | 34            |
| 60025 | Glenview          | Cook   | 41,504     | 8.407            | 14            |
| 60169 | Hoffman Estates   | Cook   | 35,402     | 8.448            | 56            |
| 60061 | Vernon Hills      | Lake   | 28,657     | 8.543            |               |
| 60018 | Des Plaines       | Cook   | 30,802     | 8.963            | 12            |
| 60193 | Schaumburg        | Cook   | 40,163     | 9.164            |               |

| TABLE TWO   |                 |        |            |                  |               |
|---|-----------------|--------|------------|------------------|---------------|
| Population by Zip Code within 10-mile radius and Patients provided services at Associated Surgical Center |                 |        |            |                  |               |
| Zip   | City            | County | Population | Distance (Miles) | 2017 Patients |
| 60010   | Barrington      | Lake   | 47,054     | 9.545            |               |
| 60192   | Hoffman Estates | Cook   | 16,839     | 9.748            |               |
| 60068   | Park Ridge      | Cook   | 39,064     | 9.767            |               |
| Total   |                 |        | 900,723    |                  | 345           |

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SERVICE TO GEOGRAPHIC SERVICE AREA RESIDENTS (77 ILAC 1110.235 (c) (2) (B) (i) (ii))**

**B) Criterion 1110.235 (c) (3) (A) & (B) - Service Demand –Additional ASTC Service**

The applicant shall document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant, over the latest 2-year period, as evidenced by historical and projected referrals.

The intent of this criterion is to document the service demand experienced by the Applicant. In 2012 the State Board approved this facility for eleven surgical specialties. As of the date of this report only two surgical specialties have been performed at this facility since mid-2016. The Applicant in 2017 operated at 10% of capacity.

The Applicant provided two physician referral letters that included

- i) patient origin by zip code of residence;
- ii) name and specialty of referring physician;
- iii) name and location of the recipient hospital or ASTC; and
- iv) number of referrals to other facilities for each proposed ASTC service for each of the latest 2 years.

The two physicians have committed to refer 70-patients within two years of project completion. Of Dr. Daniel Invankovic's historical referrals 22.5% (116 referrals ÷ 515 total referrals = 22.5%) came from within the 10-mile GSA. For Dr. Thomas Poepping not one of the historical referrals came from within the 10-mile GSA.

| TABLE THREE                 |                      |      |
|-----------------------------|----------------------|------|
| <u>Dr. Daniel Ivankovic</u> | Historical Referrals |      |
| Facility                    | 2016                 | 2017 |
| Methodist Hospital          | 150                  | 150  |
| South Shore Hospital        | 300                  | 325  |
| Thorek Hospital             | 40                   | 40   |
| Total                       | 490                  | 515  |

**TABLE FOUR**

| <u>Dr. Thomas Poepping</u> | Historical Referrals |      |
|----------------------------|----------------------|------|
| Facility                   | 2016                 | 2017 |
| Illinois Ortho. Network    | 50                   | 66   |
| Elmhurst Memorial Hospital | 40                   | 55   |
| Lakeshore Surgery Center   | 15                   | 31   |
| Total                      | 105                  | 152  |

Based upon previous commitments by the Applicant that 4,501 hours will be performed at the facility within two years after licensing (mid 2016) there has been no evidence provided that there is now a demand for the orthopedic surgical service being proposed to be provided at the facility. Additionally, the two physicians provided orthopedic services to 116 residents in the 10-mile GSA or 17.4 % of their total historical referrals (116 referrals ÷ (515 + 152 = 667 total referrals) = 17.4 %). The Applicant has not met the requirement of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION SERVICE DEMAND (77 ILAC 1110.235 (c) (3) (A) & (B))**

**C) Criterion 1110.235 (c) (5) (A) & (B) Treatment Room Need Assessment**

A) The applicant shall document that the proposed number of surgical/treatment rooms for each ASTC service is necessary to service the projected patient volume. The number of rooms shall be justified based upon an annual minimum utilization of 1,500 hours of use per room, as established in 77 Ill. Adm. Code 1100.

B) For each ASTC service, the applicant shall provide the number of patient treatments/sessions, the average time (including setup and cleanup time) per patient treatment/session, and the methodology used to establish the average time per patient treatment/session (e.g., experienced historical caseload data, industry norms or special studies).

The Applicant has been approved for two operating rooms, one procedure room and six recovery stations. No additional operating/procedure rooms are being requested to be added. With an average case time of two hours the facility will have an additional 140 hours of utilization should this project be approved.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION TREATMENT ROOM NEED ASSESSMENT (77 ILAC 1110.235 (c) (5) (A) & (B))**

**D) Criterion 1110.235 (c) (6) – Service Accessibility**

The proposed ASTC services being established or added are necessary to improve access for residents of the GSA. The applicant shall document that at least one of the following conditions exists in the GSA:

A) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project;

B) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100;

C) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies;

D) The proposed project is a cooperative venture sponsored by 2 or more persons, at least one of which operates an existing hospital. Documentation shall provide evidence that:

i) The existing hospital is currently providing outpatient services to the population of the subject GSA;

ii) The existing hospital has sufficient historical workload to justify the number of surgical/treatment rooms at the existing hospital and at the proposed ASTC, based upon the treatment room utilization standard specified in 77 Ill. Adm. Code 1100;

iii) The existing hospital agrees not to increase its surgical/treatment room capacity until the proposed project's surgical/treatment rooms are operating at or above the utilization rate specified in 77 Ill. Adm. Code 1100 for a period of at least 12 consecutive months; and

iv) The proposed charges for comparable procedures at the ASTC will be lower than those of the existing hospital.

A) There are three licensed ASTCs in the 10-mile GSA besides the Applicant. The three ASTCs are multi-specialty ASTCs and currently perform orthopedic surgeries. As can be seen by the table below the three facilities have existing capacity that can accommodate the demand identified by this project.

B) There are four hospitals in this 10-mile GSA. One hospital (Northwest Community Hospital) can accommodate the demand identified by this project.

C) Orthopedic surgery is available in this 10-mile GSA.

D) The proposed project is not a cooperative venture with a hospital.

| ASTC                               | City              | Miles | Rooms | Hours  | Rooms Justified |
|------------------------------------|-------------------|-------|-------|--------|-----------------|
| Northwest Community Day Surgery    | Arlington Heights | 4.1   | 10    | 10,481 | 7               |
| Northwest Surgicare HealthSouth    | Arlington Heights | 4.2   | 6     | 3,438  | 3               |
| Golf Surgical Center               | Des Plaines       | 8.6   | 7     | 5,382  | 4               |
| Hospital                           |                   |       |       |        |                 |
| Northwest Community Hospital       | Arlington Heights | 4     | 23    | 29,708 | 20              |
| Glenbrook Hospital                 | Glenview          | 8.1   | 16    | 29,407 | 20              |
| Advocate Good Shepherd Hospital    | Barrington        | 10    | 19    | 28,533 | 20              |
| Advocate Lutheran General Hospital | Park Ridge        | 9.1   | 35    | 53,318 | 36              |

In response to this criterion the Applicant stated “*The proposed project is limited to the addition of orthopedic surgery as a service to be provided at an established ASTC, and because orthopedic surgery is a commonly-provided service, the conditions identified in Section 1110.235.c.6 cannot be met. Taking into account the definition of a GSA, the inability to meet the conditions of this section would likely hold true for any location in the State of Illinois, where orthopedic surgery services were proposed to be added to an existing ASTC.*”

The Applicant is required to meet one of the four items above. The Applicant not met the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION SERVICE ACCESSIBILITY (77 ILAC 1110.235 (c) (6))**

**E) Criterion 1110.235 (c) (7) - Unnecessary Duplication/Maldistribution**

- A) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information for the proposed GSA zip code areas identified in subsection (c)(2)(B)(i):
  - i) the total population of the GSA (based upon the most recent population numbers available for the State of Illinois); and
  - ii) the names and locations of all existing or approved health care facilities located within the GSA that provide the ASTC services that are proposed by the project.
- B) The applicant shall document that the project will not result in mal-distribution of services. Maldistribution exists when the GSA has an excess supply of facilities and ASTC services characterized by such factors as, but not limited to:
  - i) a ratio of surgical/treatment rooms to population that exceeds one and one-half times the State average;
  - ii) historical utilization (for the latest 12-month period prior to submission of the application) for existing surgical/treatment rooms for the ASTC services proposed by the project that are below the utilization standard specified in 77 Ill. Adm. Code 1100; or
  - iii) insufficient population to provide the volume or caseload necessary to utilize the surgical/treatment rooms proposed by the project at or above utilization standards specified in 77 Ill. Adm. Code 1100.
- C) The applicant shall document that, within 24 months after project completion, the proposed project:
  - i) will not lower the utilization of other area providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and
  - ii) will not lower, to a further extent, the utilization of other GSA facilities that are currently (during the latest 12-month period) operating below the utilization standards.

As identified in the table above there are three ASTCs and one hospital in the 10-mile GSA that have available capacity to accommodate the demand identified by this project.

The population in the GSA as identified by the Applicant is 900,723 residents. There are 116 operating/procedure rooms in the 10-mile GSA. The ratio of operating/procedure rooms is .1287 rooms per thousand population. The population in the State of Illinois is 12,978,800 (2015 estimate) and the number of operating/procedure rooms is 2,778 (2017). The ratio of operating/procedure rooms to population is .2140 rooms per thousand population. Based upon this comparison, there is not a surplus of operating/procedure rooms in this 10-mile GSA.

In response to this criterion the Applicant stated *“The proposed project will not result in unnecessary duplication or a mal-distribution of services, as the project does not involve the establishment of a new facility, or the addition of operating rooms or procedure rooms.”*

While the Applicant is not adding operating/procedure rooms it appears that adding the orthopedic surgical specialty to this ASTC in this 10-mile GSA is an unnecessary health care capital expenditure. There is one hospital and three ASTCs that provide this specialty that have unused capacity to accommodate the demand identified by this project. This is an unnecessary duplication of service. The Applicant has not met this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION/MALDISTRIBUTION (77 ILAC 1110.235 (c) (7))**

**F) Criterion 1110.235 (c) (8) - Staffing**

**A) Staffing Availability**

The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that the staffing requirements of licensure and The Joint Commission or other nationally recognized accrediting bodies can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

**B) Medical Director**

It is recommended that the procedures to be performed for each ASTC service are under the direction of a physician who is board certified or board eligible by the appropriate professional standards organization or entity that credentials or certifies the health care worker for competency in that category of service.

In response to this criterion the Applicant stated *“Associated Surgical Center is an operating, licensed ASTC, fully staffed, and in compliance with relevant clinical and professional staffing requirements, including those required by for IDPH licensure. In evaluating the potential of adding orthopedic surgery as an additional service to be provided at the ASIC, the applicant determined that additional staffing would not be required. Dr. Yelena Levitin will continue to serve in her role as Medical Director of the ASTC.”*

The Applicant is an existing facility that has staff in place to meet the requirements of this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION STAFFING (77 ILAC 1110.235 (c) (8))**

**G) Criterion 1110.235 (c) (9) - Charge Commitment**

In order to meet the objectives of the Act, which are *to improve the financial ability of the public to obtain necessary health services; and to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public; and cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process* [20 ILCS 3960/2], the applicant shall submit the following:

A) a statement of all charges, except for any professional fee (physician charge); and

B) a commitment that these charges will not increase, at a minimum, for the first 2 years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

The Applicant provided the following

*“With the signature placed on the Certification page of this Application for Permit, the applicant attests that the charges associated with orthopedic surgery services, and as identified in this ATTACHMENT will not increase for, at minimum, two years following the receipt of the Certificate of Need Permit associated with this Application for Permit.”*

The Applicant has met the requirements of this criterion. See pages 54-56 of the Application for Permit.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION CHARGE COMMITMENT (77 ILAC 1110.235 (c) (9))**

**H) Criterion 1110.235 (c) (10) - Assurances**

A) The applicant shall attest that a peer review program exists or will be implemented that evaluates whether patient outcomes are consistent with quality standards established by professional organizations for the ASTC services, and if outcomes do not meet or exceed those standards, that a quality improvement plan will be initiated.

B) The applicant shall document that, in the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms will meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians) and the provision of new procedures that would increase utilization.

The Applicant provided the requested assurance at page 57 of the Application for Permit. However, based upon historical utilization the Applicant would have to increase the number of surgical hours by 91% by May of 2021. The State Board Staff is not able to make a positive finding regarding this criterion.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.235 (c) (10))**

**X. Financial Viability**

**A) Criterion 1120.120 - Availability of Funds**

The Applicant must document that that financial resources will be available and be equal to or exceed the estimated total project cost plus any related project costs by providing evidence of sufficient financial resources.

The Applicants are funding this project with cash in the amount of \$120,800. The Applicant provided a financial statement (balance sheet and income statement) as of December 31, 2018 - 12-months) that showed \$157,459.26 in cash. The financial statement was unaudited and did not include any account receivables which is unusual for a health care entity. A letter from PNC Bank dated February 16, 2019 showed the Applicant with \$159,407.27 in a checking account as of the date of the letter.

The Applicant is a going concern<sup>2</sup> and has reported increasing revenues over the past 2 ½ years. The Applicant had a 75% increase in revenues from 2017 to 2018.

**Operating Revenue**

2016 -\$34,518

2017 -\$568,502

2018 -\$989,883

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<sup>2</sup> Going concern is an accounting assumption that an entity has the resources to continue operating for the foreseeable future. It helps assure key stakeholders that the business has a secure financial future Source: Accounting Standards Update No. 2014-15, *Presentation of Financial Statements—Going Concern*



The Applicant appears to have sufficient funds from operations and cash in the bank to fund this project.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 ILAC 1120.120)**

**B) Criterion 1120.130 – Financial Viability**

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

No financial viability ratios were provided because the Applicant has stated that the project was to be funded from internal sources or cash and it does appear the Applicant will have enough internal sources to fund this project as stated at 77 IAC 1120.120.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY (77 ILAC 1120.130))**

**XI. Economic Feasibility**

**A) Criterion 1120.140 (a) – Reasonableness of Financing Arrangements**

**B) Criterion 1120.140 (b) – Terms of Debt Financing**

The project does not involve debt financing.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS & TERMS OF DEBT FINANCING (77 ILAC 1120.140 (a) (b))**

**C) Criterion 1120.140 (c) – Reasonableness of Project Costs**

To demonstrate compliance with this criterion an Applicant must document that the project costs are reasonable.

Consulting and other fees are \$40,000. The State Board does not have a standard for these costs.

Movable Equipment costs are \$80,800. The State Board Standard is \$489,745.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 ILAC 1120.140 (c))**

**D) Criterion 1120.140 (d) – Direct Operating Costs**

To demonstrate compliance with this criterion an Applicant must provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct costs mean the fully allocated costs of salaries, benefits and supplies for the service.

|                       |           |
|-----------------------|-----------|
| Total Operating Costs | \$267,646 |
| Number of Cases       | 274       |
| Direct Costs per Case | \$976.81  |

The State Board does not have a standard for this cost.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION DIRECT OPERATING COSTS (77 ILAC 1120.140 (d))**

**E) Criterion 1120.140 (e) - The Effect of the Project on Capital Costs**

To demonstrate compliance with this criterion an Applicant must provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion

|                        |          |
|------------------------|----------|
| Total Capital Costs    | \$16,942 |
| Procedures             | 274      |
| Capital Costs per case | \$61.83  |

The State Board does not have a standard for these costs.

**STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION THE EFFECT OF THE PROJECT ON CAPITAL COSTS (77 ILAC 1120.140 (e))**

# 18-050 Associated Surgical Center - Arlington Heights

