



STATE OF ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-04	BOARD MEETING: September 17, 2019	PROJECT NO: 19-025	PROJECT COST:
FACILITY NAME: Physicians' Surgical Center		CITY: O'Fallon	Original: \$1,354,300
TYPE OF PROJECT: Substantive			HSA: XI

DESCRIPTION: The Applicants (Ahmed 15, LLC, and Haris Assets, LLC) are proposing the discontinuation of a single-specialty ASTC located at 311 West Lincoln Belleville, Illinois and the establishment of a single specialty ASTC at 729 Insight Avenue, O'Fallon, Illinois. The cost of the project is \$1,354,300 and the expected completion date is June 30, 2020.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (Ahmed 15, LLC, and Haris Assets, LLC) are proposing the discontinuation of a single-specialty ASTC located 311 West Lincoln Belleville, Illinois and the establishment of a single specialty ASTC to 729 Insight Avenue, O'Fallon, Illinois. The new site is approximately 6.3 miles from the Belleville facility and within the same Health Service Area. The cost of the project is \$1,354,300 and the expected completion date is June 30, 2020.
- The Applicants currently have one operating room and one procedure room with 3 recovery stations. The new ASTC if approved will have one operating room and four recovery stations. Gastroenterology will be the only surgical procedure performed at the ASTC.

BACKGROUND

- In March of 2019 the State Board approved a change of ownership for Physicians' Surgical Center to Ahmed 15, LLC. Prior to the change of ownership, the facility had notified the State Board in September 2018 that they were suspending service because of low utilization. A facility can maintain their IDPH license while services are suspended, and the State Board can approve a change of ownership so long as the health care facility is licensed.¹
- On June 28, 2019 the State Board was notified that Physician Surgery Center had resumed operations at the Belleville location and reapplied for accreditation and Medicare certification. In the last week of July, a private accreditation organization with deemed status² with the Centers for Medicare and Medicaid Services, surveyed the facility. During that survey, the organization identified several building deficiencies. The primary cited deficiency is the lack of separation between the endoscopy center suite and other building tenant operations. Services at the Belleville facility are currently suspended until these deficiencies are rectified.

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The Applicants proposes to discontinue and establish a health care facility as defined by the Illinois Health Facilities Planning Act (20 ILCS 3960/3).
- One of the objectives of the Health Facilities Planning Act is *"to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding capacity, quality, value and equity in the delivery of health care services in Illinois. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process."* [20 ILCS 3960/2]
- When evaluating a proposed project by rule the State Board must consider if a proposed project best meets the needs of an area population (77 ILAC 1100.310).

PUBLIC HEARING/COMMENT:

- No public hearing was requested, and no letters of support or opposition were received.

¹ An IDPH license is no longer effective once the actual physical license is returned to the Illinois Department of Public Health.

² Health care organizations that want to participate in and receive payment from the Medicare or Medicaid programs must be certified as complying with the Conditions of Participation (CoPs), or standards, set forth in federal regulations. This certification is based on a survey conducted by a state agency on behalf of the Centers for Medicare & Medicaid Services (CMS). However, if a national accrediting organization such as the Joint Commission has and enforces standards that meet the federal CoPs, CMS may grant the accrediting organization "deeming" authority and "deem" each accredited health care organization as meeting the Medicare and Medicaid certification requirements. The health care organization would have "deemed status" and would not be subject to the Medicare survey and certification process because it has already been surveyed by the accrediting organization. Accreditation is voluntary and seeking deemed status through accreditation is an option, not a requirement. Organizations seeking CMS approval may choose to be surveyed either by an accrediting body, such as the Joint Commission, DNV, and HFAP, or by state surveyors on behalf of CMS.

SUMMARY

- The Applicants addressed a total of 23-criteria and have successfully addressed them all.

STATE BOARD STAFF REPORT
Project 19-025
Physicians' Surgery Center

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants	Ahmed 15, LLC, and Haris Assets, LLC
Facility Name	Physicians' Surgery Center
Location	729 Insight Avenue, O'Fallon, Illinois
Permit Holder	Ahmed 15, LLC, and Haris Assets, LLC
Operating Entity	Ahmed 15, LLC
Owner of Site	Haris Assets, LLC
Total GSF	4,275 GSF
Application Received	June 5, 2019
Application Deemed Complete	June 7, 2019
Review Period Ends	November 4, 2019
Financial Commitment Date	June 30, 2020
Project Completion Date	June 30, 2020
Review Period Extended by the State Board Staff?	No
Can the Applicants request a deferral?	Yes
Expedited Review?	Yes

I. Project Description

The Applicants (Ahmed 15, LLC, and Haris Assets, LLC) are proposing the discontinuation of a single-specialty ASTC located 311 West Lincoln Belleville, Illinois and the establishment of a single specialty ASTC to 729 Insight Avenue, O'Fallon, Illinois. The cost of the project is \$1,354,300 and the expected completion date is June 30, 2020.

II. Summary of Findings

- A. State Board Staff finds the proposed project is in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B. State Board Staff finds the proposed project is in conformance with the provisions of 77 ILAC 1120 (Part 1120).

III. General Information

Ahmed 15, LLC, and Haris Assets, LLC are the Applicants. Shakeel Ahmed, MD is the sole member and manager of both LLCs. Ahmed 15, LLC dba at Physicians' Surgical Center is the licensee and the owner of the site is Haris Assets, LLC. Haris Assets, LLC currently has a land contract to purchase the land and building (the core and shell of which will soon be constructed by an unaffiliated, non-provider land owner). Haris Assets, LLC will lease the ASTC to Ahmed 15, LLC. Financial commitment will occur after permit approval.

IV. Center for Medicare and Medicaid Services

The proposed ASTC will be Medicare and Medicaid certified. The Center for Medicare and Medicaid Services requires that an ASC must be certified and approved (IDPH Licensed) to enter into a written agreement with CMS.

Participation as an ASC is limited to any distinct entity that operates exclusively for providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following an admission. An unanticipated medical circumstance may arise that would require an ASC patient to stay in the ASC longer than 24 hours, but such situations should be rare.

The regulatory definition of an ASC does not allow the ASC and another entity, such as an adjacent physician's office, to mix functions and operations in a common space during concurrent or overlapping hours of operations. CMS does permit two different Medicare-participating ASCs to use the same physical space, so long as they are temporally separated. That is, the two facilities must have entirely separate operations, records, etc., and may not be open at the same time.

ASCs are not permitted to share space, even when temporally separated, with a hospital or Critical Access Hospital outpatient surgery department, or with a Medicare-participating Independent Diagnostic Testing Facility (IDTF). Certain radiology services that are reasonable and necessary and integral to covered surgical procedures may be provided by an ASC; however, it is not necessary for the ASC to also participate in Medicare as an IDTF for these services to be covered. [Source: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/ASCs.html>]

V. Health Service Area

The proposed ASTC will be in the HSA XI Health Service Area. The HSA XI Health Service Area contains the Illinois Counties of Clinton, Madison, Monroe, and St. Clair. There are nine ASTCs in this Service Area. The geographical service area for this project is a 17-mile radius for a facility located in St. Clair County. There are four ASTCs within the 17-mile GSA.

TABLE ONE ASTCs in HSA XI Service Area		
Facility	City	ASTCs within the 17-Mile GSA
Bel-Clair Amb. Surgical Ctr.	Belleville	X
Edwardsville Ambulatory Surg Ctr.	Glen Carbon	
Hope Clinic for Women, Ltd.,	Granite City	
Illinois Eye Surgeons Cataract Surgery	Belleville	X
Metroeast Endoscopy Surgery Center	Fairview Heights	X
Monroe County Surgical Center	Waterloo	
Novamed Eye Surgery Ctr of Maryville	Maryville	

TABLE ONE ASTCs in HSA XI Service Area		
Facility	City	ASTCs within the 17-Mile GSA
Physician's Surgical Center, Ltd	Belleville	X
Anderson Surgery Center, LLC ⁽¹⁾	Edwardsville	
1. Approved December 2018 to establish a multi-specialty ASTC with 2 operating rooms and one procedure room not yet operational.		

VI. **Project Costs and Sources of Funds**

The Applicants are funding the project with cash in the amount of \$790,000 and the Fair Market Value of the Lease in the amount of \$564,300.

TABLE TWO Project Costs and Sources of Funds				
	Reviewable	Non-Reviewable	Total	% of Total
New Construction Contracts	\$392,982	\$107,018	\$500,000	36.92%
Contingencies	\$29,002	\$7,898	\$36,900	2.72%
Architectural/Engineering Fees	\$41,735	\$11,365	\$53,100	3.92%
Movable or other Equipment (not in construction contracts)	\$175,000	\$25,000	\$200,000	14.77%
Fair Market Value of Leased Space or Equipment	\$443,520	\$120,780	\$564,300	41.67%
Total Uses of Funds	\$1,082,239	\$272,061	\$1,354,300	100.00%
Cash and Securities	\$638,719	\$151,281	\$790,000	58.33%
Leases (fair market value) ⁽¹⁾	\$443,520	\$120,780	\$564,300	41.67%
Total Sources of Funds	\$1,082,239	\$272,061	\$1,354,300	100.00%
1. The value of the building to be built is \$564,300 for the ASTC space. This represents the actual value of the shell space of the building that is recovered in the lease payment.				

VII. Discontinuation

A) Criterion 1110.290 – Discontinuation

These criteria pertain to the discontinuation of categories of service and health care facilities.

a) Information Requirements – Review Criterion

The Applicants shall provide at least the following information:

- 1) Identification of the categories of service and the number of beds, if any, that are to be discontinued;*
- 2) Identification of all other clinical services that are to be discontinued;*
- 3) The anticipated date of discontinuation for each identified service or for the entire facility;*
- 4) The anticipated use of the physical plant and equipment after discontinuation occurs;*
- 5) The anticipated disposition and location of all medical records pertaining to the services being discontinued and the length of time the records will be retained;*
- 6) For applications involving discontinuation of an entire facility, certification by an authorized representative that all questionnaires and data required by HFSRB or the Illinois Department of Public Health (IDPH) (e.g., annual questionnaires, capital expenditures surveys, etc.) will be provided through the date of discontinuation and that the required information will be submitted no later than 60 days following the date of discontinuation.*

b) Reasons for Discontinuation – Review Criterion

The Applicants shall document that the discontinuation is justified by providing data that verifies that one or more of the following factors (and other factors, as applicable) exist with respect to each service being discontinued:

- 1) Insufficient volume or demand for the service;*
- 2) Lack of sufficient staff to adequately provide the service;*
- 3) The facility or the service is not economically feasible, and continuation impairs the facility's financial viability;*
- 4) The facility or the service is not in compliance with licensing or certification standards.*

c) Impact on Access – Review Criterion

The Applicants shall document whether the discontinuation of each service or of the entire facility will have an adverse impact upon access to care for residents of the facility's market area. The facility's market area, for purposes of this Section, is the established radii outlined in 77 Ill. Adm. Code 1100.510(d). Factors that indicate an adverse impact upon access to service for the population of the facility's market area include, but are not limited to, the following:

- 1) The service will no longer exist within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the Applicants facility;*
- 2) Discontinuation of the service will result in creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities, which is described in 77 Ill. Adm. Code 1100.70 and found on HFSRB's website;*
- 3) Facilities or a shortage of other categories of service at determined by the provisions of 77 Ill. Adm. Code 1100 or other Sections of this Part.*
- d) The Applicants shall provide copies of notification letters sent to other resources or health care facilities that provide the same services as those proposed for discontinuation and that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d). The notification letter must include at least the anticipated date of discontinuation of the service and the total number of patients that received care or the number of treatments provided (as applicable) during the latest 24 month period.*

The Applicants seek authority to discontinue in its entirety the existing one operating room and one procedure room ASTC located 311 West Lincoln, Belleville, Illinois (the Existing ASTC) and to establish an ASTC with one operating room to be located at 729 Insight Ave, O'Fallon, Illinois. According to the Applicants this discontinuation is necessary to establish a new Replacement ASTC to be located approximately 6.3 miles from the existing ASTC. Per the Applicants there are several benefits to doing so:

- Address the physical plant limitations of the current space.
- Improve accessibility for safety net patients and other patients living in the Metro East St. Louis Region of Illinois.
- Improve colorectal screening rates and reduce colorectal cancer morbidity and mortality.

Medical records will be maintained at the new facility should the State Board approve this project. All surveys and questionnaires will continue to be provided to the State Board as required. The Applicants have successfully addressed this criterion.

VIII. Section 1110.110 - Background of the Applicant, Purpose of Project, Safety Net Impact Statement, and Alternatives

A) Criterion 1110.110 (a) – 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 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.

The Applicant has attested that no adverse action³ has been taken against any health care facility owned by the Applicants for the past three years before the filing of the Application for Permit. The Applicants own Metroeast Endoscopic Surgery Center in Fairview Heights and Ahmed 15, LLC dba Physicians' Surgical Center. The Applicants are in Good Standing with the State of Illinois⁴ and has provided copies of licensure and accreditation for Metroeast Endoscopic Surgery Center. Physicians' Surgical Center license was provided, and the facility is working on accreditation at the time of filing of this Application for Permit. The site of the ASTC is in compliance with the Illinois Executive Order #2006-5, "Construction Activities in Special Flood Hazard Area"⁵ and with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420).⁶

³ Adverse Action" means a disciplinary action taken by IDPH, Center for Medicare and Medicaid Services, 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.

⁴ A certificate of good standing issued by a proper authority in a jurisdiction to verify that a corporation exists, has paid all its statutory dues, has met all filing requirements and, therefore, is authorized to transact business in that state. Also called certificate of authorization or certificate of existence

⁵ Illinois Executive Order #2006-5 requires State Agencies responsible for regulating or permitting development within Special Flood Hazard Areas shall take all steps within their authority to ensure that such development meets the requirements of Executive Order #2006-5.

⁶ Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) requires State Agencies or the recipients of its funds, permits or licenses shall consult with the Illinois Historic Preservation Agency to determine the documentation requirements necessary for identification and treatment of historic resources.

B) Criterion 1110.110 (b) – 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 purpose of the project is to discontinue a single specialty ASTC in Belleville and relocate the single-specialty ASTC to O'Fallon approximately 6.3 miles away and within the Health Service Area. According to the Applicants United Healthcare desires to cover certain procedures only in the ASTC setting since a hospital is most often an unnecessary higher cost setting for simple elective surgical procedures. United Healthcare has implemented prior authorization requirements in O'Fallon/Shiloh⁷ area, where many healthcare services (hospitals) have migrated but without an ASTC option, for certain surgical procedures, including endoscopy in outpatient hospital settings that will not apply to ASTCs. Ahmed 15, LLC expects other payors to follow suit soon.

The geographical service area for this project is a 17-mile radius that includes 48 zip codes and a population of approximately 482,000. According to the Applicants the proposed relocation will

- Address physical plant limitation at the Belleville Facility;
- Improve access by better distributing the surgery centers that serve
- the Metro East communities in Illinois;
- Improve access to safety net services;
- Improve colorectal cancer screening rates and reduce colorectal cancer morbidity and mortality.

See pages 57-60 of the Application for Permit for complete discussion of the purpose of the project.

C) Criterion 1110.110 (c) – Safety Net Impact

All health care facilities, except for 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]

The Applicants stated: *“The relocation of Physicians’ Surgical Center will improve access to essential safety net services by better distributing the surgery centers in the GSA. The Project will relocate Physicians’ Surgical Center in closer proximity to a larger and growing population of patients while ensuring that residents of Belleville, including safety net patients, continue to have access to lower cost surgical care. The Applicant believes that by relocating Physicians’ Surgical Center to O'Fallon, the three area surgery centers providing endoscopy, Physicians’ Surgical Center, Bel-Clair ASTC located in Belleville and Metroeast Endoscopic Surgery Center located in Fairview Heights, will be better distributed to provide gastroenterology services in the ASTC setting to a larger population, including safety net patients. Metroeast Endoscopic Surgery Center and Physicians’ Surgical Center will continue to serve many Medicaid patients, as Metroeast Endoscopic*

⁷ Memorial Hospital – East a 94-bed acute care hospital is in Shiloh, Illinois that was approved by State Board in 2011 and HSHS St. Elizabeth Hospital a 144-bed acute care hospital is in O'Fallon Illinois approved by the State Board in 2014.

Surgery Center has historically done and at a far higher rate than other area providers. The relocation of the ASTC will not adversely impact the ability of other providers or health care systems to serve patients seeking safety net services. As documented in the physician referral letter, all cases projected to be performed at the O’Fallon ASTC are currently performed at Metroeast Endoscopic Surgery Center which is a sister provider to Physicians’ Surgical Center. No procedures will be transferred from other existing hospitals or surgery centers to the O’Fallon ASTC. Furthermore, the Project will reduce the number of operating and procedure rooms within the GSA, as it involves a reduction from one operating room and one procedure room to one operating room and zero procedure rooms.”

“Over the last three years (2016 to 2018), Metroeast Endoscopic Surgery Center, the sister provider of Physicians’ Surgical Center, served Medicaid patients in 3,371 cases out of a total of 12,796, which is 26.3% of the cases in that three-year period. As the Replacement ASTC will accept all St. Clair and Madison County Medicaid managed care plans, just as MESC does, the Applicant anticipates that a similar percentage of Medicaid patients will utilize the Replacement ASTC. Compare this to the payor mix of area hospitals, which is about 3% Medicaid.”

The Applicants did not purchase Physicians’ Surgical Center until March 2019. The Table below provides the charity and Medicaid information for Metroeast Endoscopic Center also owned by Dr. Ahmed.

TABLE THREE Metroeast Endoscopic Surgery Center Charity and Medicaid Information			
	2017	2016	2015
Net Revenue	\$2,705,717	\$3,971,552	\$2,178,073
Medicaid Patients	1,133	1,415	843
Medicaid Revenue	\$397,044	\$415,704	\$4,853
% of Medicaid Revenue/Net Revenue	14.7%	10.5%	.22%
Charity Patient	5	0	0
Charity Expense	\$16,500	\$9,850	\$6,000
Charity Care Expense to Net Revenue	.60%	.24%	.28%
Information taken from ASTC Survey Questionnaires			

D) Criterion 1110.110(c) – Alternatives to the Proposed Project

To demonstrate compliance with this criterion the Applicants 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.

The Applicant looked at two alternatives to the proposed project: Doing Nothing or Renovating the Existing Facility. Both alternatives were rejected.

The Existing ASTC was once part of the HSHS St. Elizabeth Hospital medical campus in Belleville. HSHS St. Elizabeth Hospital in Belleville was approved for discontinuation and the establishment of a new 144-bed hospital in O'Fallon in 2014 (Permit #14-043). With the relocation of the Hospital to O'Fallon much of the Belleville campus has been demolished. The hospital building has been razed and the existing ASTC building sits amidst large piles of dirt and rubble and is completely isolated from other facilities and services. The surgical center itself is currently not in compliance with Medicare and must suspend services until they come into compliance. The cost to renovate the existing ASTC is estimated at \$1 million.

IX. **Project Scope and Size, Utilization and Assurance**

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

To demonstrate compliance with this criterion the Applicant must document that 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;⁸ 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).

There is a total of 4,275 GSF for the proposed ASTC. Reviewable or clinical gross square feet for the operating room is 2,200 GSF and the four recovery rooms are in 1,160 GSF for a total of 3,360 GSF of reviewable or clinical space. The State Board Standard for an operating room is 2,750 GSF. The State Board does not have a gross square footage standard for recovery stations located in an ASTC. The Applicants have met the requirements of this criterion.

TABLE FOUR				
Size of the Project				
	Proposed		State Standard	
Department	Rooms	GSF	GSF	Difference
Operating Room	1	2,200	2,750	-550
Recovery Stations	4	1,160	0	0
Total		3,360	No Standard	
Administrative		915		
Mechanical				
Total		4,275		

⁸ Staff Note: Should the State Board approve this project the entire gross square feet (4,275 GSF) will be licensed by the Illinois Department of Public Health and the certificate of need permit will be for the total gross square feet and total project costs.

B) Criterion 1110.120 (b) – Projected Utilization

To demonstrate compliance with this criterion the Applicant must 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. All Diagnostic and Treatment utilization numbers are the minimums per unit for establishing more than one unit, except where noted in 77 Ill. Adm. Code 1100. [Part 1110 Appendix B]

The Applicants are estimating 1,209 gastroenterology procedures in the first year after project completion. The average case time including prep and clean-up time is 45 minutes. The Applicants can justify the one operating room being requested.

D) Criterion 1110.120 (e) – Assurances

- 1) *The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the end of the second year of operation after project completion, the applicant will meet or exceed the utilization standards specified in Appendix B.*
- 2) *For shell space, the applicant shall submit the following:*
 - A) *Verification that the applicant will submit to HFSRB a CON application to develop and utilize the shell space, regardless of the capital thresholds in effect at that time or the categories of service involved;*
 - B) *The anticipated date by which the subsequent CON application (to develop and utilize the subject shell space) will be submitted; and*
 - C) *The estimated date when the shell space will be completed and placed into operation.*

The Applicants provided the necessary attestation at page 82 of the Application for Permit. The Applicants have successfully addressed this criterion.

X. Non-Hospital Based Ambulatory Surgical Treatment Center Services

A) Criterion 1110.235 (b) (2) (A) (B) - Geographic Service Area Need

The applicant shall document that the ASTC services and the number of surgical/treatment rooms to be established, added or expanded are necessary to serve the planning area's population, based on the following:

- A) *77 Ill. Adm. Code 1100 (Formula Calculation)*
As stated in 77 Ill. Adm. Code 1100, no formula need determination for the number of ASTCs and the number of surgical/treatment rooms in a geographic service area has been established. Need shall be established pursuant to the applicable review criteria of this Part.

There is no need formula for ASTCs or the number of surgical/treatment rooms in a GSA.

- B) *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.

B) Criterion 1110.235 (3) - Service Demand – Establishment of an ASTC Facility or 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 applicant shall document the information required by subsection (c)(3) and either subsection (c)(3)(B) or (C):

The Geographical Service Area for a health care facility located in St. Clair County is a 17-mile radius (77 ILAC 1130.510 (d)). All the projected patients (1,209 patients) to utilize the proposed O'Fallon ASTC will come from within the 17-mile GSA. The Applicants have successfully addressed this criterion.

C) Criterion 1110.235 (5) - 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 Applicants are proposing one operating room and are estimating 1,209 procedures one year after project completion. The Applicants are estimating 45-minutes per procedure. The Applicants can justify the one operating room.

D) Criterion 1110.235 (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.*

The Applicants are discontinuing an ASTC and establishing an ASTC 6.3 miles from the current facility. No new capacity (operating/procedure rooms) are being added to the 17-mile GSA.

The Applicants have demonstrated at the ASTC owned by Dr. Shakeel Ahmed-Metroeast Endoscopic Surgery Center in Fairview Heights a commitment to provide Medicaid services to the population of the 17-mile GSA. Approximately 25% of the patients that were provided care at Metroeast Endoscopic Surgery Center for the period CY 2014-CY 2017 were Medicaid clients (see Table below). The Applicants have stated Physicians' Surgical Center in O'Fallon will accept all St. Clair and Madison County Medicaid managed care plans. The Applicants anticipate that a similar percentage of Medicaid patients will utilize the O'Fallon facility.

Based upon the information provided by the Applicants and reviewed by the Board Staff service accessibility will be maintained and available to residents of the 17-mile GSA with the proposed relocation.

TABLE FIVE					
Metroeast Endoscopic Surgery Center					
# of Patients by Payor Source					
	2017	2016	2015	2014	% of Total (4-years)
Medicaid	1,133	1,415	843	505	25.10%
Medicare	1,280	1,368	1,015	769	28.55%
Other Public	295	403	356	5	6.82%
Insurance	1,454	1,643	1,374	1,472	38.29%
Private Pay	37	0	60	90	1.20%
Charity	5	0	0	0	0.03%
	4,204	4,829	3,648	2,841	100.00%

1. Metroeast Endoscopic Surgery Center approved as Permit #12-105 and was completed in 2014.

E) Criterion 1110.235 (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 maldistribution 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.*

Maldistribution

There is a total of 68 operating/procedure rooms in the 17-mile GSA. There are approximately 482,567 residents (2017 population estimate-American Community Survey) in the 17-mile GSA. The ratio of operating/procedure rooms per 1,000 population is .014 within this GSA [68 operating/procedure rooms ÷ (482,567/1,000 or 482.59) = .014].

The State of Illinois population is 12,978,800 (2015 IDPH estimate)⁹ and 2,778 operating procedure rooms (2017 data). The ratio of operating/procedure rooms per 1,000 population in the State of Illinois is .214. To have a surplus of operating/procedure rooms within the 17-mile GSA the ratio of population to operating/procedure rooms must be 1.5 times the State of Illinois ratio or .321 per 1,000 population. There is not a surplus of operating/procedure rooms in the 17-mile GSA.

Hospitals and ASTCs within the Proposed GSA

There are four ASTCs and four hospitals within the 17-mile GSA. (see Table on next page). Three of the ASTC's provide gastroenterology services and one of the three is not at target occupancy (Bel-Clair Ambulatory Surgery Center). The fourth ASTC performs Ophthalmology procedures only (Illinois Eye Surgeons Cataract Surgery).

No new capacity (operating/procedure rooms) will be added to the 17-mile GSA. The proposed relocation will not result in an unnecessary duplication of service or result in a surplus of operating/procedure rooms in the 17-mile GSA. The proposed relocation will not lower the utilization of other ASTC providers in the GSA below their current utilization. The Applicants have successfully addressed this criterion.

⁹ The Illinois Department of Public Health publishes population projections and estimates every two years. The most recent population projection is for 2015 and every five years thereafter based upon the 2010 census. No population projection is made for 2017.

TABLE SIX
Hospitals and ASTCs in the 17-mile GSA

Name	City	Miles	Specialty	Operating Rooms	Procedure Rooms	Operating Rooms Hours	Procedure Rooms Hours	Met 1,500 hours per Operating/Procedure Room
Bel-Clair Ambulatory Surgical Center	Belleville	8.5	Gastro	2	0	834	0	No
Physician's Surgical Center	Belleville	6.3	Gastro	1	1	1,981	0	Yes
Illinois Eye Surgeons Cataract Surgery	Belleville	6.6	Ophthalmology	2	2	1,975	538	No
Metroeast Endoscopy Surgery Center	Fairview Heights	6.5	Gastro	0	1	0	1,542	Yes
Total				5	4			
Name	City	Miles	Specialty	Operating Rooms	Procedure Rooms	Operating Rooms Hours	Procedure Rooms Hours	Met 1,500 hours per Operating/Procedure Room
Touchette Regional Hospital	East St. Louis	15.4		6	0	1,164	0	No
Memorial Hospital	Belleville	9.7		18	15	12,771	12,279	No
HSHS St Elizabeth's Hospital	O'Fallon	1.7		10	4	11,366	3,182	No
Memorial Hospital - East	Shiloh	1.3		4	2	2,364	140	No
Total				38	21			

1. Information from 2017 Hospital and ASTC Profiles.

F) Criterion 1110.235 (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.

The Applicant does not anticipate issues with hiring Registered Nurses and Certified Surgical Technologists as needed. Dr. Ahmed routinely recruits for various clinical staff and offers fair wages and if necessary, sign-on and referral bonuses for newly hired clinical employees. The Applicant anticipates that Physicians' Surgical Center current Medical Director, Dr. Shakeel Ahmed will be the Medical Director for the O'Fallon facility.

Note: The Joint Commission and the Accreditation Association for Ambulatory Health Care¹⁰ does not define the specific qualifications or number of staffs required for an ASTC. The Joint Commission generalizes that the staff be adequate in number with appropriate training and supervision. The Applicants have successfully addressed this criterion.

G) Criterion 1110.235 (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 proposed project will relocate an existing ASTC and not increase operating/procedure rooms add any surgical specialties in the 17-mile geographical service area. The Applicant provided the maximum charges for two years following completion of the project. The Applicant has successfully addressed this criterion.

¹⁰ Joint Commission on Accreditation of Healthcare Organizations. Standards for Ambulatory Care. Oakbrook Terrace, IL: Joint Commission Resources;

H) Criterion 1110.235 (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 Applicants have provided the required attestation at page 82 of the Application for Permit that the O'Fallon facility "*will have a peer review program that evaluates whether patient outcomes are consistent with quality standards established by professional organizations for surgical services. If outcomes do not meet or exceed those standards, a quality improvement plan will be initiated. By the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms at Physicians Surgical Center will meet or exceed the utilization standard specified in 77 Ill. Admin. Code 1100.*"

A) Criterion 1120.120 – Availability of Funds

Applicants shall document 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 enough financial resources

The Applicants are funding the project with cash in the amount of \$790,000 and the Fair Market Value of the Lease in the amount of \$564,300. The Applicants provided a letter from Buckingham Strategic Wealth dated May 29, 2019 that Dr. Ahmed had more than \$1 million to fund the cash portion of the project. This was confirmed in an email dated August 5, 2019 from Buckingham Strategic Wealth. The lease is an operating lease and the fair market value of this lease is the actual cost of the shell and the core of the ASTC. Additionally, Dr. Ahmed the sole member of the Applicants and owner of Metroeast Endoscopic Surgical Center since 2014 has the shown the ability to finance and operate a surgical center in this GSA. The Applicants have adequate resources available to fund this project.

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 unless the Applicant qualifies for the financial waiver.

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.*
- 2) *the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA) or its equivalent; or HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.*
- 3) *the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.*

The Applicants have qualified for the financial waiver by providing documentation that resources are available to construct the ASTC. All capital expenditures are completely funded through internal resources. The Applicants have successfully addressed this criterion.

A) Criterion 1120.140 (a) -Reasonableness of Financing Arrangements

An Applicant must document the reasonableness of financing arrangements.

The Applicants stated that “I hereby certify under penalty of perjury as provided in § 1-109 of the Illinois Code of Civil Procedure, 735 ILCS 5/1-109 and pursuant 10 77 Ill. Admin. Code§ I 120.140(a) that there will be no long-term debt associated with the project and all project costs and related costs will be funded in total with cash on hand and an operating lease (real estate lease).”

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

Applicants with projects involving debt financing shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;*
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;*
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.*

The State Board considers an operating lease debt financing. The Applicants will be leasing the space for the ASTC from Haris, LLC a co-applicant on this project. A non-binding letter of intent was provided by the Applicants that stated:

“The current owner of the Real Estate is The Storage Center of O’Fallon, LLC, M.D (seller). Planned Lessor (Haris, LLC) has entered into a non-binding Commercial Real Estate Sales Contract attached hereto as Exhibit A. After the sale of the Real Estate to Planned Lessor, which shall be subject to the approval of a Certificate of Need permit application by the Illinois Health Facilities and Services Review Board to relocate the Planned Lessee’s existing surgery center to the Real Estate, Planned Lessor will, in turn, lease the Real Estate to the Planned Lessee. The expected material terms of the Real Estate Lease will be set forth pursuant to a negotiated definitive real estate operating lease which shall, among other things, provide for the amortization of the cost of the Real Estate and related core and shell construction costs estimated to be \$443,520 plus a reasonable rate of return over the term of the Real Estate Lease.”

Based upon the Applicants’ ability to finance and operate an existing ASTC the Applicants have met the requirements of this criterion.

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

The applicant shall document that the estimated project costs are reasonable.

By Statute only clinical costs (reviewable costs) are considered in evaluating the reasonableness of project costs. (20 ILCS 3960/3)

New Construction and Contingency Costs are \$421,984 or \$98.70 per GSF. This appears reasonable when compared to the State Board Standard of \$427.34 the midpoint of construction.

Staff Note: The Standard for ASTC New construction and contingency costs is calculated by taking the base year of CY 2015 and inflating by 3% to the midpoint of construction. For this project the midpoint is CY 2021.

Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
New Construction & Contingency Costs	\$357.89	\$368.63	\$379.69	\$391.08	\$402.81	\$414.89	\$427.34	\$440.16

Contingency Costs are \$29,002 or 7.4% of new construction costs of \$392,982. This appears reasonable when compared to the State Board Standard of 10% for new construction.

Architectural and Engineering Fees are \$41,735 which are 9.9% of new construction and contingency costs of \$421,984. This appears reasonable when compared to the State Board Standard of 12.99%. **Staff Note:** The Standard for ASTC Architectural and Engineering Fees is found at Centralized Fee Negotiation Professional Services and Fees Handbook (available at www.cdb.state.il.us or by contacting the Capital Development Board, 401 South Spring Street, Springfield, Illinois).

Moveable and Other Equipment not in Construction Contract is \$175,000 for one room. This appears reasonable when compared to the State Board Standard of \$519,570. **Staff Note:** The Standard for ASTC moveable and other equipment not in construction contracts is calculated by taking the base year of CY 2008 cost standard of \$353,802 per room and inflating by 3% to the midpoint of construction. For this project the midpoint is CY 2021.

CY	2018	2019	2020	2021	2022
Moveable Equipment Room Cost	\$475,480	\$489,745	\$504,437	\$519,570	\$535,157

Fair Market Value of Lease Space is \$443,250. The State Board does not have a standard for these costs.

The Applicants have met the requirements of the State Board.

D) Criterion 1120.140 (d) – Direct Operating Costs

The applicant shall 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.

The Applicant has provided the direct costs per procedure of \$576.03 at the ASTC should this project be approved. The Applicant has successfully addressed this criterion.

E) Criterion 1120.140 (e) – Total Effect of the Project on Capital Costs

The applicant shall 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.

The Applicant has provided the total effect of the project on capital costs per procedure of \$55.45 should this project be approved. The State Board does not have a standard for this cost. The Applicant has successfully addressed this criterion.

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