



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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

DOCKET NO: I-01	BOARD MEETING: January 26, 2021	PROJECT NO: 20-017	PROJECT COST:
FACILITY NAME: Metroeast Endoscopic Surgery Center		CITY: Fairview Heights	Original: \$180,000
TYPE OF PROJECT: Non-Substantive			HSA: XI

PROJECT DESCRIPTION: The Applicant (Metroeast Endoscopic Surgery Center, LLC) proposes to add orthopedic surgery services to its current ambulatory surgical treatment center (ASTC) located in Fairview Heights, Illinois. The reported project costs are \$180,000. The expected completion date is March 31, 2021.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicant (Metroeast Endoscopic Surgery Center, LLC) proposes to add orthopedic surgery services to its current ambulatory surgical treatment center (ASTC) located in Fairview Heights, Illinois. The reported project costs are \$180,000. The expected completion date is March 31, 2021. The Applicant has been approved to provide gastroenterology, general surgery, ophthalmology, OB/GYN, pain management, and podiatry surgical services.
- This project was given an Intent to Deny at the September 2020 State Board Meeting. In response to the Intent to Deny the Applicant furnished additional information dated October 26, 2020. An additional opposition letter was submitted by the Hospital Sisters Health System (“HSHS”). At the conclusion of this report are the September 2020 State Board Transcript, the response to the Intent to Deny, and response from HSHS intent to deny.

PUBLIC HEARING/COMMENT:

- A public hearing was offered but none was requested. Letters of support and opposition were submitted and are included in your packet of material.

SUMMARY:

- No additional surgery or procedure rooms are being added to this ASTC as part of this project. The ASTC has 2 operating rooms and 4 recovery stations in 2,642 GSF of space.
- The State Board does not have a need methodology to add surgical specialties to an existing ASTC. To add surgical services to an existing ASTC the Applicant must (1) demonstrate the referring physicians have been providing care to the residents of the 17-mile GSA (service to area residents), (2) the referring physicians will refer patients to the ASTC (demand for service), (3) that historical referrals are from a licensed health care facility and (4) the proposed surgical service to be added will improve service accessibility and will not result in an unnecessary duplication of service.
- There are 8 ASTCs and 6 hospitals within the 17-mile GSA. Of the 8 ASTCs only one surgery center has been approved for orthopedic surgical services in this 17-mile radius. That Surgery Center (Anderson Surgery Center) was approved as Permit #18-031 and served its first patient August 13, 2020. The six hospitals within the 17-mile GSA all provide orthopedic surgical services.
- The Applicant addressed a total of 23 criteria and were able to successfully address 20 of these criteria. Only the three criteria that were not met in the Original State Board Staff Report will be discussed in this report.

State Board Standards Not Met	
Criteria	Reasons for Non-Compliance
77 ILAC 1110.235 (c) (2) (B) – Service to Residents in the GSA	All the historical referrals of the referring physician were outside the 17-mile GSA. The residents of the service area will not be served with the addition of the proposed specialty.

State Board Standards Not Met

Criteria	Reasons for Non-Compliance
77 ILAC 1110.235 (c) (6) – Service Accessibility	The Applicant was unable to meet one of the four conditions required by this criterion. (See page 8 & 9 of this report.
77 ILAC 1110.235 (c)(7) – Unnecessary Duplication/Maldistribution	There is existing capacity in the 17-mile GSA that can accommodate the workload identified by this Application. The proposed referrals to the surgery center from HSHS St. Joseph’s Hospital Highland will reduce the hours in the hospital surgery department by 23%.

STATE BOARD STAFF REPORT
Project #20-017
Metroeast Endoscopic Surgery Center

APPLICATION/SUMMARY CHRONOLOGY	
Applicant(s)	Metroeast Endoscopic Surgery Center, LLC
Facility Name	Metroeast Endoscopic Surgery Center
Location	5023 North Illinois Street, Fairview Heights, Illinois
Permit Holder	Metroeast Endoscopic Surgery Center, LLC
Operating Entity/Licensee	Metroeast Endoscopic Surgery Center, LLC
Owner of Site	Ahmed Investments, LLC
Gross Square Feet	2,642 GSF
Application Received	April 13, 2020
Application Deemed Complete	April 17, 2020
Financial Commitment Date	June 30, 2021
Anticipated Completion Date	March 31, 2021
Review Period Ends	June 16, 2020
Review Period Extended by the State Board Staff?	No
Can the Applicant request a deferral?	Yes

I. Project Description

The Applicant (Metroeast Endoscopic Surgery Center, LLC) proposes to add orthopedic surgery services to its current ambulatory surgical treatment center (ASTC) located in Fairview Heights, Illinois. The reported project costs are \$180,000. The expected completion date is March 31, 2021.

II. Summary of Findings

- A.** State Board Staff finds the proposed project is **not** in conformance with all relevant provisions of Part 1110 (77 ILAC 1110).
- B.** State Board Staff finds the proposed project is in conformance with all relevant provision of Part 1120 (77 ILAC 1120).

III. General Information

Metroeast Endoscopic Surgery Center, LLC was organized as a Limited Liability Company (LLC) in November of 2011, and is wholly owned by Dr. Shakeel Ahmed, M.D. The proposed project is a non-substantive project subject to a Part 1110 and Part 1120 review. Financial commitment will occur after permit issuance. Non-substantive projects are all projects not considered substantive projects.

IV. Health Service Area

The ASTC is in the HSA XI Health Service Area. HSA XI includes the Illinois counties of Clinton, Madison, Monroe, and St. Clair. The ASTC is in St. Clair County. The State Board is projecting an increase in the population of 1% in the HSA XI Service Area for the period 2017-2022. The geographical service area for a project located in St. Clair county is a 17-mile radius from the proposed site. The population is estimated to be approximately 482,000 within this 17-miles radius.

V. Project Uses and Sources of Funds

The Applicant is proposing adding orthopedic surgical services, and reports project-related costs totaling \$180,000 for Movable Equipment. This capital expense will be funded with cash.

VIII. Non-Hospital Based Ambulatory Surgical Treatment Center Services

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

The Geographic Service Area for the facility located in Fairview Heights, Illinois is 17 miles in all directions per 77 ILAC 1100.510(d). The Applicant supplied a patient/zip code list containing 152 zip codes and 3,782 patients (2018 information). The Applicants also supplied a zip code listing for the 17-mile service area, identifying 43 zip codes, and a population of 481,577 residents (see project file). A comparative analysis between the zip code listings shows that of the 3,782-patients served by the Endoscopy Center 2,401 patients (64%) resided in 13 zip codes from within the 17-mile service area.

The Applicant provided two referral letters from physicians that will be referring patients for orthopedic surgery to Metroeast Endoscopic Surgery Center:

- Dr. Felix Ungacta
- Dr. Mathew Bradley

1) Dr. Felix Ungacta:

As can be seen from Table One all of Dr. Felix Ungacta’s historical referrals resided outside the 17-mile GSA. Additionally, Dr. Ungacta’s historical referrals were made to HSHS St. Joseph Hospital Highland, HSHS St. Joseph Breese and HSHS Holy Family Hospitals (Table Two). Should the State Board approve this project it appears that these hospitals will be impacted.

TABLE ONE Dr. Ungacta’s Historical Referrals			
Patient by Zip Code	# of Patients	City	Miles to Fairview Heights
62249	108	Highland	28.6
62230	64	Highland	28.6
62293	45	Trenton	21.3
62246	28	Greenville	62
62216	18	Aviston	25.5
62231	18	Carlyle	39.1
62245	14	Germantown	32.2
62275	12	Pocahontas	39.1
	103	Other	
Total	410		

TABLE TWO Dr. Ungacta Historical Referrals to Licensed Health Care Facilities and Proposed Referrals (8/1/2018-8/30/2019)				
Facility	City	Historical Referral	Proposed Referrals to ASTC	% of Cases performed at Hospital moved to ASTC
HSHS St Joseph Hospital	Highland	372	200	53.76%
HSHS St Joseph Breese	Breese	36	20	55.50%
HSHS Holy Family	Greenville	2	1	50%
Total		410	221	53.90%

2) Dr. Mathew Bradley:

Dr. Bradley historical referrals were to facilities located in St. Louis, Missouri (Table Three). Additionally, all but one of the historical referrals were outside the 17-mile GSA.

TABLE THREE Dr. Bradley Historical Referrals		
Facility	City	Historical Referral
Apollo ASTC	St. Louis	78
Des Peres Hospital	St. Louis	4
Saint Louis Spine and Ortho. Surgery	St. Louis	2
Total		84

TABLE FOUR Dr. Bradley's Historical Referrals			
Patient by Zip Code	# of Patients	City	Miles to Fairview Heights
62025	1	Edwardsville, Ill	16.9
62233	2	Chester, Ill	51.9
62248	5	Hecker, Ill	20.3
62801	2	Centralia, Ill	62.6
62952	2	Jonesboro, Ill	109.5
63031	17	Florissant MO.	30.4
63033	3	Florissant MO.	30.4
63110	13	St. Louis MO.	17.8
63112	5	St. Louis MO.	19.9
63120	2	St. Louis MO.	19.2
63129	15	Oakville MO.	26.7
63137	9	St. Louis MO.	24.4
63147	8	St. Louis MO.	16.4
Total	84		

STATE BOARD STAFF FINDS THE PROPOSED PROJECT NOT IN CONFORMANCE WITH CRITERION SERVICE TO GEOGRAPHIC SERVICE AREA RESIDENTS (77 ILAC 1110.235(c) (2) (B) (i) & (ii))

B) Criterion 1110.235 (c) (6) – Service Accessibility

The Applicant was not able to meet one of the four conditions listed below.

- 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.
-
1. There 8 ASTCs and 6 hospitals within the 17-mile GSA.
 2. One ASTC (Anderson Surgery Center) in this 17-mile GSA has been approved to provide the surgical specialty being proposed (orthopedic surgery) by the Applicant to be added. The remaining ASTCs have not been approved to provide orthopedic surgery and would need to get approval of the State Board to add that specialty. Orthopedic surgery is available at the six hospitals in the 17-mile GSA.
 3. The services proposed to be added by the Applicant are available in the 17-mile GSA.
 4. The proposed project is not a cooperative venture.

TABLE FIVE					
ASTCs within the 17-Mile GSA					
ASTC	City	Miles	Rooms	2019 Hour	Met Standard
Metroeast Endoscopy Surgery Center	Fairview Heights	0	2	1,351	No
Illinois Eye Surgeons Cataract Surgery	Belleville	1	4	2,728	No
Bel-Clair Ambulatory Surgical Center	Belleville	4.8	2	691	No
Skin Cancer Surgery Center ⁽¹⁾	O'Fallon	4.9	1	0	NA
Physician's Surgical Center ⁽²⁾	O'Fallon	5.7	2	36	No
Novamed Eye Surgery Center of Maryville	Maryville	11.8	1	1,196	Yes
Anderson Surgery Center ⁽¹⁾	Edwardsville	16.5	3	0	NA
The Hope Clinic for Women	Granite City	16.7	2	1,320	No
Total Rooms			17		
1. Facility approved as Permit #19-017 not yet completed. 2. Facility approved as Permit #18-031 has been completed no data reported.					

TABLE SIX					
Hospitals within the 17-mile GSA					
Hospital	City	Miles	Operating/Procedure Rooms	2019 Hours	Met Standard
Memorial Hospital	Belleville	4	33	16,073	No
Memorial Hospital - East	Shiloh	5.2	6	3,738	No
HSHS St Elizabeth's Hospital	O'Fallon	5.8	14	19,319	No
Touchette Regional Hospital	Centreville	9.3	6	892	No
Anderson Hospital	Maryville	12.3	12	10,527	No
Gateway Regional Medical Center	Granite City	16.8	10	2,878	No
Total Operating/Procedure Rooms			81		

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

C) Criterion 1110.235 (c) (7) – Unnecessary Duplication/Maldistribution

A) Maldistribution

There is a total of 97 operating/procedure rooms in the 17-mile GSA. There are approximately 482,000 residents (2017 population estimate-IDPH data) in the 17-mile GSA. The ratio of operating/procedure rooms per 1,000 population is .2014 within this GSA [97 operating/procedure rooms ÷ (482,000/1,000 or 482.0) = .2014].

The State of Illinois population is 13,129,233 (2020 IDPH projected) and 2,487 operating procedure rooms (2019 data). The ratio of operating/procedure rooms per 1,000 population in the State of Illinois is .1894. To have a surplus of operating/procedure rooms within the 10-mile GSA the ratio of population to operating/procedure rooms must be 1.5 times the State of Illinois ratio or .2847 operating/procedure rooms per 1,000 population. There is a not a surplus of operating/procedure rooms in the 17-mile GSA.

B) Hospitals and ASTCs within the Proposed GSA

There are eight ASTCs and six hospitals within the 17-mile GSA. (see Table above). As stated one ASTC (Anderson Surgery Center) has been approved to provide the surgical specialty being proposed by this project. None of the six hospitals are at target occupancy.

The proposed project will result in an unnecessary duplication of service. The Applicants have not successfully addressed this criterion.

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



Kara Friedman
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RECEIVED
OCT 5 2020
HEALTH FACILITIES
SERVICES REVIEW BOARD

Via Overnight Courier and Electronic Delivery

September 29, 2020

Ms. Courtney Avery
Illinois Health Facilities and Services Review Board
525 West Jefferson Street
Springfield, Illinois 62761

**Re: Metroeast Endoscopic Surgery Center (Proj. 20-017)
Notice of Intent to Appear and to Provide Supplemental Information**

Dear Ms. Avery:

On September 22, 2020, the Health Facilities Services and Review Board ("HFSRB") voted on the above-referenced proposal and issued an Intent-to-Deny due to the failure of the proposal to receive five affirmative votes. This letter is being sent on behalf of the applicant, Metroeast Endoscopic Surgery Center, in response to the HFSRB's issuance of the Intent-to-Deny.

Please be advised that the applicant desires to appeal the HFSRB's September 22, 2020 decision on the above referenced project, to re-appear before the HFSRB, and the applicant will be providing supplemental material in support of the proposed CON permit application.

Sincerely,

A handwritten signature in cursive script that reads "Kara Friedman".

Kara M. Friedman



150 N. Riverside Plaza, Suite 3000, Chicago, IL 60606 • (312) 819-1900

October 26, 2020

Anne M. Cooper
312.873.3606
312.276.4317 Fax
acooper@polsinelli.com

Via Email

Ms. Debra Savage, Chair
Illinois Health Facilities and Services Review
Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Re: Metroeast Endoscopic Surgery Center (Proj. No. 20-017)

Dear Ms. Savage:

Polsinelli represents Metroeast Endoscopic Surgery Center, LLC (“MESC”) in its proposal to add orthopedic surgery to its existing ambulatory surgical treatment center (“ASTC”) located at 5023 North Illinois Street, Fairview Heights, Illinois (the “Proposal”). In this capacity, we are writing to provide additional information subsequent to the Illinois Health Facilities and Services Review Board’s (the “State Board”) September 22, 2020 meeting in accordance with Section 1130.670 of the State Board’s Procedural Rules.

This plan, which will help to stem outmigration from Illinois to Missouri, is being undertaken by an existing ASTC which is a documented safety net provider and has significant community support as reflected in the State Board’s file for the Proposal. Adding an orthopedic surgeon to MESC’s medical staff would help restore outpatient surgical services in the Metroeast area that were lost with ambulatory surgery center and hospital closures and reductions in services, which has created outmigration from the State of Illinois forcing many patients to travel to Missouri for ASTC care. There will be no additional operating rooms added to the MESC facility as part of the Proposal.

As documented in the Proposal’s certificate of need (“CON”) permit application and at the State Board meeting, residents of the Metroeast area face significant barriers to access health care, including rising health care costs and surprise medical bills from hospitals that can result in financial ruin. Since 2013, MESC has provided a high-quality low-cost surgical option for the Metroeast community including to its less affluent members and seniors. As the largest provider of Medicaid services among ASTCs in the broader planning area, MESC is a safety net provider for this community.

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Atlanta Boston Chicago Dallas Denver Houston Kansas City Los Angeles Miami Nashville New York
Phoenix St. Louis San Francisco Seattle Silicon Valley Washington, D.C. Wilmington

Polsinelli PC, Polsinelli LLP in California

75065757.3

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The pending Proposal seeks to credential orthopedic surgeons to provide residents with a lower cost option to hospitals. While the Board Staff has come to accept that the ASTC option is important for ensuring lower cost access to care, it suggests that the fact that the planned Anderson Surgery Center which, when opened, will be located approximately 17 miles from MESC in Madison County is approved to perform orthopedic surgical procedures mitigates the need for orthopedic services at MESC in St. Clair County. Importantly, however, and as discussed in greater detail below, Anderson Surgery Center and MESC have distinct service areas. Anderson Surgery Center lies just at the edge of the 17-mile radius of MESC and many MESC patients live farther than 17 miles from the planned Anderson Surgery Center. As such, Edwardsville is not a reasonable option for many Metroeast residents as it is too far from the communities served by MESC, especially the more rural areas served by MESC such as Waterloo, Illinois.

1. Service to Residents of the Geographic Service Area

The vast majority of patients served reside within 10 miles of MESC in the communities of Belleville, Fairview Heights, and O'Fallon. From 2015 to 2018, access to surgical services in this area diminished as providers, such as Memorial Hospital and HSHS Saint Elizabeth's Hospital, either moved to or added services in more affluent areas to the east of Belleville/Fairview Heights. In 2015, HSA 11 providers (hospitals and ASTCs) performed 38,466 outpatient surgical procedures, and by 2018 that number dropped nearly 10% to 35,209 outpatient surgical procedures. At the same time, outpatient orthopedic cases dropped nearly 40% in HSA 11 ASTCs while increasing nearly 15% in area hospitals. Given the lack of access to less costly ASTC services and as documented in the referral letter from Matthew Bradley, M.D., Metroeast residents are traveling to St. Louis for these procedures. See Attachment – 1. By adding orthopedics, MESC seeks to stem the outmigration of orthopedic surgical cases by providing a convenient, high quality, low cost option to residents of Belleville, Fairview Heights, and O'Fallon.

2. Anderson Surgery Center Will Not Be Accessible to Patients in Fairview Heights, Belleville and East St. Louis

As noted above, Anderson Surgery Center is the only surgery center approved to perform orthopedics within the 17 miles of MESC. Importantly and as shown on the maps attached at

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Attachments 2A & 2B, MESC¹ and Anderson Surgery Center² will serve different patient bases. MESC will serve patients residing in the southern portion of the Metroeast from Collinsville to Belleville, with the majority of patients residing in Belleville, Fairview Heights, and O'Fallon. Anderson Surgery Center's patient service area stretches from Collinsville north to Edwardsville, with the patient service area centered in Edwardsville, Granite City and Collinsville. Accordingly, there will be minimal overlap of the service areas between MESC and Anderson Surgery Center.

Anderson Surgery Center it is not a viable option for MESC's patients. MESC is centrally located in its primary service area, which consists of Belleville, Fairview Heights and O'Fallon. These patients would have to travel over 30 minutes to utilize Anderson Surgery Center. Further, nearly 1,300 MESC patients live outside the 17-mile Anderson Surgery Center geographic service area, with some patients living more than 40 miles away, which would necessitate travelling over an hour for a procedure performed there. Accordingly, Anderson Surgery Center is not a viable option for MESC patients if it does not add orthopedics.

3. Unnecessary Duplication/Maldistribution

Utilizing hospitals for procedures that can be safely performed in an outpatient surgery center is not an efficient use of scarce health care resources. A 2019 article in Modern Healthcare noted hospital prices are the main driver of inflation in U.S. health care spending.³ This article highlighted that hospital consolidation has led to growth in market power and an ability to not only raise prices but to resist new, more sensible payment reforms. In fact, from 2007 to 2014, hospital prices for outpatient care increased at over 4 times the rate of physician care (25% increase for hospitals compared to 6% for physician prices). Further, according to the March 2020 MedPac Report to Congress, Medicare payment rates for most ambulatory surgical procedures performed in hospital outpatient departments (HOPDs) are much higher than in surgery centers. For 2020,

¹ Illinois Health Facilities and Services Review Board, 2018 ASTC Facility Profiles p 286 available at <https://www2.illinois.gov/sites/hfsrb/InventoriesData/FacilityProfiles/Documents/2018%20ASTC%20Facility%20Profiles%202-7-2020.pdf> (last visited Oct. 15, 2020).

² Anderson Surgery Center Certificate of Need Application (Proj. No. 18-031) pp 128-129 available at <https://www2.illinois.gov/sites/hfsrb/Projects/ProjectDocuments/2018/18-031/2018-11-15%20correct%20version%20of%20Application.pdf> (last visited Oct. 15, 2020).

³ Alex Kacik, *Hospital Price Growth Driving Healthcare Spending*, MODERN HEALTHCARE, Feb. 4, 2019 available at <https://www.modernhealthcare.com/article/20190204/NEWS/190209984/hospital-price-growth-driving-healthcare-spending> (last visited Oct. 14, 2020).

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Medicare rates are 98% higher in HOPDs than surgery centers.⁴ The proposed addition of orthopedics at MESC will provide Metroeast patients with a lower cost option to HOPDs.

Of the 8 surgery centers within 17 miles of MESC, only Anderson Surgery Center is approved to perform orthopedic surgical procedures. Anderson Surgery Center is located in an entirely different county and the 17-mile radius does not reflect the actual primary service area of MESC which is effectively only 10 miles. Additionally, and as discussed more fully above, Anderson Surgery Center is not viable option for MESC patients, many of whom live more than 30 minutes from Anderson Surgery Center.

Finally, the proposed addition of orthopedic surgery at MESC will not adversely affect HSHS St. Joseph's Hospital Highland or HSHS St. Joseph's Hospital Breese. The decision to add orthopedics at MESC was primarily based upon the significant outmigration of patients from all parts of the Metroeast to St. Louis hospitals and surgery centers for treatment. The proposed addition of orthopedics will address the lack of these services in a lower cost ASTC setting in the Metroeast and will help to stem the outmigration. Dr. Felix Ungacta's desire to utilize the center is only an element of MESC's decision to add orthopedics. Both Dr. Ungacta and his patients who would otherwise leave the state to receive lower cost ambulatory surgery center care will be welcome at MESC should the plan to add orthopedics be approved. As a non-substantive application that does not involve establishing new surgical capacity, the impact on other providers is not pertinent to the application. In any case, the addition of orthopedics will not adversely affect HSHS St. Joseph's Hospital Highland or HSHS St. Joseph's Hospital Breese or other Illinois providers in any meaningful way.

4. Consistent Treatment of Similarly Situated CON Applications

As more fully discussed our letter dated June 18, 2020, the pending CON application to credential orthopedic surgeons was duplicated from MESC's application for Project No. 19-010 (with only small adjustments), which was approved on June 4, 2019 and also proposed to add surgical specialties (general surgery, plastic surgery and gynecology) at MESC. The application for Project No. 19-010 was found to have met all of the State Board standards in spite of the fact that there was existing capacity within the 17-mile GSA that could accommodate the workload

⁴ Medicare Payment Advisory Commission, Report to the Congress: Medicare Payment Policy 147 (Mar. 13, 2020) *available at* http://medpac.gov/docs/default-source/reports/mar20_entirereport_sec.pdf (last visited Oct. 13, 2020).

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identified within the application. It is important to note that MESC's previous project was not measured against the Service Accessibility or Unnecessary Duplication/Maldistribution criteria.

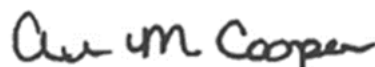
The following is a list of other CON permit applications to add surgical specialties to an existing ASTC since the ASTC expansion of specialties rule went into effect. Each was approved to add the specialties requested without negative application of the Section 1110.235(c)(6) or (c)(7) criteria despite similar circumstances such as the existence of other surgery centers and hospital providers in their geographic service area offering the same services. These projects are:

- Carle Surgicenter Danville, (Proj. 18-014),
- Hinsdale Surgical Center, (Proj. 18-036),
- Barrington Pain and Spine Institute (Proj. 18-03 8),
- Ravine Way Surgery Center (Proj. 18-043),
- Chicago Prostate Cancer Surgery Center (Proj. 19-018), and
- Center for Ambulatory Treatment II (Proj. 19-020).

Unlike previous similarly situated projects, the State Board staff cited the pending proposal as out of conformance with criteria that have almost never been negatively applied to any of the previous applications that this office or other applicants have submitted to the State Board since the Section 1110.235 rule change. With this in mind and given the fact that there were no special rules adopted pursuant to which projects for the expansion of surgical specialties should be applied, we disagree with the State Board Report's negative findings on Service Accessibility and Unnecessary Duplication of Services criteria. There is no meaningful health planning construct to apply against a proposal to allow additional types of specialists to perform procedures at a surgery center. Further, hospitals are not similarly held to the requirement to obtain a CON to credential additional types of specialists at their facilities. There should be a fairer and level playing field that doesn't allow hospitals to stifle competition, especially a safety net provider like MESC.

Thank you for your consideration of the additional information for MESC.

Sincerely,



Anne M. Cooper



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Attachments

Debra Savage
Chair
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, Illinois 62761

Re: Project No. 20 -017 Metro

Dear Chair Savage:

As you know, I am a physician specializing in orthopedics. I am writing in further support of Metroeast Endoscopic Surgery Center's request for a Certificate of Need permit to add orthopedic surgery to its ambulatory surgical treatment center located at 5023 North Illinois Street, Suite 3, Fairview Heights, Illinois.

Over the past twelve months (from November 2019 to October 2020), for the zip codes listed on Exhibit 1, I performed a total of 84 outpatient surgical procedures at the following hospitals and surgery centers. With addition of orthopedic surgery, I expect to refer my cases as noted below. The attached table documents the patient origin by zip code for those patients and the facilities where I performed those cases.

Hospital/Licensed ASTC	Hospital and Licensed ASTC (number of cases) Most recent 12 months	Projected Referrals to Metro East Endoscopic Surgery Center after Project Completion
Apollo Ambulatory Surgery Center	78	78
Des Peres Hospital	4	4
Saint Louis Spine and Orthopedic Surgery	2	2
Total	84	84

Given the new collaboration I have as a physician in the medical practice affiliated with MESC, I would expect these referrals to double in the first year after the CON application is approved. With the addition of orthopedic surgery at Metroeast Endoscopic Surgery Center, I expect to refer 166 cases to Metroeast Endoscopic Surgery Center in each of the two years following the addition of orthopedic surgery.

Projected patient volume shall come from the proposed geographic service area of Metroeast Endoscopic Surgery Center.

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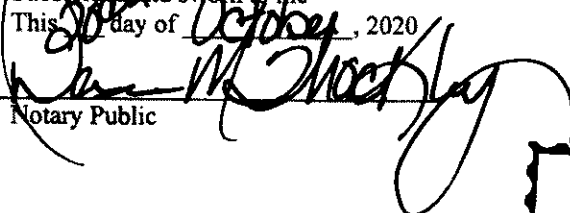
These referrals have not been used to support another pending or approved certificate of need application. The information in this letter is true and correct to the best of my knowledge.

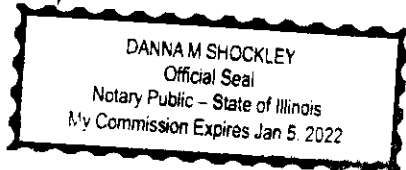
I support the addition of orthopedic surgery at Metroeast Endoscopic Surgery Center.

Sincerely,



Matthew W. Bradley, M.D.
Orthopedic Surgeon
5023 North Illinois Street
Fairview Heights, Illinois 62208

Subscribed and sworn to me
This 20th day of October, 2020

Notary Public



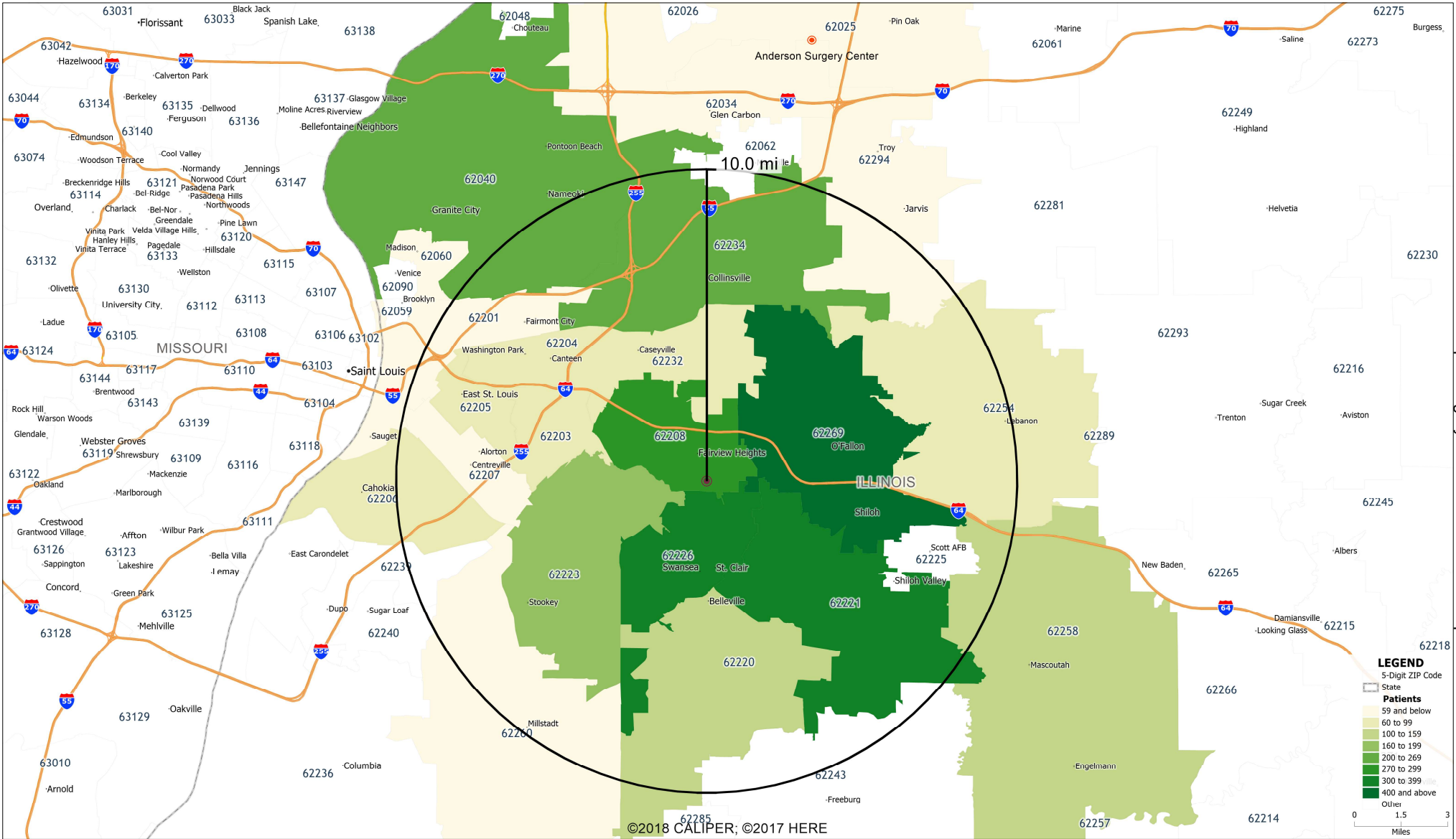
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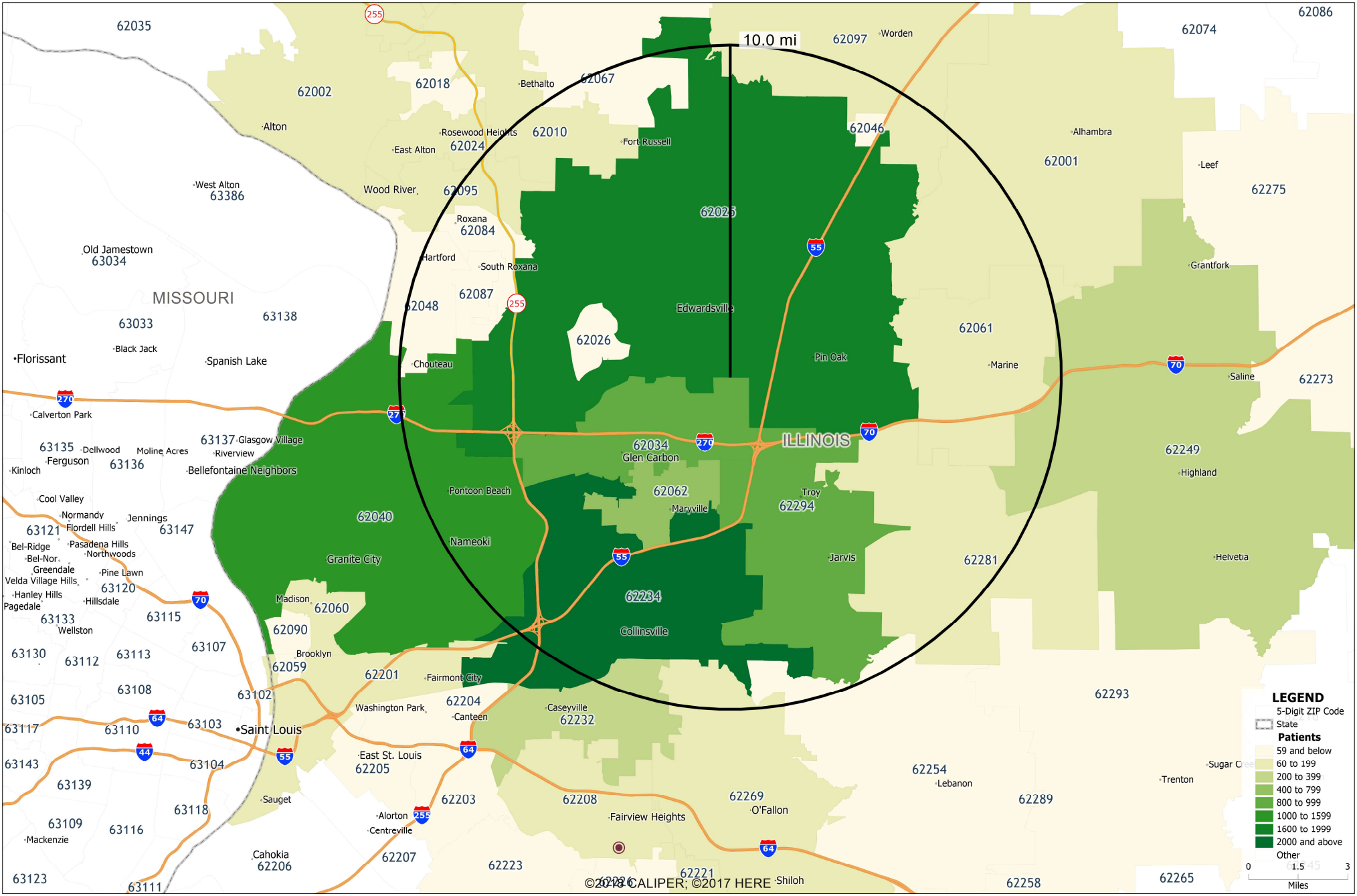
Exhibit 1

Referrals by Patient Zip Code

Orthopedics	
Zip Code	Number of Cases
62025	1
62233	2
62248	5
62801	2
62952	2
63031	17
63033	3
63110	13
63112	5
63120	2
63129	15
63137	9
63147	8
Total	84

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From: [Anne Cooper](#)
To: [Constantino, Mike](#)
Subject: [External] RE: 20-017 METROEAST
Date: Wednesday, December 9, 2020 1:06:56 PM
Attachments: [image003.png](#)
[image004.png](#)

Mike,

Please see MESC's responses below.

Thanks

Anne

Anne M. Cooper

Attorney

acooper@polsinelli.com

312.873.3606

150 N. Riverside Plaza, Suite 3000
Chicago, IL 60606

polsinelli.com

Polsinelli PC, Polsinelli LLP in California

From: Constantino, Mike <Mike.Constantino@Illinois.gov>
Sent: Monday, December 7, 2020 9:51 AM
To: Anne Cooper <ACooper@Polsinelli.com>
Subject: 20-017 METROEAST

EXTERNAL EMAIL mike.constantino@illinois.gov

Anne:

1. Of the number of referrals of Dr. Bradley to St. Louis health care facilities how many were Medicaid clients. Of the number of patients proposing to be referred what percentage of these will be Medicaid patients?

The St. Louis surgery centers are not enrolled in the Illinois Medicaid program. As a member of Dr. Ahmed's practice, Dr. Bradley receives most of the practice's referrals. Accordingly, it is anticipated Dr. Bradley's

Medicaid patients referred to MESC will be in line with our practice experience

2. Is Doctor Ungacta going to be referring patients to Metroeast? what the Doctor has provided to date is what his practice referred. If he is referring patients we will need a new referral letter from Him documented HIS historic referrals and HIS projected referrals, the number of Medicaid patients referred historically and what percentage of Medicaid patients would be referred to the MetroEast.

Dr. Ungacta put in a lot of time and political capital to attend the September 22nd HFSRB meeting. He was disappointed and frustrated by HSHS' bullying and does not want to expend any more time or effort into this process.

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Mr. Michael Constantino
Illinois Health Facilities and Services Review Board
525 West Jefferson Street
Springfield, Illinois 62761

RE: Additional Information for Project #20-017

Dear Mr. Constantino:

Thank you for your email regarding Project #20-017. I appreciate your review and was pleased to see HSHS acknowledge that Dr. Ungacta's practice does not represent a meaningful portion of the orthopedic volumes at any of their facilities. I'm hopeful that in light of this information, they will choose to suspend their efforts to interfere with the delivery of care at Metroeast Endoscopic Surgery Center (MESCC). I am eager to add Orthopedic Surgery to our center to ensure that Illinois residents can get the care they need in Illinois rather than having to travel to Missouri. Doing so is particularly important given the recent shift of many elective surgeries to an outpatient setting as a result of the pandemic and the related economic crisis. To that end, this CON permit would support the availability of quality, cost-efficient care during these times and going forward.

In response to your specific inquiries, please see the following:

1. Below are the five highest volume orthopedic procedures anticipated to be performed at our center:

	# of Procedures	Procedure Code	Description	ASTC Fee*	HOPD Fee*
1	8-10	29827	Rotator Cuff Repair	\$2,557	\$5,357
2	8-10	29807	Labral/SLAP repair	\$2,557	\$5,357
3	8-10	29881	Partial Meniscectomy	\$1,173	\$2,451
4	8-10	29879	Chondroplasty	\$1,173	\$2,451
5	8-10	64712	Carpal Tunnel	\$727	\$1,539

*Medicare payment amounts adjusted for local market.

As you know, these figures are mere projections and it is difficult to know what the future brings. What we do know is that with the aging population, access to musculoskeletal care services are of utmost importance to seniors whose mobility is severely affected by joint disease and deterioration including osteoarthritis and fractures. Osteoarthritis is caused by inflammation in aging joints, and injury and obesity can also play a role. Eventually, this condition will cause cartilage tissue to break down and cause pain, swelling or deformity. Osteoarthritis leads to pain in your hips, knees, shoulder or spine that can be so severe it interrupts your daily life.

We expect care to focus on those joint procedures that can be safely performed in a freestanding outpatient facility as approved by Medicare and endorsed by private insurers.

2. As a clarification regarding Dr. Ungacta's referral letter, Dr. Ungacta was in practice with Dr. Bradley during the period for which historical case data was provided. Since Dr. Ungacta owned

the practice and was the billing entity, Dr. Bradley's case volumes were assigned to Dr. Ungacta's practice. Accordingly, his referral letter was written on behalf of the practice and reflected the practice's outpatient surgical cases. Dr. Bradley was and still is a much more active procedural physician than Dr. Ungacta; however, both Dr. Bradley and Dr. Ungacta will be credentialed at MESC. They plan to treat Illinois patients in our surgery center, including nearly all of those insured by Medicare and Medicaid.

3. Drs. Ungacta and Bradley plan to accept Medicaid at MESC; however, they do not have a specific quota, as their primary basis for acquiring new Medicaid patients is through emergency room call coverage. Based on the center's current payor mix, we would expect about 15% of the patients to be insured by Medicaid. MESC has a track record of providing excellent service at a fraction of the cost of local hospitals to the indigent population. We are the largest provider of care to Medicaid in South Illinois, and we will continue to do that for years to come.

Please feel free to contact Kara Friedman or me as needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shakeel Ahmed', written in a cursive style.

Shakeel Ahmed, M.D.

Section VII, Service Specific Review Criteria
Non-Hospital Based Ambulatory Surgery
Criterion 1110.235(c)(9) – Charge Commitment

Table 1110.1540(c)(9)		
Name of Procedure	Primary CPT	Max Charge
Remove Part Of Neck Vertebra	22100	\$39,897
Remove Part Thorax Vertebra	22101	\$18,363
Remove Part Lumbar Vertebra	22102	\$39,897
Closed Tx Vert Fx W/O Manj	22310	\$5,500
Closed Tx Vert Fx W/Manj	22315	\$18,363
Manipulation Of Spine	22505	\$9,193
Perq Cervicothoracic Inject	22510	\$18,363
Perq Lumbosacral Injection	22511	\$18,363
Perq Vertebral Augmentation	22513	\$39,897
Spine Surgery Procedure	22899	\$18,363
Tenotomy Shoulder Area 1 Tendon	23405	\$39,897
Tenodesis Long Tendon Biceps	23430	\$39,897
Open Tx Clavicular Fracture Internal Fixation	23515	\$39,897
Arthrt Elbow Capsular Excision Capsular Rts Spx	24006	\$18,363
Excision Olecranon Bursa	24105	\$18,363
Partial Excision Bone Humerus	24140	\$18,363
Partial Excision Bone Olecranon Process	24147	\$18,363
Tenolysis Triceps	24332	\$18,363
Rinsj Rptd Biceps/Triceps Tdn Dstl W/Wo Tdn Grf	24342	\$39,897
Tnot Elbow Lateral/Medial Debride Open	24358	\$18,363
Tnot Elbow Lateral/Medial Debride Open Tdn Rpr	24359	\$18,363
Arthroscopy Shoulder Surgical Capsulorrhaphy	29806	\$39,897
Arthroscopy Shoulder Surgical Repair Slap Lesion	29807	\$39,897
Arthroscopy Shoulder Surgical Removal Loose/Fb	29819	\$18,363
Arthroscopy Shoulder Surg Debridement Extensive	29823	\$18,363
Arthroscopy Shoulder Distal Claviclectomy	29824	\$18,363
Arthroscopy Shoulder Ahesiolysis W/Wo Manipj	29825	\$18,363
Arthroscopy Shoulder W/Coracoacrm Ligmnt Release	29826	\$19,527
Arthroscopy Shoulder Biceps Tenodesis	29828	\$39,897
Arthroscopy Elbow Surgical W/Removal Loose/Fb	29834	\$18,363
Arthroscopy Elbow Surgical Debridement Extensive	29838	\$18,363
Arthroscopy Knee Osteochondral Agrft Mosaicplast	29866	\$39,897
Arthroscopy Knee Removal Loose/Foreign Body	29874	\$18,363
Arthroscopy Knee Synovectomy 2/>Compartments	29876	\$18,363
Arthrs Kne Surg W/Meniscectomy Med/Lat W/Shvg	29881	\$18,363
Office Consultation	99244	\$4,106
Arthroscopy Shoulder Rotator Cuff Repair	29827	\$39,897

Table 1110.235(c)(9) above is a non-exhaustive list of the procedures by primary CPT code that will be typically performed within the new specialty. Each line shows anticipated maximum charges for two years for a surgical case with the primary CPT code shown.

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1 CHAIRWOMAN SAVAGE: Okay. So now we're
2 going to move on to H-02, Project 20-017,
3 Metroeast Endoscopic Surgery Center in Fairview
4 Heights.

5 May I have a motion to approve Project
6 20-017, the Metroeast Endoscopic Surgery Center to
7 add orthopedic specialties.

8 MEMBER MARTELL: I so move.

9 CHAIRWOMAN SAVAGE: A second, please.

10 MEMBER MURRAY: Second.

11 MEMBER GRUNDY: I second the motion.

12 CHAIRWOMAN SAVAGE: There are requests
13 from the public to offer testimony. Mike Mitchell,
14 please proceed with our testimony people.

15 MR. MITCHELL: All right.

16 MS. AVERY: We ask that you -- please,
17 two minutes or less so that we can stay on -- so
18 George will be timing. Thank you.

19 MR. MITCHELL: All right. We have a
20 Dr. Georgia Costello. Are you here, Dr. Costello?

21 DR. COSTELLO: Yes.

22 CHAIRWOMAN SAVAGE: Okay. Dr. Costello,
23 if you'd like to please provide your testimony now.

24 DR. COSTELLO: My name is Dr. Georgia

1 Costello. I'm a lifelong resident of the
2 Metroeast, and my family and I have participated
3 civilly and civically in our region for many
4 decades. Among other things I am the immediate
5 past president of Southwestern Illinois College
6 and presently serve on the board of HSHS
7 St. Elizabeth's Hospital in O'Fallon.

8 I respectfully oppose the Metroeast
9 Endoscopic Surgery Center project for three basic
10 reasons.

11 First, it's a duplication of services
12 based entirely on procedures offered at two
13 existing HSHS hospitals, one being a critical
14 access hospital.

15 Second, the proposed duplicated services
16 will, according to the application, significantly
17 increase patient costs with exorbitant
18 professional fees.

19 And third, the resulting reduction in
20 revenues to the existing hospitals will diminish
21 safety net services in the area.

22 The project file contains opposition letters
23 from some 75 significant people in our region.
24 They include letters of opposition or comments

1 from city, county, and State elected officials,
2 fire department, EMS and ambulance service
3 representatives, local health departments, business
4 leaders, physicians, and hospital executives.

5 Beyond the adverse impacts and staff
6 documented deficiencies, I cannot understand what
7 is going on with the physicians associated with
8 this project. First, they say Dr. Ungacta will
9 make the referrals. Then they say Dr. Bradley
10 will. Then Dr. Bradley says he will not refer,
11 and now I'm told he says he will. Ladies and
12 gentlemen, something is quite out of order here.
13 Certainly, this should present some concerns for
14 the Review Board. I respectfully ask that this
15 project be denied.

16 CHAIRWOMAN SAVAGE: Thank you. Next person.

17 MR. MITCHELL: Next we have Pat Schou.

18 MS. SCHOU: Good afternoon. I'm Pat Schou,
19 executive director of the Illinois Critical Access
20 Hospital Network which represents the 51 critical
21 access hospitals across the state. We respectfully
22 oppose the Metroeast Surgery Center project.

23 St. Joseph's Hospital in Highland has been
24 a Federally designated critical access hospital

1 since 2004, highlighting its importance in providing
2 safety net and other essential healthcare services.
3 Seven years ago they built a brand-new hospital
4 with improved patient access and state-of-the-art
5 surgery suites to accommodate orthopedic, vascular,
6 general surgery, and other surgical specialties.

7 In the past decade, 120 of America's 2000
8 rural hospitals closed for good. Many rural
9 hospitals in Illinois are now under serious
10 financial strain due to loss of population and the
11 ongoing pandemic. Preserving rural hospitals has
12 become a Federal and State priority.

13 As has been long true, the viability of
14 rural hospitals and of access to care in rural
15 areas depends on the sort of collaboration that
16 St. Joseph's has provided to the physician group
17 associated with this project, collaboration that
18 should be preserved, not destroyed.

19 This project admits that it will take
20 hundreds of outpatient orthopedic cases away from
21 a critical access hospital. In doing so it will
22 cause significant financial harm to the hospital
23 and puts at risk access to emergency, inpatient,
24 other necessary healthcare services. We

1 respectfully believe that there is no justification
2 for duplicating these orthopedic services.

3 Thank you for the opportunity to submit my
4 comments.

5 CHAIRWOMAN SAVAGE: Thank you. Next, Mike.

6 MR. MITCHELL: Next we have Michelle
7 Clatfelter.

8 MS. CLATFELTER: Good morning. My name is
9 Michelle Clatfelter, associate general counsel for
10 the Hospital Sisters Health System which opposes
11 the Metroeast Surgery Center project.

12 The applicant submitted two new letters
13 into the project last Friday, well beyond the
14 20-day cutoff period for written comment.

15 CHAIRWOMAN SAVAGE: Ma'am, you're cutting
16 in and out.

17 MS. CLATFELTER: The applicant submitted
18 two new letters into the project file last Friday,
19 well beyond the 20-day cut-off period for written
20 comment. In the past, this Board's general counsel
21 would have marked those letters as ex parte
22 communications and reported them to General
23 Assembly under Section 4.2 of the Planning Act and
24 the State Officials and Employees Ethics Act.

1 The Board's Administrative Rules state that any
2 communication that is not authorized by the public
3 comment process is a prohibited ex parte
4 communication. Such communications are not to be
5 considered by the Board or form the basis for any
6 decision.

7 The applicant attempts to justify these
8 communications as a response to the Board's staff
9 report. They are not proper responses. First,
10 the submission was made after the statutory deadline
11 for responding to the staff report. Second, under
12 the Planning Act, responses must be limited to
13 addressing factual errors in the staff report.
14 Yet here the applicant submitted entirely new
15 information via letters written after the staff
16 report was posted. Some of that new information
17 is plainly untrue.

18 We respectfully request that this Board
19 defer Project No. 20-017 to determine whether the
20 applicant's last-minute submissions should be
21 considered at all by this Board, and if so, to
22 allow the public and HSHS time to submit written
23 comment on it. Alternatively, we request that the
24 project be denied. Thank you.

1 CHAIRWOMAN SAVAGE: Thank you. Next
2 speaker.

3 MR. LUDWIG: My name is John Ludwig,
4 President and CEO of HSHS St. Joseph Hospital
5 Highland. We are a small, 25-bed Critical Access
6 Hospital in southern Illinois and oppose the
7 Metroeast Endoscopic Surgery Center project.

8 The permit application states that
9 200 orthopedic surgeries will be redirected from
10 our hospital to the surgery center by Dr. Felix
11 Ungacta. When we notified your staff that
12 Dr. Ungacta performed few surgeries at our
13 hospital, the applicant then claimed that the
14 referrals were really coming from Dr. Matthew
15 Bradley.

16 I then called Dr. Bradley, who told me
17 that he did not even know about this project until
18 my call. Dr. Bradley sent me a letter stating
19 that he had left Dr. Ungacta's medical group last
20 May and that all relationships and referrals to
21 any provider of that group, including Dr. Ungacta,
22 had immediately ceased. Dr. Bradley's letter was
23 timely included in the project file per Planning
24 Board rules.

1 In spite of those rules, the applicant
2 filed two letters last Friday, well after the
3 legal comment period, claiming that Dr. Bradley
4 now supports the project with 49 patient referrals.
5 The letters include factual inaccuracies such as
6 Dr. Ungacta's supposed generosity to our hospital
7 via a donation, when, in fact, he never actually
8 fulfilled his pledge.

9 Something strange is going on here, but
10 one thing is certain. The applicant previously
11 misled this Board by claiming Dr. Bradley's
12 referrals when he did not even know about this
13 project. They should be held accountable for
14 that, and this project should be denied.

15 Thank you.

16 CHAIRWOMAN SAVAGE: Thank you. Next
17 attendee.

18 MR. KLAY: Good afternoon. My name is
19 Chris Klay. I am President and CEO of HSHS
20 St. Joseph Hospital in Breese, Illinois.

21 I am opposed to the Metroeast Endoscopic
22 Surgery Center project. It relies entirely on
23 shifting outpatient orthopedic surgeries away from
24 my rural hospital and others and will further

1 deplete already anemic volumes due to the impact
2 of the COVID-19 pandemic.

3 We have already suffered job losses of
4 healthcare professionals and colleagues related to
5 the pandemic, and this project comes at the worst
6 possible time.

7 Pre-COVID, our 40-bed medical-surgical
8 unit was below 20 percent utilization, and our
9 operating rooms were at only 35 percent capacity.
10 There is no need whatsoever for another orthopedic
11 surgical facility in our area.

12 It is especially disheartening to see one of
13 our local surgeons, Dr. Felix Ungacta, supporting
14 this project. My health system purchased expensive
15 advanced robotic surgery equipment at his request
16 and for his use. Obviously, utilization of that
17 equipment, which is costly to maintain, could
18 plummet if this project were approved.

19 We are a 52-bed rural hospital and are
20 doing all we can to recover from, and continue
21 providing services during, this pandemic. We are
22 proud of our five-star rating with CMS' Hospital
23 Compare program, which recognizes our consistent
24 delivery of high-quality and safe patient care,

1 but there is only so much we can weather. We
2 respectfully request that this Board deny
3 Project 20-017.

4 Thank you.

5 CHAIRWOMAN SAVAGE: Thank you.

6 Mike, on to the next person, please.

7 MR. MITCHELL: Okay. We have Brian Wilson,
8 Nancie Zobrist, and Kurt Prenzler, but I cannot
9 identify them on our attendee list, so I'm going
10 to go on to Dr. Donald Bassman. Dr. Bassman, are
11 you there?

12 DR. LUDWIG: Dr. Bassman will be joining
13 in just one minute. As he was listed last on the
14 agenda, I am calling him right now.

15 Dr. Bassman is here.

16 DR. BASSMAN: I am Dr. Donald Bassman, a
17 longtime orthopedic surgeon serving patients in the
18 greater St. Louis and Metro East areas. I oppose
19 the Metroeast Endoscopic Surgery Center project
20 for three reasons. One, it adversely impacts rural
21 hospitals. Number two, it will cause a reduction
22 in the safety net of services in the area. And
23 number three, it unnecessarily duplicates existing
24 hospital services.

1 The most disappointing element of this
2 project is its complete disregard for the historic
3 collaboration between St. Joseph's Hospital-
4 Highland, and the orthopedic physician group at
5 the involved surgery center. At the request of
6 these physicians, the hospital in 2015 invested
7 \$1 million on a Mako surgical robot and thereafter
8 spent \$125,000 annually for preventative maintenance.
9 In 2019, the hospital invested another \$290,000 in
10 software upgrades for the Mako. These were
11 significant investments for a small, 25-bed critical
12 access hospital.

13 It is beyond disappointing that this
14 physician group now wants to redirect its surgical
15 cases to a competing facility and destroy the sort
16 of collaboration that is so important in rural
17 health care.

18 Two letters containing factual inaccuracies
19 were filed by the applicant on Friday, well after
20 the comment period. Contrary to Dr. Ungacta's
21 letter, he was not the only orthopedic provider at
22 the hospital from 2007 to 2018 -- myself and
23 several others were there, too -- and know that
24 St. Joseph's Hospital Breese and Highland both

1 hold the prestigious CMS five-star rating for
2 outstanding quality care and commitment to patients.

3 Please deny this project.

4 CHAIRWOMAN SAVAGE: Are there any other
5 participants to speak?

6 MR. MITCHELL: That is all that I can
7 identify.

8 CHAIRWOMAN SAVAGE: Okay. Thank you, Mike.

9 Okay, Mike Constantino, could you please
10 present the State Board staff report.

11 MR. CONSTANTINO: Thank you, Madam Chair.
12 The applicants are asking the State Board to
13 approve --

14 MEMBER MURRAY: Mike, it's cutting out.

15 MR. CONSTANTINO: -- the addition or
16 orthopedic surgery services to its current ASTC
17 center located in Fairview Heights, Illinois. The
18 reported project costs are approximately \$180,000.
19 The expected completion date is March 31st, 2021.

20 No public hearing was requested. We did
21 receive a number of support letters and opposition
22 letters on this project. We also received
23 three comments on the State Board staff report all
24 concerning the referrals from Dr. Ungacta and

1 Dr. Bradley.

2 The first letter is from HSHS that owns
3 St. Joseph Hospital in Highland, critical access
4 hospital affected by this proposal. That letter
5 concerned the historical referrals of Dr. Ungacta.
6 Those historical referrals from HSHS St. Joseph
7 Hospital in Highland that were provided were actually
8 patients of Dr. Bradley and not Dr. Ungacta. To our
9 understanding, Dr. Ungacta did not perform any
10 surgeries for the period of time covered by the
11 letter submitted by the applicants.

12 On May 29th, 2020, Dr. Bradley resigned
13 from his position with Dr. Ungacta's practice. To
14 date we have not received a referral letter from
15 Dr. Ungacta that meets the requirements of the
16 State Board.

17 As mentioned in the public comments, on
18 Friday we received a referral letter from
19 Dr. Bradley, and it was put on the State Board
20 website as is our practice. That letter stated
21 that Dr. Bradley performed surgery on 49 Illinois
22 patients in the past 12 months to a surgery center
23 in St. Louis, and now of those 49 historical
24 referrals Dr. Bradley predicts that he will be

1 able to refer 49 patients to Metroeast Endoscopic
2 Surgery Center.

3 The third letter we received was from
4 Dr. Ungacta providing an overview of the history
5 of Midwest Bone and Joint surgery and the plans
6 for the future, as well as the statement that he
7 performs 200 to 250 surgeries per year and the
8 hiring of additional surgeons in his practice. As
9 I mentioned, this letter from Dr. Ungacta does not
10 meet any of the requirements of the State Board
11 for a referral letter.

12 We did have findings related to this project.
13 None of the referrals we reviewed provide services
14 to any patient within the 17-mile GSA or the
15 geographic service area. The applicant was unable
16 to meet one of the four conditions required by
17 service accessibility and planning. There appears
18 to be averages in capacity in the 17-mile GSA that
19 can accommodate the workload identified with this
20 application. Additionally, the proposed referrals
21 to the surgery center from HSHS St. Joseph
22 Hospital Highland will reduce the hours at the
23 hospital surgery department by 23 percent.

24 Thank you, Madam Chair.

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1 MS. AVERY: Madam Chair, it's my
2 understanding that we may have three more people
3 for public comment.

4 Kara, can you hear us and if you can --

5 MS. FRIEDMAN: I can just barely hear you,
6 Courtney, but I hear you announcing that we have
7 three supporters that are on.

8 MS. AVERY: Public comment --

9 MS. FRIEDMAN: I'm sorry, Courtney, I
10 can't hear you.

11 CHAIRWOMAN SAVAGE: Kara, can you hear me?

12 MS. FRIEDMAN: I can.

13 CHAIRWOMAN SAVAGE: Okay. So she said who
14 are the three participants, and who is the
15 presenter, and who is the participants that -- you
16 know, just for testimony.

17 MS. FRIEDMAN: Sure. So the three supporters
18 are Matthew Greenberg, Felix Ungacta, and Matthew
19 Bradley, and then the presenters and Mark Freeland
20 and myself.

21 CHAIRWOMAN SAVAGE: Okay. Thank you.
22 One second.

23 MS. FRIEDMAN: And I'm sorry for any
24 confusion, but we did submit their information

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1 before the deadline yesterday.

2 CHAIRWOMAN SAVAGE: So, Mike Mitchell, can
3 you facilitate those other three that were
4 originally on the list of participants, and then
5 we'll move to Kara Friedman's list of three people
6 she said.

7 MR. MITCHELL: All right. Just one moment.
8 Do we have Brian Wilson?

9 MR. WILSON: Yes.

10 MR. MITCHELL: Okay. Go ahead, sir.

11 MS. FRIEDMAN: Can I just have one moment,
12 please? That is not one of the three people I
13 mentioned, just as note.

14 CHAIRWOMAN SAVAGE: No, Kara, we're going
15 to the three people who originally said they
16 wanted to testify, and then we'll move to your
17 three people after that.

18 I'm sorry. Please go ahead and proceed.

19 MR. WILSON: My name is Brian Wilson. I
20 serve as emergency services chief for the City of
21 Highland. In that role, I manage the Fire and EMS
22 Department. I appear in strong opposition to the
23 Metroeast Surgery Center project. As Dr. Georgia
24 Costello noted --

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1 CHAIRWOMAN SAVAGE: Sir, I'm sorry;
2 whoever is speaking right now, could you stop for
3 one second. We have a lot of feedback going on.

4 MS. AVERY: Are you in a room with
5 multiple devices?

6 MR. WILSON: Yes.

7 MS. AVERY: You're going to have to
8 spread out.

9 CHAIRWOMAN SAVAGE: Because we can't really
10 understand what you're saying.

11 Perfect. Okay. Now go ahead and try
12 again.

13 What was his name, Brian something? Brian
14 Wilson?

15 MR. MITCHELL: I think we have lost the
16 connection to Dr. Ludwig now. I think they may
17 have hung it up.

18 CHAIRWOMAN SAVAGE: Okay. Can we move to
19 one of the other people and maybe he'll come
20 back on?

21 MR. MITCHELL: My information was all
22 three of those people were with Dr. Ludwig. I
23 don't have those other individuals listed on my
24 list, so I'm afraid we may have lost them all.

1 CHAIRWOMAN SAVAGE: Okay. Let's move on
2 to Kara's people then.

3 MR. MITCHELL: Okay. We have Dr. Felix
4 Ungacta. However, his connection is such that I
5 cannot unmute him. At this time it's not allowing
6 me to do that, so I'm going to move on to
7 Dr. Matthew Bradley.

8 Dr. Bradley.

9 DR. BRADLEY: Yes. Can you guys hear me?

10 MR. MITCHELL: Yes, we hear you, sir.

11 DR. BRADLEY: Excellent. Thank you.

12 Thank you, Madam Chair. As I said, my
13 name is Dr. Matthew Bradley and I'm a board-
14 certified orthopedic surgeon. I was previously
15 Dr. Ungacta's partner, and during COVID I moved my
16 practice closer to my home. I do live in
17 Columbia, Illinois. I currently work with the
18 affiliated medical practice here in Illinois as
19 well as in the St. Louis area where I see patients
20 from both St. Louis as well as the Metroeast
21 region which now has a population in excess of
22 700,000. This is an increase of about 100,000
23 patients over the last 10 years.

24 Orthopedic -- access to orthopedic surgical

1 care at freestanding surgical centers in the
2 Metroeast area is always very difficult. In fact,
3 the last remaining surgery center in the area
4 recently closed, that being the one in Waterloo.

5 With the growing population it's now
6 become imperative that we be able to provide these
7 safe alternatives to our patients. Last year only
8 about 400 orthopedic cases were performed at
9 ambulatory surgery centers, which is less than
10 10 percent of all outpatient surgeries performed
11 in the area. Nationally you see about 50 percent
12 of outpatient orthopedic cases being performed at
13 ambulatory surgery care centers.

14 The disparity is a great disservice to the
15 local residents of Illinois. As it stands, my
16 Illinois patients have to arrange transportation
17 to go to a Missouri surgery center of their
18 choosing, which provides an increased cost.

19 Additionally, Missouri providers don't
20 typically accept Illinois Medicaid patients and
21 their various programs. The applicant and the
22 surgery center has enrolled all Illinois Medicaid
23 plans and very actively accepts all Medicaid
24 patients despite no legal obligation to do so.

1 There's no specific volume requirements
2 for you to consider to approve the proposal, but I
3 did submit to you my 49 cases on Illinois patients
4 I have done.

5 Off the cuff I can tell you living in
6 Columbia, Illinois, and seeing these patients over
7 the last four or five months since I moved my
8 practice, COVID has changed my practice
9 significantly. Patients are very afraid to even
10 come into the clinic to see me and even more
11 afraid to go to the hospitals. I've got patients
12 that absolutely will refuse to have surgeries and
13 seek medical care in the hospital environment over
14 the fear of COVID. I don't see this fear ceasing
15 anytime soon, and these patients are now not having
16 the care they need, often becoming wheelchair-
17 bound, homebound and not leaving their homes due
18 to their fear of getting surgery at facilities
19 that are treating COVID.

20 Ambulatory surgery centers have the advantage
21 of being able to screen patients and not have to
22 accept patients with COVID, unlike hospitals. Our
23 screening techniques are very, very rigid and
24 provide a very safe environment, a comfortable

1 environment for my patients.

2 I ask that you please consider approving
3 this application to allow me to perform orthopedic
4 surgery at a safe outpatient environment for my
5 patients.

6 Thank you, Madam Chair. Appreciate
7 your time.

8 MS. FRIEDMAN: I have Dr. Ungacta on my
9 line here.

10 Dr. Ungacta, you may need to move away
11 from your computer to get away from the feedback,
12 but I think this is the best we can do. I think
13 we can hear you. Can you test it?

14 DR. UNGACTA: Testing. Can you guys
15 hear me?

16 MS. FRIEDMAN: Okay. They can hear you.

17 DR. UNGACTA: Great. Good afternoon.
18 This is Dr. Felix Ungacta. Thank you, Madam Chair
19 and Board members for having me today.

20 I represent the 12,000 patients that I
21 have treated over the past 13 years and these
22 patients count on me to bring them to a safe place
23 and a place that's appropriate for their outpatient
24 surgery. I'm a board-certified Illinois licensed

1 orthopedic surgeon practicing in the Metroeast
2 region, and my practice covers the communities
3 north of Highland south, east, and west, even into
4 St. Louis.

5 I started my practice in Highland in 2007.
6 Since 2007 St. Joseph's Hospital has been my
7 primary practice location. So in 2013 when they
8 requested financial support for constructing a new
9 hospital, my wife and I made a \$100,000 donation
10 to the hospital. For that the surgery center,
11 thanks to Dr. Felix Ungacta and Mrs. Ungacta the
12 surgery center and the Ungacta Conference Center
13 has been established for a \$100,000 support.

14 Since the new hospital opened in 2013, I
15 have continued to support them and have been the
16 only dedicated full-time orthopedic provider in
17 the community. The Highland Hospital has provided
18 an exceptional level of care in my 13 years of
19 practicing there, and I've never had a single
20 lawsuit since practicing in Highland and since my
21 practice started in 2001.

22 Fast forward to today. My practice is
23 actively recruiting a third and a fourth orthopedic
24 surgeon after signing on Dr. Robert Leff from Ohio

1 who will be starting my practice in October with
2 my group next month and also Lieutenant Colonel
3 Ryan Sieg potentially starting next spring who is
4 a Mako robotic expert.

5 Over the recent years as healthcare
6 shifted from inpatient to outpatient so did my
7 practice. Currently more than 90 percent of my
8 surgical cases are outpatient. Today we send
9 total knee and total hip patients home the same
10 day, the day of surgery. That was not the case
11 even a year ago. So to me the question today for
12 the committee is where is it most appropriate to
13 perform outpatient surgical procedures. I think
14 the answer is obvious.

15 I have gone on record supporting the
16 proposal with a referral commitment. The reason
17 being in today's environment this is an
18 appropriate setting to perform a wide variety of
19 surgeries that I currently perform. With the
20 advent of COVID-19, the reasons to have this
21 option available is critical.

22 In general, I perform about 200 to 250 cases
23 per year. With the addition of additional surgeons
24 to my practice, the estimated number of cases is

1 750 cases per year. Again, 90 percent of these
2 cases can be performed in an outpatient setting.

3 I am seeking out freestanding outpatient
4 surgical facilities as a safer alternative and a
5 lower cost setting for my patients. As a surgeon,
6 it is my responsibility to be my patients' number
7 one advocate, and that's what I'm doing here
8 today.

9 I understand thoroughly the opposition's
10 business case. That's understood. But my support
11 for the project extends beyond business assumptions.
12 I have no business or financial arrangement with
13 the center. I'm here today for my patients. I've
14 never owned or operated a surgery center, an
15 imaging center, or even physical therapy, just my
16 primary orthopedic practice.

17 I brought to Highland four years ago
18 technology far advanced of even Barnes-Jewish
19 Hospital; they haven't started; they start it in
20 2021. So this is something I brought to the
21 community. I spearheaded this effort, and I will
22 continue using the robot if I'm able to.

23 I support the expansion of this Metroeast
24 Endoscopic Surgery Center for cases that are

1 appropriate, and with orthopedic surgery, 90 percent
2 of cases are performed in an outpatient surgery
3 setting. I hope one day that HSHS will establish
4 an outpatient surgery center because it's
5 appropriate, and it's critical that we have a
6 place for patients to go that would decrease the
7 probability of them contracting viruses such as
8 COVID-19.

9 I want to thank you for your time, and I
10 speak on behalf of my 12,000 patients that I
11 currently treat still in Highland, Illinois.
12 Thank you very much, Madam Chair and Board members.

13 CHAIRWOMAN SAVAGE: Thank you.

14 Do you have your other person, Kara?

15 MS. FRIEDMAN: Mike Mitchell is that
16 person able to join by computer?

17 MR. MITCHELL: Yes. I believe we have
18 Matthew Greenberg.

19 MR. GREENBERG: Yes. Can you hear me?

20 CHAIRWOMAN SAVAGE: Yes.

21 MR. GREENBERG: Perfect.

22 Hello everyone. My name is Matthew
23 Greenberg, and I fully support the addition of
24 orthopedic services at Metroeast Surgery Center,

1 Project 20-17.

2 I left my job due to COVID and so currently
3 have insurance under the State's Medicaid plan.
4 12.9 million of the state's residents are enrolled
5 in the Medicaid program, and over 125,000 of them
6 are enrolled in the planning area where this
7 surgery center is located.

8 You're witness today to intimidation and
9 manipulation by a more than \$2 billion, quote,
10 "nonprofit," closed quote, healthcare system which
11 supposedly is a safety net provider. It is here
12 today on that pretense that it should somehow
13 control the area healthcare market and that you
14 should trust it to take care of people in this
15 region. But fact is, if you were a Medicaid
16 enrollee or uninsured, it is going to be impossible
17 for you to get access to anything short of
18 emergency care from this Health Sisters Health
19 System.

20 Unlike this bullying health system, the
21 applicant, which is merely requesting to add
22 certain doctors to its medical staff in a lower
23 cost setting, openly accepts Medicaid, and its
24 payor mix is similar to the planning area's

1 patient population. The pricing of the surgery
2 center helps not just individual patients but this
3 state, as well, for the lower cost that it expands
4 for every Medicaid case done in the ASC.

5 I have some extremely serious medical
6 conditions myself that I'm dealing with, and I am
7 exceedingly frustrated by my inability to get
8 services from nonprofit health systems. I spend
9 hours a day bouncing from one staff person to the
10 next. I get something scheduled only to get a
11 call back before I get to the appointment telling
12 me that, in fact, they will not accept my
13 insurance for the visit.

14 Hospital Sisters has a large group of
15 employed physicians throughout the area it serves
16 in Illinois, yet they do not accept most of the
17 Medicaid managed care plans. Of the four plans
18 offered in the Metroeast region, Hospital Sisters
19 Medical Group only accepts one. That does not get
20 people hurt by the economy and otherwise underserved
21 the care they need. The proposal today will help
22 fill that void. Please approve Metroeast
23 Endoscopic Surgery Center's proposal today.

24 CHAIRWOMAN SAVAGE: Thank you.

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1 MR. MITCHELL: Okay. I believe we have
2 our other commenters again now. Just a moment.
3 Let me try them.

4 Is Brian Wilson there?

5 MR. WILSON: Yes, I am. Can you hear
6 me now?

7 CHAIRWOMAN SAVAGE: We can.

8 MR. WILSON: My name is Brian Wilson. I
9 serve as the emergency services chief for the City
10 of Highland. In that role I manage the fire and
11 EMS department. I appear in strong opposition to
12 the Metroeast Surgery Center project.

13 As Dr. Georgia Costello noted, there is a
14 wide ranging opposition throughout our community
15 and region from elected officials, to local health
16 departments, to business leaders, to physicians
17 and hospital executives. Fire, EMS, and ambulance
18 service representatives, of which I am one example,
19 have likewise registered their opposition.

20 I know the critical importance of having a
21 local hospital with a 24/7/365 emergency department.
22 It can literally make the difference of life or
23 death. The redirection of 200 outpatient surgeries
24 per year from our 25-bed critical access hospital

1 will unavoidably result in-service cuts and
2 possibly impact the emergency department.

3 St. Joseph's Hospital Highland has been a
4 part of our community since 1878. In that 140-year
5 history, no challenge has been greater than the
6 current COVID-19 pandemic. To further financially
7 challenge our hospital at this precarious time
8 would be wrong on many levels. To even consider
9 approving this application which is inconsistent
10 regarding patient referrals, allowing no opportunity
11 to correct last-minute misstates by the applicant
12 would violate procedural rules and be unfair. I
13 respectfully urge denial. Thank you.

14 CHAIRWOMAN SAVAGE: Thank you.

15 MR. MITCHELL: All right. Next we have
16 Nancy Zobrist. Nancy, are you there?

17 MS. ZOBRIST: Yes, I am here.

18 I am Nancy Zobrist, executive director of
19 the Highland Chamber of Commerce. We join the
20 many other organizations and leaders throughout
21 our region in opposing the Metroeast Endoscopic
22 Surgery Center project.

23 The application relies entirely on the
24 redirection of existing outpatient orthopedic

1 procedures performed at two rural hospitals, which
2 certainly must represent the very definition of
3 unnecessary duplication of services. The adverse
4 consequences for our community and its Federally
5 designated critical access hospital would be
6 substantial and irreversible.

7 As a necessary but nonetheless unfortunate
8 consequence of the COVID-19 pandemic, State
9 officials curtailed all elective hospital
10 procedures. That hit our local hospital hard.
11 Now is a particularly bad time to add to the
12 financial challenges facing rural hospitals.

13 Our residents and businesses depend upon
14 the continued viability of Highland's St. Joseph's
15 Hospital. We are justifiably proud of both the
16 effected rural hospitals. Each holds the
17 prestigious five-star rating from CMS, something
18 fewer than 10 percent of all hospitals achieve.
19 They are high quality and worthy of preservation.

20 The CON applicant has benefited from a
21 generous partnership with our small critical
22 access hospital in the form of robotic surgery
23 equipment purchased and maintained by the hospital
24 at the specific request of the involved surgery

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1 center practice group. Such collaboration is
2 critical to the success of rural healthcare and
3 should be protected rather than discarded.

4 Our local chamber respectfully urges
5 denial of this project. Thank you.

6 CHAIRWOMAN SAVAGE: Thank you.

7 MR. MITCHELL: Our last commenter is Kurt
8 Prenzler. Are you there, Mr. Prenzler?

9 MR. PRENZLER: Yes, I am.

10 Good afternoon. My name is Kurt Prenzler.
11 I serve as chairman of the Madison County Board
12 and appear before you in opposition to the
13 Metroeast Surgery Center project. I am one of
14 many elected officials referenced by Georgia
15 Costello who opposed this project.

16 My letter to the Review Board details
17 six reasons for my opposition. I echo the grounds
18 for opposition expressed and timely submitted by
19 State Representative Charlie Meier, the mayors of
20 Highland and Breese, the chairman of the Clinton
21 County Board, local public health departments,
22 area EMS providers, and other local officials.

23 In my submitted letter I discussed a
24 balancing of interests. The certificate of need

1 applicant offers as his sole justification to this
2 project a supposed cost savings for patients. Yet
3 no such savings are documented, and the record
4 even reflects cost increases.

5 Balanced against this illusory benefit are
6 many significant adverse impacts. They include an
7 unnecessary duplication of services, negative
8 impact on safety net services by a Federally
9 designated critical access hospital, added
10 financial pressures to rural hospitals already
11 suffering from the COVID-19 pandemic and State
12 orders to curtail elective procedures, and a
13 disregard of the positive history of collaboration
14 by the affected hospitals with the applicant.

15 I believe that the interests of one
16 entrepreneur should not prevail over those of
17 entire communities. I believe that applicants
18 should be held accountable for untruthful
19 submissions and that rules should be followed. I
20 respectfully suggest that this project warrants
21 denial. Thank you.

22 CHAIRWOMAN SAVAGE: Thank you. I believe
23 that's all for public participation. So now, if
24 you'd like to go ahead, Kara. If there's somebody

1 else presenting with you that needs to be sworn
2 in, go ahead, Paula.

3 MS. FRIEDMAN: Yes, Doctor -- Mark
4 Freeland is on the line, and I'm not sure if he
5 can show his video, but he should be here.

6 THE COURT REPORTER: Are you there,
7 Mr. Freeland?

8 MR. MITCHELL: Yes, we have him on the line.

9 THE COURT REPORTER: I'll just need him to
10 raise his right hand and be sworn. Are you doing so?

11 MS. FRIEDMAN: Can we just make sure he's
12 there?

13 Mark, can you say hello?

14 (No response.)

15 MS. FRIEDMAN: Just a moment, please.
16 Because I thought he was on the line.

17 And you say -- Mike Mitchell, you said
18 that you think he is on the line? Mike is muted
19 now, too.

20 MR. MITCHELL: Oh, sorry. He should be
21 unmuted, yes.

22 MS. FRIEDMAN: Okay. Maybe he's muted his
23 own line.

24 Mark Freeland, can you hear me? I may

1 have to do the same thing that I just did with a
2 supporter. Let me see if I can just get him on
3 the line.

4 (An off-the-record discussion was held.)

5 (Witness sworn.)

6 MR. FRIEDMAN: Okay. I think Mark Freeland
7 would like to begin the presentation, and then
8 I'll have some comments, as well.

9 MR. FREELAND: All right. Well, good
10 afternoon. Thank you, Madam Chair and Board for
11 allowing me to speak this afternoon. Again, my
12 name is Mark Freeland. I was formerly executive
13 director of the Southern Illinois Regional
14 Wellness Center, which is a Federally qualified
15 health center located in East St. Louis and
16 Washington Park, Illinois. Currently my job is as
17 an assistant administrator primarily working with
18 credentialing and billing for the surgery center,
19 and I'm here today to request permission for the
20 center to credential orthopedic surgeons and begin
21 providing those services.

22 As you all likely know, a freestanding
23 ambulatory surgery center provides the same high-
24 quality surgical care as hospitals but in a more

1 convenient setting at a fraction of the cost, and
2 for many members of our community this center is
3 the only option for receiving this convenient
4 care. We serve nearly 1,000 Medicaid patients
5 every year, and it would be great to see this
6 number grow even larger with the addition of
7 orthopedic surgery.

8 I want to thank our community for the
9 outpouring of support we received for our plans to
10 have orthopedic surgeons at our center. Over a
11 dozen letters were submitted to this Board,
12 including from State Representatives Jay Hoffman,
13 District 113, and LaToya Greenwood of District 114.

14 Now, these supporters identified many of
15 the access problems for residents of the Metroeast
16 area, including rising healthcare costs and
17 financial ruin experienced by people who get huge
18 surprise medical bills from hospitals. As some of
19 you may know, a former Board member publicized his
20 own medical bankruptcy. And this is not a
21 hypothetical issue, and despite what some want you
22 to think, hospitals are not a panacea for the
23 medical needs of low-income families.

24 To provide you some background, in 2013 the

1 Board approved the establishment of our surgery
2 center in Fairview Heights, which is adjacent to
3 Belleville. If you're unfamiliar, this is the area
4 just across the river from St. Louis. Our center
5 was approved by this Board and has provided and
6 continue to provide high-quality low-cost surgical
7 options for the elderly and the less affluent
8 members of our community.

9 At that time we came before this Board and
10 committed to serving as a safety net provider for
11 our community. I'm proud to say that our accredited
12 surgery center has lived up to that commitment and
13 is the largest provider of Medicaid ambulatory
14 surgical treatment services for the entire
15 planning area, which includes Clinton, Madison,
16 and St. Clair Counties. This creates meaningful
17 savings for government payors and particularly the
18 State of Illinois, but during the last four years
19 more than a quarter of our patients have been
20 Medicaid beneficiaries compared to 7.6 percent of
21 the entire planning area and 4.2 percent statewide.
22 In fact, over 60 percent of Medicaid beneficiaries
23 treated at a surgery center at Health Service
24 Area 11 were served by our small surgery center.

1 Following our initial focus on colorectal cancer
2 screening and other GI services, we have since
3 expanded our focus to add other surgical specialties
4 with the unanimous approval of this Board.

5 When you approve this request, it will
6 help us fill the local void left by the relocation
7 of St. Elizabeth Hospital from the more urban and
8 impoverished Belleville to the more affluent
9 community of O'Fallon.

10 You'll also hear from a rehab provider
11 applicant later today because of lack of resources
12 in this part of Illinois patients often must
13 travel to Missouri for simple elective lower cost
14 surgical procedures and other relatively basic
15 care. Unfortunately, this is not an option for
16 Medicaid patients, as most of Missouri surgery
17 centers do not contract with Illinois Medicaid
18 managed care plans. We contract with all Medicare
19 plans in St. Clair County. Expanding our medical
20 staff will be a meaningful contribution to
21 healthcare access for all of our area residents.

22 The Medicare Payment Advisory Commission,
23 also known as MedPAC, advises Congress on
24 reimbursement issues relative to Federal healthcare

1 reimbursement policy. According to its most
2 recent 2019 report to Congress, providing Medicare
3 beneficiaries access to freestanding surgery
4 centers is beneficial because services provided at
5 an ASC setting are, and I quote, "Less costly to
6 Medicare and beneficiaries than service delivered
7 at hospital outpatient departments. Medicare
8 payment rates for surgical procedures performed in
9 hospital outpatient departments are almost twice
10 as high as an ASC," unquote.

11 Providing a lower cost alternative is even
12 more important in these days of reduced access to
13 affordable employer-based health insurance. With
14 our region seeing historically high unemployment
15 rates, many people, if insured at all, now have a
16 \$5,000 or more deductible regardless of their
17 income level. With this benefit structure, unless
18 a patient experiences a catastrophic illness,
19 their insurance benefits are generally irrelevant.

20 Further, according to the Census Bureau
21 data, 15 percent of area residents live at or
22 below the Federal poverty limit. This is why MESC
23 treats so many Medicaid patients. In hospitals
24 about 20 percent of patients undergoing surgery

1 receive a surprise medical bill sometimes as much
2 as \$100,000. We do not engage in the practice of
3 surprise medical billing and advertise our rates
4 for people paying out of pocket in advance. We
5 also never send a patient's unpaid bill for
6 collections.

7 Through my involvement with the Federally
8 qualified health clinic I've seen firsthand the
9 impact a large and sometimes unexpected healthcare
10 bill can have on patients and their families. How
11 many GoFundMe campaigns have you all seen to cover
12 extraordinary medical expenses? Unless and until
13 there are affordable health insurance options, the
14 communities we serve deserve a lower cost option.

15 As previously noted, we have historically
16 treated 60 percent of Medicaid beneficiaries
17 receiving ASC services in our planning area, but
18 we also offer our uninsured patients a global fee
19 or free care if they cannot afford it. We readily
20 accept free clinical referrals, and we stand
21 behind our commitment to continuing our practices
22 as a safety net provider and upon adding this
23 service will increase access for the underserved.
24 We've been a safety net provider since we opened

1 our doors six years ago. That is a documented
2 track record that you can count on. With this in
3 mind I urge you to approve this proposal to add
4 orthopedic surgery in our center.

5 Prior to January 1st, 2018, the addition
6 of a surgical specialty was never regulated by
7 this Board. For decades specialty ASC's can offer
8 additional surgical specialties whenever warranted
9 in the way hospitals currently can without seeking
10 regularity approval. Since additional regulations
11 became effective in 2018 this Board has approved
12 several CON permits to add specialties at ASCs
13 without a single denial. This 100 percent
14 approval rate reflects the fact that adding a
15 surgical specialty improves patient access and
16 increases utilization of existing healthcare
17 resources all for a relatively small cost. In
18 this case the permit would allow for an
19 expenditure of up to \$180,000 on surgical
20 equipment.

21 Given that this Board has thus far approved
22 all permit requests and a surgical specialty, I
23 would not expect this project to be received any
24 differently, particularly since MESC is an

1 important safety net provider region, and many of
2 the private surgery centers that have received
3 permits to add specialties do not participate in
4 the safety net as we do.

5 We're very proud of what we do for our
6 community and our patients. I ask that you
7 approve this application so we can provide a high-
8 quality low-cost option for our patients in
9 orthopedic closer to home for Metroeast residents.

10 In closing, I would just like to address,
11 several of the opposers talked about redirection
12 of surgeons. Having worked in the Metroeast area
13 for the last 20 years, our focus has been on
14 primarily the areas of East St. Louis, Washington
15 Park where a higher percentage of Medicaid
16 patients live. So it's not necessarily a
17 redirection; it's providing greater and more
18 access.

19 Thank you for your time.

20 MS. FRIEDMAN: Thank you. If I could just
21 close with a few comments, and in particular I
22 want to make a few points about the project based
23 on your staff report. And, again, my name is Kara
24 Friedman, and I'm counsel for the applicant.

1 First, as reflected in your Board staff
2 report, this is a nonsubstantive project, meaning
3 that though the Planning Board has procedures to
4 require submission of an application, this is not
5 a matter of major consideration for this Board, as
6 it is in outpatient service, it does not create or
7 establish a healthcare facility or a category of
8 service. This is an existing ambulatory surgery
9 center with two key rooms, and there will be no
10 physical expansion of the operations in connection
11 with privileging this additional specialty.

12 You should note that this project was not
13 opposed by Memorial Hospital which is operating in
14 Belleville as well as in Shiloh or its affiliate
15 BJC. Memorial Hospital in Belleville is the
16 closest hospital location to this surgery center.
17 As also Mr. Freeland noted, it's where
18 St. Elizabeth, the Hospital Sisters hospital,
19 operated before it pulled up roots there and went
20 to the more affluent suburbs.

21 Hospital Sisters uses this process
22 regularly to oppose its competitors to maintain
23 its market dominance. Though BJC did not oppose
24 the Hospital Sisters cancer center in 2018 after

1 Memorial had already developed its center,
2 Hospital Sisters opposed the Memorial program.
3 Hospital Sisters also opposed Memorial Hospital's
4 establishment of inpatient services in Shiloh in
5 2011. Hospital Sisters opposed the prior
6 expansion of this surgery center. And we have
7 demonstrated our role as a safety net provider, I
8 hope that's coming through loud and clear, in the
9 years that this surgery center has been operating.

10 Plain and simple, Hospital Sisters has
11 bullied the orthopedic physicians who wish to do
12 cases at this ASC. As for the reference to COVID,
13 we all know COVID has created a backlog of
14 elective orthopedic cases and a serious imperative
15 for having COVID-free zones in which to safely
16 undertake procedures and other medical care.

17 Since it's not adding physical capacity,
18 by its nature this proposal will not create
19 duplication. As your staff report notes, there is
20 no need methodology for surgical services. What
21 we do know is that for a lower cost choice of
22 service for residents of the Metroeast area people
23 must cross into Missouri for outpatient surgical
24 services to be treated in a surgery center. As

1 Dr. Bradley notes in his documents, he does his
2 cases at Apollo Surgery Center in St. Louis.

3 So why should you approve this project?
4 Surgery centers reduced Medicare costs by more
5 than \$4 billion each year, and this state is one of
6 the largest, if not the largest payor at least by
7 number of patients that it covers similar benefits
8 by the cost savings offered by a surgery center.

9 In this case -- and I won't repeat the
10 data because Mr. Freeland did a really good job of
11 that -- this applicant, this operator is a major
12 participant in the delivery of care to area
13 residents enrolled in Medicaid. And on top of
14 that, another 30 percent are Medicare patients,
15 the other government payor.

16 As policy makers, you should be wary of the
17 payment disparity between surgery centers and
18 hospital outpatient departments that may discourage
19 providers like Hospital Sisters from shifting
20 services to surgery centers, and you should
21 prioritize policies that incentivize safe
22 migration of eligible procedures to the ASC
23 setting to achieve maximum savings to government
24 payors.

1 As your records indicate, Hospital Sisters
2 does not operate a surgery center in the Metroeast
3 area nor to my knowledge anywhere that it has
4 hospitals. This is a real shame for the state,
5 and we really need to see something change in this
6 immediate area.

7 In the regulation of healthcare and other
8 industries, there's a principle that market
9 participants should be provided a level playing
10 field despite certain differences in their
11 characteristics. We do not have that level
12 playing field here when it comes to expanding the
13 offerings of the surgical service. The disparity
14 in your oversight of the two types of surgical
15 providers wasn't as meaningful in prior years, and
16 as Mr. Freeland mentioned, previously
17 multispecialty surgery centers like this operator
18 could provide any service that could be safely
19 performed in a surgery center, which is logical
20 because a core principal of health planning is to
21 provide access to high-quality and lower cost care
22 in an appropriate setting.

23 I ask you to also take into consideration
24 the settled law based on judicial review of

1 projects that have come before this Board. This
2 Board is not charged with protecting market share
3 or profitability of individual providers. Though,
4 as a point of reference, the area hospital -- the
5 company opposing this brings in over \$2 billion in
6 annual revenues. This Board is required to consider
7 the impact of another provider only insofar as it
8 is consistent with the public interest and with
9 the orderly and economic development of healthcare
10 resources.

11 As a sophisticated group of healthcare
12 planners, this Board knows that encouraging the
13 use of outpatient ambulatory surgery centers as an
14 alternative to hospital-based care is consistent
15 with the core tenet of health planning to reduce
16 healthcare costs for government payors, employers,
17 patients, and their families, and as such Planning
18 Board rules should be generally construed to
19 encourage the development and utilization of
20 ambulatory surgery centers as an alternative.

21 We thank you for your time today and
22 respectfully ask that you approve this project.

23 CHAIRWOMAN SAVAGE: Thank you.

24 Are there any questions from our Board

1 members or State Board staff?

2 MEMBER MURRAY: I have a question for the
3 staff. In the report you mentioned that -- and I
4 couldn't quite understand the sentence. It said
5 something like "None of the criteria below," and
6 you referred us to pages 11 through 13 or 13 through
7 16, something like that. What I wanted to be
8 clear on, does everything on that page say that
9 this application failed to meet those criteria, or
10 is it one of those criteria?

11 MR. CONSTANTINO: There's currently eight
12 ASTCs and six hospitals within the 17-mile GSA.
13 These applicants have not identified one patient
14 from that 17-mile GSA that they provided any
15 service to.

16 MEMBER MURRAY: Okay.

17 MR. CONSTANTINO: Secondly, one ASTC in
18 this 17-mile GSA has been approved to provide this
19 surgical specialty being proposed, orthopedic
20 surgery, by the applicant to be added. The remaining
21 ASTs have not been approved to provide all the
22 specialties being proposed. All these surgical
23 specialties are available at the six hospitals
24 within the 17-mile GSA. The service proposed to

1 be added by the applicant is available in that
2 17-mile GSA, and this project is not a cooperative
3 venture with another hospital.

4 That was what's meant that they didn't
5 meet four of the conditions required for that
6 service accessibility.

7 MEMBER MURRAY: Thank you.

8 MS. FRIEDMAN: And if I may, I think the
9 idea around that criteria is that they seek to
10 have you meeting a single criteria, not
11 necessarily all four.

12 I would note that I believe that that
13 reference to services being offered at another
14 surgery center are in Madison County, towards the
15 north end of Madison County. This surgery center
16 is located adjacent to Belleville which in many
17 respects is medically underserved. So asking
18 patients in the Belleville area to go to the
19 northern part of the next county over, I don't
20 think it's appropriate access to the service.

21 MR. CONSTANTINO: Well, the doctors who
22 are proposing to refer patients have never
23 identified any patient from the 17-mile GSA.
24 There's been no documentation submitted, so

1 they're not serving residents of the GSA.

2 MS. FRIEDMAN: You heard Dr. Ungacta and
3 Dr. Bradley today speak to their anticipated
4 referral --

5 CHAIRWOMAN SAVAGE: I think Kara -- Kara's
6 internet looks to be out right this second.

7 Do you have any questions, Dr. Martell?

8 MEMBER MARTELL: I do not.

9 CHAIRWOMAN SAVAGE: Kara, can you hear us?
10 We'll give her another minute to try and get her
11 internet back.

12 Kara, are you back with us? Her triangle
13 went away.

14 Kara, we can hear you, so if you want to
15 try and continue speaking even though we can't see
16 your video.

17 MS. FRIEDMAN: Sorry; I don't know what
18 happened there.

19 CHAIRWOMAN SAVAGE: It's just technology.
20 It's fine.

21 MS. FRIEDMAN: So I'm not exactly sure
22 where I dropped off. I think the primary question
23 here that I think people are struggling with is
24 whether or not orthopedic care is available in the

1 immediate area of Fairview Heights and Belleville,
2 the adjacent town. And I don't think there's any
3 question that there are no orthopedic surgical
4 services there. The two physicians testified
5 before you today and discussed where they're doing
6 their cases and what they expect to do.

7 There's no minimum threshold of, you know,
8 you need to do 250 orthopedic cases to justify
9 this program because the operating rooms already
10 exist. We're not trying to build a volume in order
11 to demonstrate that we should build a surgery
12 center or that we should build operating rooms.
13 We're merely trying to credential physicians to an
14 existing surgery center. So if they had five cases
15 and wanted to come and have some block time,
16 there's no criteria that would say that that's
17 inadequate. These physicians have presented
18 before you today that they intend to use the
19 surgery center.

20 CHAIRWOMAN SAVAGE: Thank you.

21 Do we have any other questions or
22 comments?

23 (No response.)

24 CHAIRWOMAN SAVAGE: Okay. Hearing none,

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1 we would like to then go ahead and proceed with
2 our roll call, George.

3 MR. ROATE: Thank you, Madam Chair.

4 Motion made by Dr. Martell, seconded by Dr. Murray.

5 Senator Demuzio.

6 (No response.)

7 MR. ROATE: I'll skip over.

8 Dr. Martell.

9 MS. FRIEDMAN: Can you please repeat any
10 votes you hear? Because I can't hear any of them.

11 CHAIRWOMAN SAVAGE: Sure.

12 MS. AVERY: Senator Demuzio.

13 MEMBER DEMUZIO: (Inaudible.)

14 THE COURT REPORTER: I didn't hear it.

15 MR. ROATE: Thank you.

16 THE COURT REPORTER: I didn't hear that vote.

17 MR. ROATE: Dr. Martell.

18 MEMBER MARTELL: No, based on the staff
19 report and testimony provided today.

20 MR. ROATE: Thank you.

21 CHAIRWOMAN SAVAGE: Hold on. Senator
22 Demuzio did respond. She voted no.

23 MR. ROATE: Dr. Murray.

24 MEMBER MARTELL: Based on the staff

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1 report, no.

2 MR. ROATE: Thank you.

3 Dr. Grundy.

4 MEMBER GRUNDY: Based on the staff report,
5 I'll vote no.

6 MR. ROATE: Thank you.

7 Chairwoman Savage.

8 CHAIRWOMAN SAVAGE: I vote no based on the
9 staff report.

10 MR. ROATE: That's 5 votes in the negative.

11 CHAIRWOMAN SAVAGE: So the application
12 permit has been denied. Thank you -- oh, intent
13 to deny; my apologies. The application for the
14 intent to deny is approved. One moment.

15 (An off-the-record discussion was held.)

16 CHAIRWOMAN SAVAGE: So the applicant has
17 received an intent to deny, and you'll be hearing
18 from our State Board staff in the near future.
19 Thank you.

20 I would like to have a five-minute break.
21 So if everybody can come back in five minutes.

22 (Recess taken, 2:43 p.m. to 2:54 p.m.)

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