

SEIU HCIIMK - Public Comment re Application #20-039

October 28, 2020

1. Intro

SEIU Healthcare represents more than 5,000 hospital workers in the Chicago, St. Louis, and Kansas City metro areas.

As a union committed to health justice, we are deeply troubled by Trinity Health's decision to shutter Mercy Hospital and Medical Center which has provided critical health services to Chicagoans for more than 150 years.

2. Impact on South Side Communities

Mercy Hospital, located in Bronzeville, is one of a dwindling number of inpatient hospitals serving Chicago's South Side communities.

Roughly two-thirds of Mercy inpatients are African American; more than half are on Medicaid.ⁱ

Mercy provided the following in 2018:ⁱⁱ

- ED Visits – 51,685
- Live Births – 1,654
- Outpatient Visits – 350,099

Should Mercy close, the hospital's disproportionately non-white, low-income patient base will lose access to care and may experience worse health outcomes.

Mercy's service area is rife with racial and economic health disparities that will also likely worsen should the hospital closure proceed.

- Mercy's service area includes ZIP 60621 in Englewood where life expectancy is only 59.9 years (30 years less than ZIP 60611 in Streeterville).ⁱⁱⁱ
- Mercy's service area also includes the Douglas and Fuller Park Community Areas which have some of the worst health outcomes in the city.^{iv}
 - Douglas
 - Diabetes Mortality Rate – 119.1 per 100K persons (Chicago – 70.1 /100K persons)
 - Cancer Mortality Rate – 269.9 per 100K persons (Chicago – 193.6/100K persons)
 - Fuller Park
 - Infant Mortality Rate – 22.6 per 1,000 live births (Chicago 8.1/1,000 live births)

Trinity Health's decision to close Mercy Hospital further imperils the health of communities already struggling with limited access to care and negative health outcomes.

2. Non-Compliance with HFSRB Discontinuation Review Criteria

Trinity's CON application requesting permission to discontinue Mercy Hospital (Application for Permit #20-039) is noncompliant with multiple Review Criteria enumerated in 77 Ill. Admin. Code 1110.290.

Reasons for Discontinuation

Trinity Health's CON application falsely asserts that continuing to operate Mercy Hospital is not economically feasible.

- 77 Ill. Admin. Code 1110.290(b) states that "the applicant shall document the discontinuation is justified by providing data that verifies that one or more...factors exist with respect to each service being discontinued".^v
- Application for Permit #20-039 asserts that "Pursuant to 77 Ill. Admin 1110.290(b)3, the Hospital is not economically sustainable or feasible".^{vi}
- Mercy Hospital's parent Trinity Health is by its own admission "one of the largest multi-institutional Catholic health care delivery systems in the nation".^{vii}
- Trinity Health had \$30.4 billion in assets including "\$11.9 billion in unrestricted cash and investments" as of June 30, 2020.^{viii}
- Mercy Hospital recorded \$4.1 million in excess revenue over expenses (profit) in Fiscal Year 2020 after Trinity Health leadership claimed that the hospital was losing millions of dollars a year.^{ix}
- Application for Permit #20-039 does not include Trinity's Health's financial statements or account for why Trinity cannot devote some of its vast assets to keeping Mercy Hospital "economically sustainable".
- Thus, Application for Permit #20-039 is noncompliant with this Review Criterion.

Impact on Access

Trinity Health concedes that closing Mercy Hospital will create an ICU bed shortage in Hospital Planning Area A-03 (Chicago South Side).

- 77 Ill. Admin. Code 1110.290(c) states that "the applicant shall document whether the discontinuation of each service or entire facility will have an adverse impact upon access to care for residents of the facility's Market Area".^x
- 77 Ill. Admin. Code 1110.290(c)(3) lists "creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities" as a factor that indicates "an adverse impact upon access to service".^{xi}
- Application for Permit #20-039 concedes that "upon discontinuation of the Hospital, Planning Area A-03 will have 232 available ICU beds, with a need for 19 ICU beds."^{xii}
- Thus, Application for Permit #20-039 is noncompliant with this Review Criterion.

3. HFSRB Powers and Need for Reform

The Illinois Health Facilities and Service Review Board can and must stop Trinity Health's cynical attempt to close Mercy Hospital.

Trinity's CON application is noncompliant with multiple criteria necessary for approval. The HFSRB must reject Trinity's CON or run afoul of its own rules and regulations.

In recent years, the HFSRB has approved multiple CON applications to close hospitals the primarily served communities of color.

Facility Name	Year	Patients ^{xiii}	
		% White	% Non-White/Unknown
Franciscan Health – Chicago Heights	2018	45.4%	54.6%
MetroSouth Medical Center	2019	26.5%	73.5%
Westlake Hospital	2019	23.0%	77.0%

Currently, the HFSRB does not explicitly consider critical factors like Medicaid utilization, the presence/severity of racial health inequities, and/or impact on EMS/trauma systems when determining the need for health services and facilities.

The spate of recent hospital closures in Chicagoland and the HFSRB’s inability or unwillingness to intervene on behalf of effected communities suggest that current HFSRB planning and review criteria are too narrow and dated to account for actual community need/impact.

Thus, we assert that the ILGA should pass a bill during the next legislative session to expand the HFSRB’s planning and review criteria to more thoroughly assess the need for facilities/services and enhance the board’s ability to block harmful service cuts and hospital closures.

Even using the current, narrow criteria, however, the HFSRB has the power to stop this and other harmful hospital closures.

Trinity has the resources to keep Mercy open indefinitely. The HFSRB must use its powers to prevent this travesty and hold Trinity accountable for attempting to abandon Chicago’s medically underserved South Side communities.

ⁱ Safety Net Hospital Determination, Effective 10/1/2020 – 9/30/2021, Illinois Department of Healthcare and Family Services,

<https://www.illinois.gov/hfs/SiteCollectionDocuments/2021SafetyNetDeterminationEffective10012020.pdf>.

ⁱⁱ CY 2018 Hospital Profile, Illinois HFSRB,

<https://www2.illinois.gov/sites/hfsrb/InventoriesData/FacilityProfiles/Documents/2018%20Hospital%20Profiles.pdf>

ⁱⁱⁱ Centers for Disease Control viewed via PolicyMap, www.policymap.com.

^{iv} Chicago Data Portal, Public Health Statistics, Selected Public Health Indicators by Community Area,

<https://data.cityofchicago.org/Health-Human-Services/Public-Health-Statistics-Selected-public-health-in/iqnk-2tcu/data>.

^v 77 Ill. Admin. Code, Title 77: Public Health, Chapter II: Health Facilities and Services Review Board, Subchapter a: Illinois Health Care Facilities Plan, Part 1110 Processing, Classification Policies and Review Criteria, Section 1110.290 Discontinuation – Review Criteria,

<https://www.ilga.gov/commission/jcar/admincode/077/077011100C02900R.html>.

^{vi} Application for Permit #20-039, p. 39,

<https://www2.illinois.gov/sites/hfsrb/Projects/ProjectDocuments/2020/20-039/2020-08-31%2020-039%20Mercy%20Hospital%20and%20Medical%20Center.pdf>

^{vii} “About Us”, Trinity Health, <https://www.trinity-health.org/about-us/>.

viii Trinity Health Consolidated Financial Statements as of the Years Ended June 30, 2020 and 2019, September 16, 2020, p. 3, 45, <https://emma.msrb.org/P11424941-P11106138-.pdf>.

ix Ibid., p. 58.

x 77 Ill. Admin. Code, Title 77: Public Health, Chapter II: Health Facilities and Services Review Board, Subchapter a: Illinois Health Care Facilities Plan, Part 1110 Processing, Classification Policies and Review Criteria, Section 1110.290 Discontinuation – Review Criteria, <https://www.ilga.gov/commission/jcar/admincode/077/077011100C02900R.html>.

xi Ibid.

xii Application for Permit #20-039, p. 48, <https://www2.illinois.gov/sites/hfsrb/Projects/ProjectDocuments/2020/20-039/2020-08-31%2020-039%20Mercy%20Hospital%20and%20Medical%20Center.pdf>.

xiii CY 2018 Hospital Profile, Illinois HFSRB, <https://www2.illinois.gov/sites/hfsrb/InventoriesData/FacilityProfiles/Documents/2018%20Hospital%20Profiles.pdf>.

Talking Points re Trinity/Mercy HFSRB Review Criteria

October 29, 2020

SEIU HCII asserts that the HFSRB must reject Trinity Health's CON application seeking permission to close Mercy Hospital because the application is noncompliant with multiple Review Criteria enumerated in the Illinois Public Health Code.

According to the Code, an applicant seeking permission to discontinue a health service or healthcare facility must articulate a "reason for discontinuation".

Acceptable reasons include insufficient volume/demand, inadequate staff, noncompliance with licensing or certification standards, and economic infeasibility/financial unviability.

Trinity Health claims in its CON application that Mercy Hospital is "not economically sustainable or feasible".

This claim is absurd on its face.

Trinity Health is by its own admission "one of the largest...Catholic health care delivery systems in the nation" operating 92 hospitals in 22 states (including the three Loyola Medicine hospitals in the west suburbs).

Trinity is also an extremely wealthy health system.

At the conclusion Fiscal Year 2020 (6/30/20) Trinity Health had \$30.4 billion in assets including a staggering \$11.9 billion in "unrestricted cash and investments", much of it stashed in offshore accounts.

Trinity has the resources to save Mercy. Its preposterous to suggest otherwise.

Trinity also claimed in its CON application that Mercy is losing \$4 million a month.

Trinity Health's recently released 2020 consolidated financial statements, however, dispel this fiction.

According to the financial statements, Mercy had an "excess revenue over expense of \$4.1 million" in FY 2020.

And Trinity wants us and the board to believe that Mercy is financially nonviable?

There is no financial hardship. This is deception plain and simple.

The fact is Trinity is looking for an excuse to abandon a critical safety-net facility serving primarily low income communities and communities of color because it is insufficiently profitable.

The HFSRB should not let them get away with it.

In addition to failing to demonstrate financial hardship, Trinity's CON application concedes that closing Mercy will create an ICU bed deficit on Chicago's South Side DURING A PANDEMIC!

Mercy currently operates a 30-bed ICU that cares for thousands of patients admitted from the hospital's busy emergency department each year.

“Upon discontinuation”, the Mercy CON application states, “Hospital Planning Area A-03 (which encompasses the South Side of Chicago) will have 232 available beds, WITH A NEED for 19 ICU BEDS.”

In other words, the South Side will have 19 fewer ICU beds than the HFSRB has deemed necessary to safely handle the expected patient load.

This could result in negative outcomes for critically ill or injured patients (including COVID-19 patients) and even preventable deaths.

It is also noncompliant with HFSRB regulations which require that the discontinuation of a healthcare service or facility must not have an adverse impact on access to care.

The Public Health Code lists “creating or increasing a shortage of beds or services, as calculated in the Inventory of Health Care Facilities” as a factor that indicates “an adverse impact upon access to service”

Trinity’s plan to close Mercy is clearly noncompliant with this provision. The HFSRB has an obligation to reject this application.

Trinity Health has the resources to continue operating Mercy indefinitely and acknowledges that closing the hospital will create an ICU bed deficit on Chicago’s South Side.

But Trinity has chosen to prioritize profit over patient care and offshore investments over needy communities.

The HFSRB has the power to stop this. We demand that the board reject Application for Permit #20-039 and prevent another greedy out-of-state health system abandoning Chicago’s communities of color.