



# STATE OF ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

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<b>DOCKET NO:</b> I-02	<b>BOARD MEETING:</b> July 27, 2021	<b>PROJECT NO:</b> 20-040	<b>PROJECT COST:</b> Original: \$17,764,000
<b>FACILITY NAME:</b> OrthoIllinois Surgery Center Elgin		<b>CITY:</b> Elgin	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA:</b> VIII

**PROJECT DESCRIPTION:** This Application for Permit asks the State Board to approve the construction of a four-room ambulatory surgery center in Elgin in the HSA VIII Health Service Area. The Applicants are proposing to provide orthopedic, pain management, and podiatry surgical services. The estimated project cost is \$17,764,000 and the expected completion date March 1, 2023.

The purpose of the Illinois Health Facilities Planning Act is to establish a procedure (1) which requires a person establishing, constructing or modifying a health care facility, as herein defined, to have the qualifications, background, character and financial resources to adequately provide a proper service for the community; (2) that promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of such facilities; and (3) that promotes planning for and development of health care facilities needed for comprehensive health care especially in areas where the health planning process has identified unmet needs. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process. (20 ILCS 3960/2)

Information received by the State Board regarding this project can be found at this link.  
<https://www2.illinois.gov/sites/hfsrb/Projects/Pages/OrthoIllinois-Surgery-Center-Elgin,-Elgin--20-040.aspx>

## EXECUTIVE SUMMARY

### PROJECT DESCRIPTION:

- This Application for Permit asks the State Board to approve the construction of a four-room ambulatory surgery center in Elgin in the HSA VIII Health Service Area. The Applicants are proposing to provide orthopedic, pain management, and podiatry surgical services. The estimated project cost is \$17,764,000 and the expected completion date March 1, 2023.
- On May 4, 2021, the State Board issued an Intent to Deny. In accordance with the regulation, the Applicants requested to reappear before the State Board and submit additional information. Additional information was received by the State Board on June 9, 2021 and is included at the end of this report along with the transcript from May 2021 State Board meeting.
- In response to the Board's concern revenue by payor source and patients by payor source for the period 2015-2019 has been provided for the ASTC owned by OrthoIllinois in Rockford, Illinois [See page 8 of this report].
- Only those criteria that did not receive a positive finding at the May 4, 2021 State Board Meeting will be discussed as part of this report. The Applicant has successfully addressed the following criteria in the Original State Board Staff Report:
  1. Criterion 1110.110 (a) - Background of the Applicant
  2. Criterion 1110.110 (b) – Purpose of the Project
  3. Criterion 1110.110 (d) – Alternatives to the Proposed Project
  4. Criterion 1110.120 (a) - Size of the Project
  5. Criterion 1110.235(a) - (Formula Calculation)
  6. Criterion 1110.235(c)(8) - Staffing
  7. Criterion 1110.235(c)(9) – Charge Commitment
  8. Criterion 1120.130 – Financial Viability
  9. Criterion 1120.140 (a) - Reasonableness of Financing Arrangements
  10. Criterion 1120.140 (b) - Terms of Debt Service
  11. Criterion 1120.140 (c) - Reasonableness of Project Costs
  12. Criterion 1120.140 (d) - Direct Operating Costs
  13. Criterion 1120.140 (e) - Effect of the Project on Operating Costs

### PUBLIC HEARING/COMMENT:

- No public hearing was requested. The State Board has received a number of support and opposition comments/letters/emails related to this project. These letters of support and opposition can be found on the State Board's Website at the link above and are included in the packet of material forwarded to all State Board Members.

### SUMMARY:

- The Original State Board Staff Report did not accept two referral letters from the Applicants because two physicians had committed to refer patients to the Advocate Sherman ASTC [Project #16-038]. State Board rules state *“Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services”* [77 ILAC 1110.235 (c) (3) (b)]. In additional information to address the intent to deny the Applicants provided two revised physician referral letters in which the two physicians committed to refer patients to both Advocate Sherman ASTC [Project #16-038] and the proposed project. **Those two letters are included at the end of this report.**

**CONCLUSION:**

- There are three ASTC within the 10-mile GSA that provide the services proposed by this project and one ASTC that the Board has approved but not yet in operation. In total these four ASTCs have been approved for a total surgical capacity of 13 operating rooms and 3 procedure rooms. 2019 surgical hours in this 10-mile GSA will justify 10 rooms and not the 13 operating rooms that have been approved by the State Board. Additionally, one hospital [AMITA Health Presence St. Joseph Hospital – Elgin] has sufficient excess capacity to accommodate all the workload proposed by this project.
- The Applicants have stated at page 178 of the Application for Permit, “the physician investors of OrthoIllinois Surgery Center of Elgin, LLC intend to cease referring patient to other area facilities, and service their caseload at the proposed facility. With four operating rooms, the ASTC will have ample capacity to meet the needs of OrthoIllinois and demand of the physician group’s patients, while at the same time offering operating rooms to area providers under their open staff policy.” As can be seen by the Table below the proposed project will impact five facilities in the area. Approximately 40% of the surgical hours and 29% of the cases will be removed from Algonquin Road Surgery Center. AMITA Health St Joseph Hospital-Elgin will have 9% of their cases and 12% of their hours redirected to the proposed project.

Facilities impacted by Proposed ASTC					
	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley Hospital	Algonquin Road Surgery Ctr.	Valley ASC
Total Cases <sup>(1)</sup>	15,174	3,816	5,410	2,927	5,495
Total Surgery Hours <sup>(1)</sup>	25,214	4,823	11,168	3,713	7,882
Estimated # of Cases to be moved to proposed ASTC	941	327	575	831	70
Estimated Hours	1,678	583	1,025	1,482	125
% of Total Cases Removed	6.2%	8.6%	10.6%	28.4%	1.3%
% of hours Removed	6.7%	12.1%	9.2%	39.9%	1.6%
1. Cases and Hours taken from 2019 Hospital and ASTC Profile Information					

- The Applicants addressed a total of 21 criteria and did not meet eight criteria listed below in the Original State Board Staff Report. With the revised referral letters and a firm commitment letter from the lending institution that financing will be available the Applicants have successfully addressed Projected Utilization, Service Demand, Treatment Room Need Assessment, Assurances and Availability of Funds [the highlighted areas].
  - 77 IAC 1110.120 (b) – Projected Utilization
  - 77 IAC 1110.235(c)(3) - Service Demand
  - 77 IAC 1110.235 (c) (5) – Treatment Room Need Assessment
  - 77 IAC 1110.235 (c) (10) – Assurances
  - 77 IAC 1120.120 – Availability of Funds
  - 77 IAC 1110.235(c)(6) - Service Accessibility
  - 77 IAC 1110.235(c)(7) – Unnecessary Duplication of Service
  - 77 IAC 1110.235 (c) (7) – Impact on Other Providers

<b>State Board Standards Not Met</b>	
<b>Criteria</b>	<b>Reasons for Non-Compliance</b>
77 IAC 1110.235(c)(6) - Service Accessibility	There are five ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs is not in operation [Advocate Sherman ASTC] and one provides gastroenterology services only [Elgin Gastroenterology Endoscopy Center]. The remaining three ASTC provide orthopedic services and are not at the target occupancy of 1,500 hours per operating procedure room and have the capacity to accommodate the workload proposed by the Applicants. Additionally, there has been no indication of restrictive admission policies in this GSA. Finally, this project is not a cooperative venture with a hospital. It appears service accessibility can be accomplished with the existing providers
77 IAC 1110.235(c)(7) – Unnecessary Duplication of Service	There are five ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs is not in operation [Advocate Sherman ASTC] and one provides gastroenterology services only [Elgin Gastroenterology Endoscopy Center]. The remaining three ASTC provide orthopedic services and are not at target occupancy and have the capacity to accommodate the workload proposed by the Applicants.
77 IAC 1110.235 (c) (7) – Impact on Other Providers	As can be seen by the Table above the proposed project will impact five facilities in the area. Approximately 40% of the surgical hours and 29% of the cases will be removed from Algonquin Road Surgery Center. AMITA Health St Joseph Hospital-Elgin will have 9% of their cases and 12% of their hours redirected to the proposed project.

**STATE BOARD STAFF REPORT**  
**Project #20-040**  
**OrthoIllinois Surgery Center Elgin, LLC**

<b>APPLICATION/CHRONOLOGY/SUMMARY</b>	
Applicants	OrthoIllinois Surgery Center Elgin, LLC, Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois
Facility Name	OrthoIllinois Surgery Center Elgin, LLC
Location	NE Corner of Alft Lane and Westfield Drive, Elgin, Illinois
Permit Holder	OrthoIllinois Surgery Center Elgin, LLC, Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois
Operating Entity	OrthoIllinois Surgery Center Elgin, LLC
Owner of Site	Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois
Application Received	October 11, 2020
Application Deemed Complete	October 13, 2020
Application Modified	February 10, 2021
Review Period Ends	April 11, 2021
Financial Commitment	24 months after Approval
Intent to Deny	May 4, 2021
Project Completion Date	March 31, 2023

**I. Project Description**

The Applicants are asking the State Board to approve the construction of a four-operating room ambulatory surgery treatment center in Elgin, Illinois. The Applicants are proposing to provide orthopedic, pain management, and podiatry surgical services. The estimated project cost is \$17,764,000 and the expected completion date March 1, 2023.

**II. Summary of Findings**

- A. State Board Staff finds the proposed project does **not** appear to be in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B. State Board Staff finds the proposed project is **not** in conformance with the provisions of 77 ILAC 1120 (Part 1120).

**III. General Information**

The Applicants are OrthoIllinois Surgery Center Elgin, LLC and Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois. Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois is a bone and joint physician practice comprised of 40 musculoskeletal subspecialty physicians and anesthesiologists founded in 1967. The practice includes four clinics and nine rehabilitation locations serving Winnebago, McHenry, and Kane counties, with a fifth clinic opening in McHenry, Illinois in August 2020. OrthoIllinois owns Rockford Orthopedic Surgery Center d/b/a OrthoIllinois, 346 Roxbury Road Rockford, IL

OrthoIllinois Surgery Center Elgin, LLC is a new physician owned Illinois limited liability company. Rockford Orthopedic Associates, Ltd. d/b/a OrthoIllinois owns 9.09% of OrthoIllinois Surgery Center Elgin, LLC. The 10 physicians listed below have an ownership interest of 9.09% of OrthoIllinois Surgery Center Elgin, LLC.

- Dr. Palmer
- Dr. Stanley
- Dr. Van Thiel
- Dr. Daniels
- Dr. HoltKamp
- Dr. Kazaglis
- Dr. Bohnenkamp
- Dr. Carlile
- Dr. Mox
- Dr. Brissey

This is a substantive project subject to a Parts 1110 and 1120 Review. Financial Commitment will occur after permit issuance.

#### **IV. Health Planning Area**

The proposed project is in the HSA VIII Health Service Area. HSA VIII includes Kane, McHenry, and Lake Counties. The State Board is projecting a 5-year increase (2017 to 2022) in the population from 1,547,300 in 2017 to 1,716,200 in 2022 an increase of 169,000 residents or 11% by 2022. The Geographical Service Area for this project is a 10-mile radius from the proposed location of the surgery center (77 ILAC 1100.510 (d))<sup>1</sup>. This 10-mile radius includes 16-zip codes with a population of approximately 456,125 residents.

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

This project is being funded with cash in the amount of \$1 million and a mortgage of \$16,764,000. The Purchase price of 3.69 acres of land is \$1,025,000 (Purchase and Sale Agreement pages 28-47 of the Application for Permit). The estimated start-up costs and operating deficit are \$9,934,149.

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<sup>1</sup> d) Distance Determinations

Normal travel radius for proposed projects shall be based upon the location of the applicant facility.

- 1) For applicant facilities located in the Chicago Metropolitan counties of Cook, DuPage, Lake, Will and Kane, the radius shall be 10 miles.
- 2) For applicant facilities located in the counties of Kankakee, Grundy, Kendall, DeKalb, McHenry, Winnebago, Champaign, Sangamon, Peoria, Tazewell, Rock Island, Madison, Monroe and St. Clair, the radius shall be 17 miles.
- 3) For applicant facilities located in any other area of the State, the radius shall be 21 miles.

<b>TABLE ONE</b>				
<b>Project Costs and Sources of Funds</b>				
<b>USE OF FUNDS</b>	<b>Review</b>	<b>Non-Reviewable</b>	<b>Total</b>	<b>% of Total</b>
Preplanning Costs	\$125,000	\$80,000	\$205,000	1.15%
Site Preparation	\$241,000	\$241,000	\$482,000	2.71%
Off Site Work	\$325,000	\$140,000	\$465,000	2.62%
New Construction Contracts	\$4,589,255	\$2,939,745	\$7,529,000	42.38%
Contingencies	\$235,000	\$235,000	\$470,000	2.65%
Architectural/Engineering Fees	\$405,000	\$300,000	\$705,000	3.97%
Consulting and Other Fees	\$1,500,000	\$1,500,000	\$3,000,000	16.89%
Movable or Other Equipment	\$2,139,500	\$1,696,300	\$3,835,800	21.59%
Net Interest Expense During Construction	\$192,960	\$128,640	\$321,600	1.81%
Other Costs to Be Capitalized	\$450,360	\$300,240	\$750,600	4.23%
<b>TOTAL USES OF FUNDS</b>	<b>\$10,203,075</b>	<b>\$7,560,925</b>	<b>\$17,764,000</b>	<b>100.00%</b>
<b>SOURCE OF FUNDS</b>	<b>Review</b>	<b>Non-Reviewable</b>	<b>Total</b>	<b>% of Total</b>
Cash and Securities	\$800,000	\$200,000	\$1,000,000	5.63%
Mortgages	\$9,403,075	\$7,360,925	\$16,764,000	94.37%
<b>TOTAL SOURCES OF FUNDS</b>	<b>\$10,203,075</b>	<b>\$7,560,925</b>	<b>\$17,764,000</b>	<b>100.00%</b>

Table Two below documents the five highest procedures to be performed at the proposed surgery center.

<b>TABLE TWO</b>				
<b>Projected Five Highest Number of Procedures to be Performed at the Proposed ASTC &amp; Charges</b>				
Procedure Code	Description	Charges		
		Medicare	Medicaid	HOPD
27447	Total Knee Arthroplasty	\$8,875	\$4,467	\$11,900
64721	Carpel Tunnel Surgery	\$818	\$412	\$1,719
29827	Rotator Cuff Repair	\$2,978	\$1,499	\$5,981
22551	Anterior Cervical Fusion with Interbody Fusion	\$8,657	\$4,357	\$11,900
29881	Knee Arthroscopy, Meniscectomy, Medial OR Lateral	\$1,350	\$680	\$2,737

### A) Safety Net Impact Statement

The Applicants provided a Safety Net Impact Statement as required.

The Applicants stated the following:

*“Ambulatory Surgical Treatment Centers are not providers of safety net services, with all procedures scheduled on an elective basis. The applicants, however, are directly affiliated with OrthoIllinois, and physicians investing in this project are employed by OrthoIllinois. The practice has served the bone and joint needs of northern Illinois for over 70 years, since 1967. OrthoIllinois has a long history of civic engagement and commitment to the communities it serves. Since 2004, they have raised over \$450,000 for the programs at Northern Illinois Food Bank’s after school and weekend meal programs, enabling tens of thousands of children to be served. They also have a tradition of charitable giving and capital campaign pledges to hospital foundations, United Way programs, and University of Illinois School of Medicine and other not for profit agencies in the area. The applicant is a new entity; thus, has no history of services. However, the Safety Net Impact of OrthoIllinois practice is provided below.”* No charity care information was provided by the Applicants.

OrthoIllinois, in the Table Three provided the number of Medicaid patients and Medicaid revenue for the years 2017, 2018 and 2019.

<b>TABLE THREE</b>			
<b>Medicaid Information</b>			
<b>OrthoIllinois</b>			
<b>Medicaid (# of patients)</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Outpatient	77	98	86
<b>Total</b>	77	98	86
<b>Medicaid (revenue)</b>			
Outpatient	\$712,670	\$956,728	\$772,005
<b>Total</b>	\$712,670	\$956,728	\$772,005



**Additional Information:**

In response to concerns expressed at the May 4, 2021 State Board Meeting payor source information for the Rockford ASTC owned by the Applicants are presented in Table Four below. The net revenue by payor source and the number of patients by payor source for the ASTC owned by OrthoIllinois in Rockford is outlined below for the years 2015-2019. Medicaid Revenue was less than ½ of 1% of total net revenue for those five years. The number of Medicaid patients cared for was (2%) of the total patients provided care for those five years at the Rockford ASTC.

TABLE FOUR							
Rockford Orthopedic Surgery Center d/b/a Ortho							
Net Revenue by Payor Source							
Year	Medicare	Medicaid	Other	Insurance	Private Pay	Charity	Total
2019	\$2,353,641	\$84,922	\$0	\$16,179,799	\$1,334,860	\$0	\$19,953,222
2018	\$2,079,909	\$49,750	\$0	\$15,784,848	\$1,125,118	\$0	\$19,039,625
2017	\$2,024,866	\$72,651	\$0	\$14,347,107	\$1,161,537	\$0	\$17,606,161
2016	\$1,188,346	\$47,810	\$0	\$10,628,653	\$791,423	\$0	\$12,656,232
2015	\$1,225,024	\$47,017	\$0	\$9,997,908	\$647,658	\$0	\$11,917,607
Total	\$8,871,786	\$302,150	\$0	\$66,938,315	\$5,060,596	\$0	\$81,172,847
% of Total	10.93%	0.37%	0.00%	82.46%	6.23%	0.00%	100.00%
Number of Patients by Payor Source							
Year	Medicare	Medicaid	Other	Insurance	Private Pay	Charity	Total
2019	1,032	86	0	3,242	9	0	4,369
2018	854	98	0	3,146	10	0	4,108
2017	846	77	0	2,985	7	0	3,915
2016	807	69	0	2,725	5	0	3,606
2015	791	73	0	2,600	6	0	3,470
Total	4,330	403	0	14,698	37	0	19,468
% of Total	22.24%	2.07%	0.00%	75.50%	0.19%	0.00%	100.00%

1. Information from IDPH survey data for the years 2015-2019.

**B) Response to Safety Net Impact Statement**

**Advocate Sherman Hospital** responded to the Safety Net Impact Statement dated January 6, 2021.

*“Outpatient surgery is a critical service we provide to all patients in our service area, regardless of their ability to pay. It is also a service that contributes to our margin and allows us to offer safety net services that we would not otherwise be able to offer unless we had other services to subsidize them. This is especially important as the pandemic has seriously weakened our financial state. We’re grateful for federal assistance but even that money does not come close to stemming our losses in 2020. In response, we are currently undergoing a significant leadership restructure which will help lower our expenses going into 2021. Our net revenues 2020 are down by \$37M (-13%) and we are budgeting an operating loss for 2021, which is a significant deterioration in financial performance over*

*past years. We continue to provide care to the uninsured and financially deprived individuals within our community. Our charity care and the amount uncollectible from patients is up by \$21 M (53%). The proposed OrthoIllinois project directly undermines our ability to provide for these persons in need. Furthermore, this Project will do nothing to further the care for the underserved in our community. Unlike ambulatory surgery centers, Advocate Sherman Hospital cannot influence the payer mix of our emergency department nor do we screen out patients due to their insurance or uninsured status. In its CON application OrthoIllinois emphasizes the problem when it states that "Ambulatory Surgical Treatment Centers are not providers of safety net service". CON Application, p. 275. By not providing safety net services, this means that other providers, such as Advocate Sherman Hospital, must provide these necessary services."*

**Supplemental information regarding the Safety Net Impact Statement received from Advocate Sherman Hospital dated April 14, 2021**

*"By letter dated January 6, 2021 we filed a Response to Safety Net Impact Statement. In that Statement we outlined that our hospital net revenues were down by 13% to budget before COVID grant revenues and that our charity care and amount uncollectible from patients were up \$21,000,000 (53%). At that time, we also projected a significant operating loss. With calendar year 2020 now closed we can provide more detail. Over half of the hospital's revenue comes from public sources, such as Medicare and Medicaid. We are privileged to serve these patients and welcome all patients to Advocate Sherman Hospital regardless of their ability to pay. However, payments received from Medicare and Medicaid do not cover the cost of high-quality care for these patients. These are certainly trying times for hospitals. Hospitals such as Advocate Sherman more than ever are being forced to make difficult decisions as we face a number of financial headwinds including continuing expense inflation significantly exceeding reimbursement increases, the financial impact of COVID in 2020 and continued patient reluctance to seek services in the face of COVID in 2021 and increasing physician costs. We are grateful for the CARES ACT funding, but these dollars did not cover our losses in 2020. Even with those dollars the Sherman service area lost \$15 million last year. And this was not a one-time loss, we are budgeted to lose even more in 2021, and that is not sustainable for the long term. Advocate Sherman is in a way a safety net hospital given the population we serve. While we are of course taking appropriate action to strengthen our financial situation, the loss of profitable surgical volume to another ASC in the Elgin area will have a significant detrimental impact to Advocate Sherman Hospital and the safety net services we provide at a time when we are already challenged as noted above."*

## VI. Projected Utilization

### A) Criterion 1110.120 (b) – Projected Utilization

- a) ~~**Original Finding:** The Applicants are projecting 2,744 patients will utilize the proposed ASTC within 24 months of the opening of the facility. The Applicants are estimating an average case time of 107 minutes per case<sup>2</sup> or 4,894 hours [ 2,744 referrals x 107 minutes = 4,894 hours ÷ 1,500 hours<sup>3</sup> = 3.26 rooms or 4 rooms]. However, 273 of the 2,744 projected patients were committed to a previously approved project [#16-038 Advocate Sherman ASTC]. Removing those referrals results in 2,471 total number of referrals. This number of referrals is not sufficient to justify the 4 operating rooms being proposed. [2,471 referrals x 107 minutes per procedure = 4,407 hours ÷ 1,500 hours = 2.94 rooms]~~
- b) ~~The Average Case Time for ASTCs in the State of Illinois for CY 2017, CY 2018, and CY 2019 is approximately 90 minutes. Using that average case time, the Applicants cannot justify the 4 rooms being requested. [2,744 referrals x 90 minutes = 4,116 hours ÷ 1,500 hours or 2.75 rooms or 3 rooms]. State Board rule states “If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its own utilization standard by providing published data or studies. While the case time exceeds the State Average over the past 3 years the Applicants provided published data that justifies the Applicants’ Average Case Time of 107 minutes.”<sup>4</sup> The Applicants have successfully addressed this criterion.~~

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<sup>2</sup>The average procedure time of 107 minutes was derived from evaluating maintained documentation tracking patient procedures (Source Page 230 of the Application for Permit).

<sup>3</sup>1,500 hours is the State Board’s target utilization for an operating procedure room.

<sup>4</sup>1. Does Operative Time Affect Infection Rate in Primary Total Knee Arthroplasty? *Clinical Orthopedics and Related Research*; January 2015 Volume 473 Issue 1 p 64-69

2. Factors influencing operative time in arthroscopic rotator cuff repair: a comparison of knotless single row vs. transosseous equivalent dual row techniques. *J Shoulder Elbow Surg*. 2020 Jul;29(7S): S48-S52.

3. Safety and feasibility of outpatient ACDF in an ambulatory setting: A retrospective chart review. *International Journal of Spine Surgery* January 2013, 7 e84-e87

4. Operative Time as an Independent and Modifiable Risk Factor for Short-Term Complications After Knee Arthroscopy. *Arthroscopy*. 2019 Jul;35(7):2089-2098. doi: 10.1016/j.arthro.2019.01.059. Epub 2019 Jun 18. PMID: 31227396.

5. A prospective, randomized study with an independent observer comparing open carpal tunnel release with endoscopic carpal tunnel release. *J Hand Surg Br*. 1996 Apr;21(2):202-4. doi: 10.1016/s0266-7681(96)80097-0. PMID: 8732400.

6. Theatre time utilization in elective orthopedic surgery. *J Perioper Pract*. 2012 Aug;22(8):262-5. doi: 10.1177/175045891202200803. PMID: 23248928.

- a) **Revised Finding:** The Applicants provided two revised physician referral letters [Dr. Kazaglis and Dr. Mox] in which the two physicians stated they are committed to referring patients to the proposed Advocate Sherman ASTC [Project #16-038] and the proposed project [Project #20-040]. With that commitment the Applicants propose to refer 2,715 patients to the proposed ASTC. With an average case time of 107 minutes the Applicants can justify the four operating rooms being requested. The Applicants have successfully addressed this criterion.

	Total Cases	Refer to Proposed Project	Refer to Advocate Sherman ASTC [#16-038]
Kazaglis	425	268	157
Mox	356	170	116

- b) The Average Case Time for ASTCs in the State of Illinois for CY 2017, CY 2018, and CY 2019 is approximately 90 minutes. Using that average case time, the Applicants cannot justify the 4 rooms being requested. [2,715 referrals x 90 minutes = 4,073 hours ÷ 1,500 hours or 2.71 rooms or 3 rooms]. State Board rule states “*If the applicant does not meet the utilization standards in Appendix B, or if service areas do not have utilization standards in 77 Ill. Adm. Code 1100, the applicant shall justify its own utilization standard by providing published data or studies.* While the case time exceeds the State Average over the past 3 years the Applicants provided published data that justifies the Applicants’ Average Case Time of 107 minutes.<sup>5</sup> The Applicants have successfully addressed this criterion.

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<sup>5</sup> 1. Does Operative Time Affect Infection Rate in Primary Total Knee Arthroplasty? Clinical Orthopedics and Related Research: January 2015 - Volume 473 - Issue 1 - p 64-69

2. Factors influencing operative time in arthroscopic rotator cuff repair: a comparison of knotless single-row vs. transosseous equivalent dual-row techniques. J Shoulder Elbow Surg. 2020 Jul;29(7S): S48-S52.

3. Safety and feasibility of outpatient ACDF in an ambulatory setting: A retrospective chart review. International Journal of Spine Surgery January 2013, 7 e84-e87

4. Operative Time as an Independent and Modifiable Risk Factor for Short-Term Complications After Knee Arthroscopy. Arthroscopy. 2019 Jul;35(7):2089-2098. doi: 10.1016/j.arthro.2019.01.059. Epub 2019 Jun 18. PMID: 31227396.

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6. Theatre time utilization in elective orthopedic surgery. J Perioper Pract. 2012 Aug;22(8):262-5. doi: 10.1177/175045891202200803. PMID: 23248928.

## VII. Non-Hospital Based Ambulatory Surgical Treatment Center Services

### A) Service Demand

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

**Revised Finding:** The Applicants provided two revised physician referral letters [Dr. Kazaglis and Dr. Mox] in which the two physicians stated they are committed to referring patients to the proposed Advocate Sherman ASTC [#16-038] and the proposed project[#20-040]. With that commitment the Applicants propose to refer a total of 2,715 patients to the proposed ASTC. With an average case time of 107 minutes the Applicants can justify the four operating rooms being requested. **The Applicants have successfully addressed this criterion.**

Physician	Referrals to Proposed ASTC	Historical Referrals				
		Total Referrals	Advocate Sherman Hospital	Amita St. Joseph Elgin	NW Huntley	Valley ASTC
Bohnenkamp	292	612	64	0	514	0
Brissey	94	158	26	0	123	0
Carlile	30	253	52	0	201	0
Daniels <sup>(1)</sup>	180	503	0	0	419	0
Holtkamp	597	660	34	0	29	0
Izquierdo	263	523	250	0	10	0
Kazaglis	268	425	366	35	24	0
Mox	170	356	330	8	18	0
Palmer	420	760	190	400	0	170
Stanley	320	469	206	79	44	0
Van Thiel	111	136	24	0	16	0
Whitehurst	0	21				
Ferry	0	39				
Lawton	0	0				
Harvey	0	0				
Schott	0	0				
<b>Total</b>	<b>2,745</b>	<b>4,915</b>	<b>1,518</b>	<b>522</b>	<b>1,382</b>	<b>170</b>
1. 30 referrals were added to the 150 referrals of Dr. Daniels total to reflect his revised referral letter dated February 12, 2021.						

**B) Treatment Room Need Assessment**

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

**Revised Finding:** Based upon the 2,715 referrals the Applicants have justified the 4 operating rooms being requested at 107 minutes per procedure. [2,715 procedures x 107 minutes = 4,842 hours ÷ 1,500 hours = 3.23 or 4 operating rooms. **The Applicants have met the requirements of this criterion.**

**C) Service Accessibility**

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

- A) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project.*
- B) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100.*
- C) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies.*
- D) The proposed project is a cooperative venture sponsored by 2 or more persons, at least one of which operates an existing hospital.*

**Revised Finding:** There are five ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs is not in operation [Advocate Sherman ASTC] and one provides gastroenterology services only [Elgin Gastroenterology Endoscopy Center]. The remaining three ASTC provide orthopedic services and are not at target occupancy and have the capacity to accommodate the workload proposed by the Applicants. Additionally, there has been no indication of restrictive admission policies in this GSA. Finally, this project is not a cooperative venture with a hospital. There is existing underutilized capacity in the 10-mile GSA, and it appears service accessibility can be accomplished with the existing providers. [See Table below]

**TABLE SIX**

## ASTCs and Hospitals within the GSA

Facility	City	Miles	Surgical Specialties	Operating Procedure Rooms	Hours	Rooms Justified	Met Standard? (1)
Algonquin Road Surgery Center, LLC	Lake in the Hills	1	Gastro, OB/GYN, Ophthalmology, Oral/Max, Orthopedics, Otolaryngology, Pain Man., Plastic Surgery Podiatry	4	4,064	3	No
Ashton Center for Day Surgery	Hoffman Estates	10	Orthopedics, Otolaryngology, Pain Man., Podiatry	4	1,407	1	No
Valley Ambulatory Surgery Center	St. Charles	9.8	Gastro, General Surgery, Neuro, OB/GYN, Ophthalmology, Oral/Max, Orthopedics, Otolaryngology, Pain Man., Podiatry, Urology	8	8,710	6	No
Elgin Gastroenterology Endoscopy Center	Elgin	2	Gastro	2	5,574	4	Yes
Advocate Sherman ASTC	Elgin	8	General Surgery, Ophthalmology, Orthopedics, Otolaryngology, Urology	3	NA	NA	NA
Hospitals							
Advocate Sherman Hospital	Elgin	5.5		16	28,116	19	Yes
AMITA Health Presence Saint Joseph Hospital - Elgin	Elgin	3.5		13	5,376	4	No
1. State Board Standard is 1,500 hours per operating/procedure rooms.							
2. Operating Rooms and Hours from 2019 Hospital and ASTC Profile Data.							

## D) Unnecessary Duplication/Maldistribution

### Revised Finding:

#### Maldistribution

There is not a surplus of operating and procedure rooms in this 10-mile GSA as the ratio of operating procedure rooms to population in this area is .1425 rooms per thousand population and the State of Illinois ratio is .1984 per thousand population. To have a surplus of operating procedure rooms in this area the ratio would need to be 1.5 times the State of Illinois ratio. To have a surplus of operating procedure rooms the ratio in this GSA would need to be .1323 rooms per thousand population. There is not a surplus of operating rooms procedure rooms based upon this State Board ratio in this 10-mile GSA.

#### Unnecessary Duplication

There are five ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs is not in operation [Advocate Sherman ASTC] and one provides gastroenterology services only [Elgin Gastroenterology Endoscopy Center]. The remaining three ASTC provide orthopedic services and are not at target occupancy and have the capacity to accommodate the workload proposed by the Applicants.

#### Impact on Other Facilities

As seen below the proposed project will impact existing hospitals and ASTCs within the GSA.

<b>TABLE SEVEN</b>					
Facilities impacted by Proposed ASTC					
	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley	Algonquin Road Surgery Ctr.	Valley ASC
Cases <sup>(1)</sup>	15,174	3,816	5,410	2,927	5,495
Total Surgery Hours <sup>(1)</sup>	25,214	4,823	11,168	3,713	7,882
Estimated # of Cases to be moved to proposed ASTC	941	327	575	831	70
Estimated Hours	1,678	583	1,025	1,482	125
% of Total Cases Removed	6.2%	8.6%	10.6%	28.4%	1.3%
% of hours Removed	6.7%	12.1%	9.2%	39.9%	1.6%
2. Cases and Hours taken from 2019 Hospital and ASTC Profile Information					



Below are comments [in part] received from existing ASTCs and Hospitals within the

**Algonquin Road Surgery Ctr. dated April 13, 2021**

*“According to Applicants’ supplemental filing this Project will take 831 procedures from our facility. In 2020 we performed a total of 2,813 cases. The new Project would take a staggering 30% of our cases and even more staggering 50% of our surgical time. Our facility is already well under target utilization and losing 50% of our surgical hours would take our utilization far lower. A 50% loss of utilization would threaten the sustainability of our surgery center. While we are primarily concerned about the impact that would have on our facility, the Project negatively impacts all affected providers. In its opposition letter to this Project Valley Ambulatory Surgery Center calculated how the Project would affect utilization at all existing providers. The conclusion was that any provider currently operating above target utilization would fall below the standard and that all other facilities would have utilization lowered considerably. If this Project went forward, not a single area facility would meet target utilization.”*

**Fox Valley Orthopedics dated April 13, 2021**

*“The Applicants seek to justify a new facility in part, by claiming inadequacies at ARSC [Algonquin Road Surgery Center] and that it would be better to have a dedicated orthopedic facility. These alleged inadequacies are something the three of us are not aware of, and something that we have never seen personally. We have found ARSC to be a great place to perform our orthopedic procedures. We have never had a problem being able to schedule our orthopedic cases at this facility, and at times have done our public aid/Medicaid surgeries at ARSC. Orthopedics is by far the largest specialty at ARSC and constitutes 74% of the procedures performed. ARSC is more than well suited as a facility of excellence for our patients' orthopedic surgical needs. We are concerned about further access to patient care at this facility in this location and geographic area if ARSC is forced to close as a result of the Orthollinois project.”*

**Northwestern Medicine Huntley Hospital dated January 5, 2021**

*Five (5) of the ten (10) physicians listed as owners for the proposed ASTC are currently on staff at NMHH. The applicants have stated (page 178 of their CON application) that they intend to cease their referral of patients to other area facilities, servicing their caseload only at their proposed facility. Based on this statement, NMHH could experience a reduction of at least 1,300 surgical hours if this project is approved, lowering the utilization rate of the 8 ORs at NMHH to 1,233 hours/OR which is under the state standard of 1,500 hours/OR. Additionally, six (6) of the physicians involved in this project perform surgeries (four (4) are physician investors) at Algonquin Road Surgery Center, a joint venture ASTC with NMHH and Advocate Sherman Hospital, located approximately seven (7) miles from the proposed project. A new ASTC would have a significant negative impact on that facility as well. The COVID-19 pandemic has caused financial losses for hospitals nationwide as normal hospital operations have been halted to accommodate the surge of COVID-19 patients. The further redistribution of the proposed ambulatory surgeries from NMHH to a new ASTC could reduce NMHH's ability to cross subsidize important safety-net services.*

**Valley Ambulatory Surgery Center dated April 12, 2021**

*“Valley Ambulatory Surgery Center (“VASC”) is a new state-of-the-art surgery center that was approved by the Review Board in Project #17-057 and became operational in October 2019. The project replaced an outdated facility in St. Charles. VASC has a dedicated, specially equipped orthopedic surgical suite used primarily by one of the surgeons who is now committing referrals to the proposed Elgin ASTC. That physician does not need a new surgery center to provide orthopedic services, as he is currently providing those services now in VASC's new building with a dedicated orthopedic OR suite. This project is the epitome of an unnecessary duplication and maldistribution of services, as the Review Board has already approved two new ASTCs within the proposed project's service area, namely, VASC and the Sherman ASTC which is across the street from the site of the proposed project. The Sherman ASTC, Project #16-038 was approved by the Review Board and is not yet operational. The applicant touts an "industry wide shift in moving orthopedic, pain and podiatric [surgical] services to the less costly ASTC setting" (Application at 179), but the Review Board has already accommodated for this shift in this specific service area with its approvals of the new VASC and Sherman ASTC facilities. The area does not need yet another new ASTC in the same area to address the changing practice pattern. It is important to note that the project will provide no cost savings whatsoever with respect to the patients redirected from existing ASTCs such as VASC, Algonquin Road Surgery Center and the Advocate Sherman ASTC. The applicant's cost savings argument is based entirely on a comparison of ASTC facility fees to hospital facility fees. Obviously, there are no such cost differentials with respect to patients redirected from existing surgery centers”*

**Ashton Center for Day Surgery dated January 5, 2021**

*“1800 McDonough Road Surgery Center LLC dba Ashton Center for Day Surgery (Ashton) opposes the Certificate of Need application submitted by Orthollinois Surgery Center of Elgin which seeks to establish an ambulatory surgery center in Elgin. Ashton has adequate capacity to handle the utilization identified by Orthollinois in its application without affecting our ability to provide services for our existing patients. In 2019, Ashton operated at 35% of capacity and can easily handle the approximately 3,000 patients that Orthollinois seeks to provide services to on an annual basis. In 2020, Ashton operated at even less capacity than in 2019 due to the COVID Pandemic. In addition, Ashton specializes in providing Orthopedic, Pain Management and Podiatry services-exactly the same type of services that Orthollinois seeks to provide at its new ambulatory surgery center. For all the reasons above, Ashton strongly opposes the establishment of another ambulatory surgery center providing exactly the same type of services that Ashton provides.”*

**I) Assurance**

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

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

In response to this criterion the Applicants have stated that a peer review committee will be implemented as required. The Applicants have committed that in the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms will meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100. With the revised referral letters the Applicants have successfully addressed this criterion.

## VIII. Financial Viability

### A) Criterion 1120.120 – Availability of Funds

### B) Criterion 1120.130 – Financial Viability

#### A) Availability of Funds

This project is being funded with cash in the amount of \$1 million and a mortgage of \$16,764,000. Rockford Orthopedic Associates, LTD d/b/a OrthoIllinois submitted its 2019 Auditors' Compilation Report which they considered proprietary. These compiled statements are included in the State Board's packet of material. State Board rules require audited financial statements and not compiled statements.<sup>6</sup>

The Applicants have also provided a letter from Illinois Bank and Trust documenting the proposed terms of the financing. The bank letter stated the following:

*“For close to ten years now we have enjoyed representing OrthoIllinois as its primary financial institution. Your organization is a pillar in our community recruiting and retaining top talent, contributing to organizations in need and consistently showing up as a good corporate citizen, We have much respect for the highly skilled and experienced administrative and financial teams you employ as well. we value the relationship that Illinois Bank & Trust has with OrthoIllinois both corporately as well as working closely with 75% or more of your shareholders and their personal banking/finance needs.”*

The Act requires that the Applicants have the financial resources to adequately provide a proper service for the community. The Applicants have provided the necessary financial commitment as required.

#### Assumptions used in Preparation of Pro-Forma Ratios and Financial Statements

#### Projected Statements of Income:

1) The revenues were estimated based upon the number of referrals to the proposed ASTC by the physician/owners of OrthoIllinois and the related mix of cases by the sub-specialty trained orthopods. As an additional analysis, the case numbers and related revenues were

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<sup>6</sup> The **compilation report** states that the CPA did not audit or review the financial statements and accordingly does not express an opinion, a conclusion or provide any assurance on them. A compilation is typically appropriate when initial or lower amounts of financing or credit are sought or there is significant collateral in place. The **review service** is one in which the CPA performs analytical procedures, inquiries, and other procedures to obtain “limited assurance” on the financial statements and is intended to provide a user with a level of comfort on their accuracy. The review is the base level of CPA assurance services. A review typically is appropriate as a business grows and is seeking larger and more complex levels of financing and credit. It is also useful when you, as the business owner, are seeking greater confidence in your financial statements for the purpose of evaluating results and making key business decisions. The **audit is the highest level of assurance service** that a CPA performs and is intended to provide a user comfort on the accuracy of the financial statements. The CPA performs procedures to obtain “reasonable assurance” (defined as a high but not absolute level of assurance) about whether the financial statements are free from material misstatement. [Source: AICPA]

compared to the ASTC in Rockford, IL that is owned by individual Rockford owners affiliated with Orthollinois and were determined to be reasonable.

- 2) Major expenses of employment and clinical supplies were estimated based upon a prorata analysis of the Rockford ASTC as related to case and revenue assumptions.
- 3) Depreciation was based upon the estimated economic life of the respective assets.
- 4) Management fees were based upon a contractual arrangement in place for the ASTC.
- 5) All other expenses were based upon similar assumptions and actual comparative analysis with the Rockford ASTC.

**Projected Balance Sheets:**

- 1) Projected cash is based upon the results of operations as modified by the changes in working capital components, capital contributions, and short-term lines of credit with Illinois Bank & Trust and Orthollinois.
- 2) Accounts receivable are based upon an average 45-day collection period.
- 3) Property and equipment costs are projected using the architect's estimates of projected square footage rates, size, and layout of the project.
- 4) Illinois Bank & Trust has committed to the long-term financing of the real estate project at commensurate market rates and terms.

**OrthoIllinois Surgery Center Elgin, LLC**  
**Projected Viability Financial Ratios**

	Year 1	Year 2	Year 3
<u>Current Ratio (a)/(b):</u>			
(a) Current Assets	6,236,313	6,651,390	7,041,409
(b) Current Liabilities	3,236,433	1,085,805	1,138,395
Ratio	1.93	6.13	6.19
State Target	> 1.5	> 1.5	> 1.5
<u>Net Margin Percentage (d)/(c):</u>			
(c) Net Operating Revenues	14,000,000	14,700,000	15,435,000
(d) Net Income	3,292,351	3,628,176	3,896,900
Ratio	23.52%	24.68%	25.25%
State Target	> 3.5%	> 3.5%	> 3.5%
<u>Long Term Debt to Capitalization (f)/[(f)+(g)]*100:</u>			
(f) Long Term Debt	14,515,000	13,941,000	13,340,000
(g) Net Assets	6,492,351	9,120,527	9,517,428
Ratio	69.09	60.45	58.36
State Target	< 80	< 80	< 80
<u>Projected Debt Service Coverage [(e)+(h)+(i)]/[(i)+(j)]:</u>			
(e) Net Income	3,292,351	3,628,176	3,896,900
(h) Depreciation	781,529	811,529	841,529
(i) Interest Expense	773,500	667,000	641,000
(j) Principal Payments	525,000	549,000	574,000
Ratio	3.73	4.20	4.43
State Target	> 1.75	> 1.75	> 1.75
<u>Days Cash on Hand (k)/[(l)-(h)]/365:</u>			
(k) Cash	4,066,313	4,372,890	4,648,984
(l) Operating Expenses	9,934,149	10,404,824	10,897,100
(h) Depreciation	781,529	811,529	841,529
Ratio	162.16	166.38	168.75
State Target	> 45	> 45	> 45
<u>Cushion Ratio (k)/[(i)+(j)]:</u>			
(k) Cash	4,066,313	4,372,890	4,648,984
(i) Interest Expense	773,500	667,000	641,000
(j) Principal Payments	525,000	549,000	574,000
Ratio	3.13	3.60	3.83
State Target	> 3	> 3	> 3

**Orthollinois Surgery Center Elgin, LLC**  
**Projected Statements of Income**

	Year 1	Year 2	Year 3
Revenues, net of allowances	14,000,000	14,700,000	15,435,000
<u>Operating expenses:</u>			
Wages	1,190,000	1,249,500	1,311,975
Payroll taxes	95,200	99,960	104,958
Retirement plan contributions	53,550	56,228	59,039
Employee benefits	202,300	212,415	223,036
Total employment expenses	1,541,050	1,618,103	1,699,008
Clinical supplies	4,200,000	4,410,000	4,630,500
Repairs and maintenance	140,000	147,000	154,350
Real estate taxes	250,520	255,530	260,641
Computer and IT expenses	72,000	74,160	76,385
Telephone expense	12,000	12,360	12,731
Office expense	30,000	30,900	31,827
Professional services	40,000	41,200	42,436
Meetings, recruitment, meals and dues	12,000	12,360	12,731
Directorship	25,000	25,750	26,523
Utilities	180,000	185,400	190,962
Malpractice and business insurance	48,000	49,440	50,923
Marketing	5,000	5,150	5,305
Bank and credit card charges	28,000	29,400	30,870
Bad debts	210,000	220,500	231,525
Depreciation	781,529	811,529	841,529
Management fees	770,000	808,500	848,925
Miscellaneous expenses	48,000	49,440	50,923
Total operating expenses	9,934,149	10,404,824	10,897,100
Operating income	4,065,851	4,295,176	4,537,900
<u>Other expense:</u>			
Interest expense	773,500	667,000	641,000
Net income	3,292,351	3,628,176	3,896,900

**Orthollinois Surgery Center Elgin, LLC**  
**Projected Balance Sheets**

	Year 1	Year 2	Year 3
<u>ASSETS</u>			
Current Assets			
Cash and Cash Equivalents	4,066,313	4,372,890	4,648,984
Accounts Receivable, Net	1,750,000	1,837,500	1,929,375
Inventory	420,000	441,000	463,050
Total Current Assets	<u>6,236,313</u>	<u>6,651,390</u>	<u>7,041,409</u>
Property and Equipment			
Land	1,025,000	1,025,000	1,025,000
Land Improvements	947,000	947,000	947,000
Building	12,981,200	12,981,200	12,981,200
Furniture and Equipment	3,835,800	4,135,800	4,435,800
Total Property and Equipment	<u>18,789,000</u>	<u>19,089,000</u>	<u>19,389,000</u>
Less Accumulated Depreciation	781,529	1,593,057	2,434,586
Property and Equipment, Net	<u>18,007,471</u>	<u>17,495,943</u>	<u>16,954,414</u>
 Total Assets	 <u>24,243,785</u>	 <u>24,147,332</u>	 <u>23,995,823</u>
 <u>LIABILITIES AND EQUITY</u>			
<u>Liabilities</u>			
Current Liabilities			
Bank Line of Credit	1,600,000	-	-
Orthollinois Line of Credit	600,000	-	-
Current Maturities of Long Term Debt	549,000	574,000	601,000
Accounts Payable and Accrued Expenses	420,000	441,000	463,050
Self-Insured Liabilities	67,433	70,805	74,345
Total Current Liabilities	<u>3,236,433</u>	<u>1,085,805</u>	<u>1,138,395</u>
Long Term Debt, less current maturities	<u>14,515,000</u>	<u>13,941,000</u>	<u>13,340,000</u>
Total Liabilities	<u>17,751,433</u>	<u>15,026,805</u>	<u>14,478,395</u>
<u>Members' Equity</u>			
Members' Capital Contribution	3,200,000	3,200,000	3,200,000
Accumulated retained income	-	3,292,351	5,920,527
Current year income	3,292,351	3,628,176	3,896,900
Member Distributions	-	(1,000,000)	(3,500,000)
Members' Equity	<u>6,492,351</u>	<u>9,120,527</u>	<u>9,517,428</u>
Total Liabilities and Members' Equity	<u>24,243,785</u>	<u>24,147,332</u>	<u>23,995,823</u>



June 8, 2021

Courtney Avery  
Board Administrator  
Illinois Health Facilities and Services Review Board  
525 West Jefferson Street, Second Floor  
Springfield, Illinois 62761

**Re: Additional Information- OrthoIllinois Surgery Center of Elgin, LLC  
Project# 20-040**

Dear Ms. Avery:

I am writing on behalf of OrthoIllinois Surgery Center of Elgin, LLC, in regards to its Certificate of Need application to establish a multi-specialty Ambulatory Surgical Treatment Center ("ASTC") in Elgin, Illinois. I am writing to provide additional information subsequent to the Illinois Health Facilities and Service Review Board ("HFSRB") May 4, 2021 meeting where the project received five favorable votes, just one short of approval.

The Applicants have documented both significant community and patient support for their project and would like to provide the Board with additional information about the growing need for a specialized ASTC of this type to serve the community. The project is an extension of the services that the physicians of OrthoIllinois are already providing in the area hospitals and surgery centers, and will continue to perform at those facilities. This project is driven by what is in the best interests of the patient population and, simply put, there need to be better options *in addition* to what is already available from which patients and physicians can choose. This project is an 'and' not an 'or' for where services can be performed. OrthoIllinois will continue to serve the patients and the facilities they have, but need this facility if they are to be able to best meet the needs of the community.

This project is designed to address the critical need for ASTC services that can relieve access issues presented by the limitation of the existing facilities. As mentioned in our presentation to the Board, even if the existing facilities were to re-dedicate themselves to the provision of these services, doing so would displace the other specialties those facilities were designed and approved to provide, thereby undermining, rather than increasing, access to care.

Pursuant to 77 Illinois Admin. Code Section 1130.670 of the HFSRB's rules, the Applicant respectfully submit supplemental information regarding the project. This letter describes the following:

1. Updated referral letters from Dr. Scott Mox and Dr. Jeffery Kazaglis.
2. Need for additional operating rooms in Geographic Service Area (“GSA”).
3. How will Advocate Sherman Hospital be impacted?
4. OrthoIllinois’ commitment to safety net care.

### **Updated referral letters from Dr. Scott Mox and Dr. Jeffery Kazaglis**

To fully address the misleading allegations from opponents that applicants are using referrals that were committed to another project to support the current project, the Applicants have enclosed two updated referral letters for Dr. Scott Mox and Dr. Jeffrey Kazaglis which address this issue. Both Drs. Mox and Kazaglis appeared before the Board and provided public comment discussing their existing referral letters for this project and referral letters they wrote to support another project 5 years ago. These updated referral letters reaffirm the doctor’s commitment to maintain their support for the ASTC project from five years ago (assuming it is ever completed) and to meet their commitment to refer patients for this project. As noted in their testimony before the Board, both physicians have experienced a considerable increase in patient volume in the last five years. Based on 2019 patient volume Dr. Kazaglis is able to support his commitment from five years ago and his updated letter restates the number of referrals he will commit to this project will be 268 patients, 29 patients less than his existing letter. Based on 2019 patient volume, Dr. Mox is able to support his commitment from five years ago and his commitment to this project. Both physicians will plan to treat patients at both facilities once approved and completed.

### **Need for additional operating rooms in GSA**

This project for a specialty ASTC will address the need for additional operating rooms thereby increasing access to the GSA. Opponents concerns are rooted in protecting their financial interests and market share. It is not the role of this Board to protect market shares. This application is designed and presented consistent with meeting the Board’s mission of increasing access to care and reducing overall costs to patients. If the Board members consider, as five already have, the need for increased access and reduced cost, this project should be approved.

There are multiple access issues in the GSA. These were detailed and supported with testimony provided under oath by Drs. Bear and Stanley. It’s important to note that the proposed facility will *not* siphon all orthopedic surgeries from area hospitals, despite claims to that effect. Many orthopedic procedures will still warrant being performed in hospitals, based upon either the procedure or the needs of the patients, and all of those procedures will still be performed in the hospitals. Moreover, those procedures will still be performed by OrthoIllinois doctors. The proposed facility will only be utilized to perform a percentage of the orthopedic outpatient surgeries that can be safely completed in an ASTC setting and are not served by other existing facilities. Today, there are hundreds of surgical procedures that could be safely performed in an ASTC setting that are being performed at the hospital because of access issues. This creates the two-fold problem of increasing costs for patients and decreasing access to available surgical time for all surgeons and patients at the area hospitals. Moreover, it results in unnecessary delay

which subject patients to unnecessary periods of chronic pain and discomfort. If the focus of consideration for this project is placed upon the patient population and the core principles of increasing access and reducing cost, this project should be approved.

Those opposed to this project have not once disputed the overwhelming evidence that reflects that surgeries performed in the hospital surgical suite are costlier than those performed in the ASTC setting. They cannot. This leads to the question, is there a need for additional operating rooms in the GSA? The answer is yes and OrthoIllinois has not only provided the evidence to support that need, but has also documented the referrals necessary to justify this project.

The last three Chairs of the Surgery Department at Advocate Sherman Hospital ***all support this project***. These surgeons have each stated the same thing, that there is no available block time at Sherman Hospital. This Board also heard testimony regarding issues with available block time at both Northwestern Huntley Hospital and Amita Saint Joseph who is not opposing this project. With no available capacity in the GSA hospital surgical suites, the next logical place to perform outpatient surgeries would be ASTCs within the GSA. However, the data submitted to this Board by the opponents themselves reflects access issues with existing ASTCs.

There are a total of three operating ASTCs and one proposed ASTC in the GSA. The access issues that have been detailed regarding the available ASTCs include:

- One ASTC that is only approved to perform gastroenterology procedures;
- One ASTC with a closed staff policy where no OrthoIllinois surgeons have privileges;
- Two ASTCs that are both owned in part by Advocate Health System.
  - One of these ASTCs is still an empty field of grass, five years after it was approved by this Board.
  - One lacks a sufficient commitment to the Medicaid population that OrthoIllinois serves in providing safety net services and has other issues ranging from available block time, staff expertise, small operating rooms which cannot accommodate total joint and spine procedures, insufficient sterile processing department for high volume total joint and spine procedures, and its overall inability to serve a high volume orthopedic practice like OrthoIllinois.

You also heard testimony about recent changes in the Medicare program that now allows for total joint replacements to be performed as outpatient procedures in an ASTC setting. This is going to dramatically reduce costs for the Medicare program as evidenced by the information already provided for our application, and importantly will increase the need for available outpatient operating rooms to accommodate these patients. The State Board Staff reports notes that the Board projected an 11% increase in population between 2017 and 2022. The 2019 patient mix for OrthoIllinois already consists of almost 40% Medicare patients. These Medicare patients are older individuals who are more likely to need total joint replacements, whether they

be shoulders, hips, or knees. As is common, the Illinois Medicaid program will also likely follow the lead of Medicare and allow for these procedures to be completed in the ASTC setting so as to lower costs to the program and improve patient outcomes. OrthoIllinois wants to be prepared for that. This project is designed to meet the needs of today and be prepared for the needs of tomorrow.

The application for the proposed facility included referral letters from some of the OrthoIllinois Eastern Division physicians, but not from all of them. There are 4 other current OrthoIllinois physicians who did not write referral letters supporting this project, and 2 new physicians starting this year who are going to perform procedures at area hospitals and other existing facilities. It has been alleged that OrthoIllinois is pulling all of its surgeries from area facilities, but the chart below demonstrates that is not the case. Based on 2019 patient data, OrthoIllinois would propose to move less than half of their total procedures to the new facility, thereby continuing to support area hospital surgical suites and other ASTCs in the GSA.

<b>OrthoIllinois Eastern Division Surgical Cases</b>			
<i>Service Dates: 2019</i>			
<b>Rendering Doctor Name</b>	<b>2019</b>	<b>Proposed Referrals to Elgin ASTC</b>	<b>Procedures Remaining in Area Facilities</b>
Bohnenkamp, Frank	612	292	320
Brissey, Nicholas	158	94	64
Carlile, Kevin	253	30	223
Daniels, John	503	150	353
Ferry, Scott	39	0	30
Holtkamp, Kelly	660	597	63
Izquierdo, Rolando	523	263	260
Kazaglis, Jeffrey	425	297	128
Lawton, Cort	0	0	104
Mox, Scott	356	170	186
Palmer, Shawn	760	420	340
Stanley, Tom	469	320	149
Van Thiel, Geoffrey	136	111	25
Whitehurst, Jon	21	0	21
Harvey, Michael	0	0	182
Schott, Trevor	0	0	309
<b>Totals</b>	<b>4,915</b>	<b>2,744</b>	<b>2,757</b>

Is there a need for operating rooms in the GSA designed to serve a growing patient population that is experiencing access issues? Yes, there is. Orthopedic outpatient procedures will continue to move out of the hospital surgical suite and into the ASTC setting because it costs less, and the patient outcomes are just as good as those procedures performed in the hospital surgical suite. This shift is driven by Medicare, Medicaid, and now private insurance. This is why those opposed to the project have established or are planning their own facilities to adapt to the changing healthcare delivery landscape. The proposed facility would allow for relief of the hospital surgical suites and would allow for orthopedic procedures that need to be performed in a

hospital surgical suite to be scheduled in a timely fashion. Finally, the proposed facility would be operated by a group with a proven model of care that results in low complications and excellent patient outcomes for all patients regardless of their ability to pay.

### **How will Advocate Sherman Hospital be impacted?**

The proposed project will have a net positive impact on the Advocate Sherman Hospital and not a negative one as the opponents of this project have alleged. The proposed project will open up desperately needed block time in the facility's surgical suites for all of the practices at the hospital. The proposed project does not affect the ability of Advocate to move forward with their proposed ASTC. While there has been no discernible progress on the project to date, when it was proposed and approved by this Board it was because the facility was designed to accommodate multiple specialties. Importantly, it was not designed solely for orthopedic procedures and the application only contained a commitment from two orthopedic surgeons both of whom are still going to meet their commitment to the project should it ever be constructed. Therefore, this proposed facility will not have a negative impact on the Advocate Sherman ASTC.

The opponents of this project have discussed at length the supposed negative financial impact to their facility from this project. Opponents have spent a considerable amount of time describing to the public and this Board how the facility would be unable to provide safety net services if this project was approved. We believe these statements are misleading and disingenuous. Advocate Sherman Hospital's President testified that the financial impact to the facility which is owned by the state's largest healthcare system will be \$2 million each year or 0.13% of their 2019 profit. Rather than repeat testimony from the Board hearing, it is common knowledge that the Advocate Health System has ample resources and this project does not impede the facility's ability to perform safety net services in the community.

### **OrthoIllinois' commitment to safety net care.**

Opponents of this project question OrthoIllinois' commitment to safety net care in the GSA. The physician leaders of OrthoIllinois stated before the Board, that OrthoIllinois physicians are the providers of safety net care in the GSA, and they will continue to be if this project is approved. The applicant does not view the Advocate Sherman Hospital as a competitor but rather as a partner where they are already providing safety net care and will continue to do so if that is where a patient elect to have their procedure performed.

The OrthoIllinois physicians expect that 44% of the patients that will utilize the proposed facility will be Medicare/Medicaid patients which is consistent with their historical patient base at both areas hospitals (given the access issues no Medicaid case were performed at area ASTCs). It is expected that upon Medicaid approving total joint procedures as an outpatient procedure that the volume of patients will increase. OrthoIllinois intends to continue accepting Medicaid and Medicaid Managed Care plans, and as the patient volume increases, all of those patients will be welcome at the OrthoIllinois Surgery Center of Elgin. To be clear this project is not solely dependent on Medicaid making this change, but given the applicant's commitment and long-standing history of providing safety net services they would welcome it. Finally, we would note that the OrthoIllinois practice also provides a significant amount of uncompensated care in

June 8, 2021

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fulfilling its role as a provider of safety net services. OrthoIllinois provided \$5.5 million in uncompensated care in 2019 and \$5 million in uncompensated care in 2020.

We look forward to re-appearing before the Board to discuss how this project will increase access to care for the GSA and lower costs for patients while improving outcomes. If you have any questions or need any additional information regarding the project, please feel free to contact me via phone at 312-212-4967 or via email at [JMorado@beneschlaw.com](mailto:JMorado@beneschlaw.com)

Very truly yours,

BENESCH, FRIEDLANDER,  
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado Jr.", written in a cursive style.

Juan Morado Jr.



May 12, 2021

Courtney Avery  
Board Administrator  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson Street, Floor 2  
Springfield, IL 62761

**Re: Updated Referral Letter- OrthoIllinois ASTC CON Application**

Dear Ms. Avery,

My name is Jeffrey Kazaglis, M.D., and I am a sports surgeon affiliated with the OrthoIllinois physician group. This letter contains the referral documentation required per Ill. Admin. Code Section 1110.235(c)(3)(A)-(B). In 2019, I performed a total of 425 orthopedic surgical cases, and based on this historical volume I anticipate referring 268 surgical cases each year to the OrthoIllinois Surgery Center of Elgin. Below you will find a chart that indicates where the historical procedures were performed in 2019. Enclosed with this letter is a list of patient origin by zip code of residence for my 2019 historical caseload.

Additionally, I provided a letter of support on April 25, 2015 for the Advocate Sherman ASTC, Project #16-038. In the 2015 letter I committed to referring 157 patients to that proposed facility. My historical patient volume in 2014 at the time I wrote the letter for Project #16-038 was 189 surgical cases.

Based on the increase in my patient volume between 2014 and 2019, I have sufficient patient volume to meet my commitment to refer both 157 patients to Project #16-038 and to refer 268 patients to the OrthoIllinois Surgery Center of Elgin. I committed to the Illinois Health Facilities and Services Review Board during the public comment portion of their May 4, 2021 meeting that I can and will meet both commitments. I hereby confirm that commitment again in this letter.

I also certify that the patients I propose to refer reside within the applicant's proposed geographic service area. I further certify that the aforementioned referrals have not been used to support another pending or approved certificate of need permit application, other than the projects described in this letter. The information provided in this letter is true and accurate to the best of my knowledge.

**ROCKFORD**  
124 Roxbury Road, 61107  
5875 E. Riverdale Blvd., 61114

**ALBANY**  
650 S. Randal Rd., 61802

**ELGIN**  
Medical Bldg., Advocate Hospital  
1435 N. Randal Rd., 5TE 103

**MCHENRY**  
4TH W. Shamrock Lane, #103 60050

Historical Caseload by Licensed setting:

Name of Healthcare Facility	Type of Healthcare Facility	Number of Cases Referred in the Most Recent 12 month Period
Advocate Sherman Hospital	Hospital	366
AMITA St. Joseph Elgin	Hospital	35
Northwestern Huntley	Hospital	24
<b>Total</b>		<b>425</b>

Thank you,

Jeffrey Kazaglis, M.D.

Physician's Signature *Jeffrey Kazaglis* Date 5/18/2021

(Please Print/Type Name) Kathleen M Shukis

Signature of Notary:

*Kathleen M. Shukis*

Subscribed and sworn to before me

this 18 day of May 2021



Seal





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May 12, 2021

Courtney Avery  
Board Administrator  
Illinois Health Facilities and Services Review Board  
525 W. Jefferson Street, Floor 2  
Springfield, IL 62761

**Re: Updated Referral Letter- OrthoIllinois ASTC CON Application**

Dear Ms. Avery,

My name is Scott Mox, M.D. and I am a total joint surgeon affiliated with the OrthoIllinois physician group. This letter contains the referral documentation required per Ill. Admin. Code Section 1110.235(c)(3)(A)-(B). In 2019, I performed a total of 356 orthopedic surgical cases, and based on this historical volume I anticipate referring 170 surgical cases each year to the OrthoIllinois Surgery Center of Elgin. Below you will find a chart that indicates where the historical procedures were performed in 2019. Enclosed with this letter is a list of patient origin by zip code of residence for my 2019 historical caseload.

Additionally, I provided a letter of support on April 25, 2015 for the Advocate Sherman ASTC, Project #16-038. In the 2015 letter I committed to referring 116 patients to that proposed facility. My historical patient volume in 2014 at the time I wrote the letter for Project #16-038 was 143 surgical cases.

Based on the increase in my patient volume between 2014 and 2019, I have sufficient patient volume to meet my commitment to refer both 116 patients to Project #16-038 and to refer 170 patients to the OrthoIllinois Surgery Center of Elgin. I committed to the Illinois Health Facilities and Services Review Board during the public comment portion of their May 4, 2021 meeting that I can and will meet both commitments. I hereby confirm that commitment again in this letter.

I also certify that the patients I propose to refer reside within the applicant's proposed geographic service area. I further certify that the aforementioned referrals have not been used to support another pending or approved certificate of need permit application, other than the projects described in this letter. The information provided in this letter is true and accurate to the best of my knowledge.

---

**ROCKFORD**  
124 Roxbury Road, 61107  
5875 E. Riverside Blvd., 61114

**ALSOQUIN**  
650 S. Randall Rd., 60102

**ELGIN**  
Medical Bldg., Advocate Hospital  
1435 N. Randall Rd., STE 103

**MCHENRY**  
470 W. Shamrock Lane, #103 60050

Historical Caseload by Licensed setting:

Name of Healthcare Facility	Type of Healthcare Facility	Number of Cases Referred in 2019
Advocate Sherman Hospital	Hospital	330
AMITA St. Joseph Elgin	Hospital	8
Northwestern Huntley	Hospital	18
<b>Total</b>		<b>356</b>

Thank you,

Scott Mox, M.D.

Physician's Signature

*Scott W. Mox MD*

Date

*5-18-21*

(Please Print/Type Name)

*Kathleen M Shukis*

Signature of Notary:

*Kathleen M. Shukis*

Subscribed and sworn to before me

this *18* day of *May* 2021



Seal