STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: I-01	BOARD MEETING: September 14, 2021	PROJECT NO: 20-040	PROJECT COST: Original: $17,764,000
FACILITY NAME: OrthoIllinois Surgery Center Elgin		CITY: Elgin	
TYPE OF PROJECT: Substantive			HSA: 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)

The Certificate of Need process **required under this Act is designed to restrain rising health care costs by preventing unnecessary construction or modification of health care facilities**. The Board must assure that the establishment, construction, or modification of a health care facility or the acquisition of major medical equipment is consistent with the public interest and that the proposed project is consistent with the orderly and economic development or acquisition of those facilities and equipment and is in accord with the standards, criteria, or plans of need adopted and approved by the Board. Board decisions regarding the construction of health care facilities must consider capacity, quality, value, and equity.

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 4, 2021 State Board meeting.
- In response to the State Board's concern of revenue by payor source and patients by payor source of the Applicants the State Board Staff has provided payor source information for the period 2015-2019 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.

STAFF NOTE:

- 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][1]. 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.**

[1] Permit #16-038 was approved in **January 2017** to establish an ASTC at a cost of $12.7 million in Elgin, Illinois. The initial project completion date was March 31, 2019. In **March of 2019** a permit renewal was approved by the State Board extending the completion date to **September 30, 2021**. The Annual Report received **February 2021** stated: To date the work performed on the Project includes: • Construction Design and Design architectural and engineering packages have been approved by the Illinois Department of Public Health. • Work has been undertaken with the City of Elgin for permitting. • The General Contractor has been engaged and begun pre-construction activities and has begun to procure subcontractors. Advocate has expended approximately $615,806. Advocate estimates that the Project is approximately 20% complete.

CONCLUSION:

- There are three ASTC within the 10-mile GSA that provide the services proposed by this project and one ASTC [Advocate Sherman ASTC – Permit #16-038] 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 in 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 (1)	15,174	3,816	5,410	2,927	5,495
Total Surgery Hours (1)	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 8 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. Availability of Funds will be addressed at the State Board Meeting by a representative from the financial institution providing the funding. Projected Financial Information is included as **Exhibit I** at the end of this report
    - **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

State Board Standards Not Met	
Criteria	**Reasons for Non-Compliance**
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

APPLICATION/CHRONOLOGY/SUMMARY	
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 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). 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.

TABLE ONE Project Costs and Sources of Funds				
USE OF FUNDS	Review	Non-Reviewable	Total	% of Total
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%
TOTAL USES OF FUNDS	**$10,203,075**	**$7,560,925**	**$17,764,000**	**100.00%**
SOURCE OF FUNDS	Review	Non-Reviewable	Total	% of Total
Cash and Securities	$800,000	$200,000	$1,000,000	5.63%
Mortgages	$9,403,075	$7,360,925	$16,764,000	94.37%
TOTAL SOURCES OF FUNDS	**$10,203,075**	**$7,560,925**	**$17,764,000**	**100.00%**

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

TABLE TWO Projected Five Highest Number of Procedures to be Performed at the Proposed ASTC & Charges				
		Charges		
Procedure Code	Description	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.

TABLE THREE Medicaid Information OrthoIllinois			
Medicaid (# of patients)	**2017**	**2018**	**2019**
Outpatient	77	98	86
Total	77	98	86
Medicaid (revenue)			
Outpatient	$712,670	$956,728	$772,005
Total	$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 2021and 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) Criterion1110.120 (b) – Projected Utilization

Revised Finding:

a) 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.

TABLE FIVE
Summary of referrals to Proposed Project [#20-040] and Advocate Sherman ASTC [#16-038]

Physicians	Total Cases	Refer to Proposed Project #[20-040]	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. [2] The Applicants have successfully addressed this criterion.

2 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.

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 2,745 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.**

TABLE FIVE
Physician Referrals

		Historical Referrals				
Physician	Referrals to Proposed ASTC	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 [(1)]	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				
Total	2,745	4,915	1,518	522	1,382	170

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.

TABLE SEVEN
Facilities impacted by Proposed ASTC

	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley	Algonquin Road Surgery Ctr.	Valley ASC
Cases [(1)]	15,174	3,816	5,410	2,927	5,495
Total Surgery Hours [(1)]	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

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 Ortholllinois 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.

Revised Finding:

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

Revised Finding
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.[3]

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.

[3] 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]

EXHBIT I

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 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
Current Ratio (a)/(b):			
(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
Net Margin Percentage (d)/(c):			
(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%
*Long Term Debt to Capitalization (f)/[(f)+(g)]*100:*			
(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
Projected Debt Service Coverage [(e)+(h)+(i)]/[(i)+(j)]:			
(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
Days Cash on Hand (k)/[(l)-(h)]/365:			
(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
Cushion Ratio (k)/[(i)+(j)]:			
(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

OrthoIllinois 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
Operating expenses:			
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
Other expense:			
Interest expense	773,500	667,000	641,000
Net income	3,292,351	3,628,176	3,896,900

OrthoIllinois Surgery Center Elgin, LLC
Projected Balance Sheets

	Year 1	Year 2	Year 3
ASSETS			
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	6,236,313	6,651,390	7,041,409
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	18,789,000	19,089,000	19,389,000
Less Accumulated Depreciation	781,529	1,593,057	2,434,586
Property and Equipment, Net	18,007,471	17,495,943	16,954,414
Total Assets	24,243,785	24,147,332	23,995,823
LIABILITIES AND EQUITY			
Liabilities			
Current Liabilities			
Bank Line of Credit	1,600,000	-	-
OrthoIllinois 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	3,236,433	1,085,805	1,138,395
Long Term Debt, less current maturities	14,515,000	13,941,000	13,340,000
Total Liabilities	17,751,433	15,026,805	14,478,395
Members' Equity			
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	6,492,351	9,120,527	9,517,428
Total Liabilities and Members' Equity	24,243,785	24,147,332	23,995,823

20-040 OrthoIllinois Surgery Center - Elgin

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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 commitment 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 OrthroIllinois 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.

OrthoIllinois Eastern Division Surgical Cases
Service Dates: 2019

Rendering Doctor Name	2019	Proposed Referrals to Elgin ASTC	Procedures Remaining in Area Facilities
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
Totals	**4,915**	**2,744**	**2,757**

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.

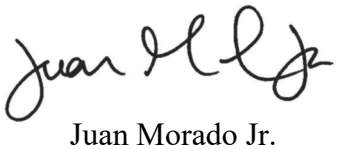
The OrthoIllinois physicians expect that 44% of the patients that will utilize the proposed facility will be Medicare/Medicaid patients which is consistent with their historical patient base at both areas hospitals (given the access issues no Medicaid case were performed at area ASTCs). It is expected 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

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

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP



Juan Morado Jr.

OrthoIllinois

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.

OrthoIllinois

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
Total		**425**

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:

Subscribed and sworn to before me

this 18 day of May 2021

KATHLEEN M SHUKIS
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
December 11, 2022

Seal

OrthoIllinois®

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.

OrthoIllinois

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
Total		**356**

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:

Subscribed and sworn to before me

this 18 day of May 2021

KATHLEEN M SHUKIS
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
December 11, 2022

Seal

deny Project No. 20-040. Thank you.

MS. AVERY: Thank you for your comments. That was the last speaker for Project No. 20-040. If there are other speakers that I overlooked, please raise your hand. If you are a call-in user, Star 3.

(No response.)

MS. AVERY: Madam Chair, that concludes public participation for Project No. 20-040. Thank you.

CHAIRWOMAN SAVAGE: Thank you, Courtney. May I have a motion to approve Project 20-040 OrthoIllinois to establish a four-room ambulatory surgery treatment center?

MEMBER MARTELL: I so move.

CHAIRWOMAN SAVAGE: May I have a second?

MEMBER GRUNDY: Second.

MS. AVERY: Okay. If you are a speaker, Mark, or -- I'm sorry -- Juan, do you have the speakers there with you or is there anyone that I need to unmute?

MR. MORADO: Yeah. What we'd like to do, Courtney, is Mark is going to run the presentation. With us in the room we have

Dr. Brian Bear and Dr. Tom Stanley, who are both listed. So if we can make them presenters along with myself.

MS. AVERY: Okay. Wait one second. Let me --

MR. MORADO: Yep. I'm sorry.

MS. AVERY: I'm going to make Mark a panelist. And what were the other two that you needed?

MR. MORADO: Dr. Brian Bear and Dr. Tom Stanley are both listed as well.

MS. AVERY: Stanley and Bear.

MR. MORADO: I think they probably need to be made presenters.

MS. AVERY: I'm searching for them now. What's the first name again? Tom?

MR. MORADO: Tom Stanley.

MS. AVERY: Okay. One second. Let me find Tom. Tom, if you could raise your hand. Oh, there you are. And the second one, please?

MR. MORADO: Brian Bear. And I'll have him raise his hand right now.

MS. AVERY: Okay. And does everyone have a camera?

MR. MORADO: Yes, we do. And we also have -- we have two more, Courtney.

MS. AVERY: Oh, what's the other two?

MR. MORADO: Kay Wadsworth.

MS. AVERY: Wadsworth. One second.

MR. MORADO: And she's not going to be on camera, but she's available. And Dr. -- I'm sorry -- and Michael Smith. And those are the finance people, Courtney. They'll be available if there's any questions about that. We don't expect that there will be, but we just want to make sure they're there.

MS. AVERY: Would you like for them to be sworn?

MR. MORADO: Yes, please.

MS. AVERY: Thank you. Kay and -- I'm sorry, the last one?

MR. MORADO: Michael Smith.

MS. AVERY: Smith. Michael, can you raise your hand? I'm not seeing him, Juan. Am I missing him?

MR. MORADO: I'm checking right now. He's joining right now. He got kicked off.

MS. AVERY: Thank you.

MR. MORADO: And then for this OrthoIllinois ASC, if we can put the video on for that as well as for the other presenters, that would be great.

MS. AVERY: OrthoIllinois ASC, did I not give --

MR. MORADO: It's not allowing me to turn on video.

MS. AVERY: Oh, there you are. Make panelist. Sorry.

MR. MORADO: And Mr. Smith now has his hand raised, so you can --

MS. AVERY: There you are. Okay. Will you please double-check to make sure before we get started?

MR. MORADO: Yes. And then for Dr. Bear and Dr. Stanley -- oh, Dr. Stanley's video works, as does Dr. Bear's. Perfect. Okay. I think we are all set. And then we're going to have Mark begin to share --

MR. SILBERMAN: Once we get sworn in.

MR. MORADO. Yeah. Once we get sworn in.

(Whereupon, the witnesses were thereupon duly sworn.)

CHAIRWOMAN SAVAGE: Okay. Mike, would you please present the State Board staff report?

MR. CONSTANTINO: Thank you, Madam Chairwoman.

The applicants are proposing the construction of a four-room ambulatory surgery center in Elgin, Illinois in the HSA8 service area. The applicants propose to provide orthopedic pain management and podiatry surgical services. The estimated project cost is approximately 17.8 million, and the expected completion date is March 1st, 2023.

There was no public hearing, and the State Board did receive a number of letters of support and opposition on this project. We did receive one comment on the Board's staff report that was e-mailed to all Board members, and it's available on the Board's website.

I want to make two corrections on this report. I failed to add 30 referrals to Dr. Daniels's 150 referrals to the proposed facility. That would increase the total number of referrals for this project to 2,774 instead of 2,744. However, because our Board rules require

an attestation by the physician that the patient referrals have not been used to support another pending or approval CON application for the subject services, we were required to remove 273 referrals that were committed to the Advocate Sherman ASC. That has not yet been completed.

The removal of these referrals would bring the total number of referrals for this project to 2,471 referrals, which does not support the four operating rooms being requested.

In their comment and again in public participation, these two doctors stated that they would be able to refer to both the proposed Elgin facility and the Advocate ASC. If this is the case, only 29 referrals would be removed from the proposed number of referrals and not 273. I believe in their presentation to the Board, their PowerPoint presentation, the applicants have a chart demonstrating this. We've reviewed it, and it is correct.

The final comment, I was mistaken, there are three hospitals within the GSA. Northwestern Huntley, Advocate Sherman, and AMITA Health Saint Joseph in Elgin. There are four ASCs in the GSA,

Elgin Gastro, which is at target utilization for gastro services only, Algonquin, Advocate Sherman, and Ashton Center for Day Surgery.

Thank you, Madam Chair.

CHAIRWOMAN SAVAGE: Thank you, Mike. Okay. If you would please proceed with your presentation.

MR. MORADO: Absolutely. Thank you, Madam Chair, and good morning -- or, I guess, good early afternoon, everyone. My name is Juan Morado, Jr. I am CON counsel for the project. I'd like to thank the Board and especially its staff for their assistance and review of this application. It's great to virtually see you all, and we appreciate your time.

I'm pleased to introduce who I have with me for today's presentation, Dr. Brian Bear, president of OrthoIllinois, who is going to provide some background information on the OrthoIllinois practice; Dr. Tom Stanley, the vice chair of surgery at Advocate Sherman Hospital and a member of OrthoIllinois, who is going to discuss the various access issues for the types of procedures to be performed at the ASC; and, Mark

Silberman, my partner from Benesch Law, who is going to address the findings in the State Board staff report together with me.

Available for additional questions, if needed, are Kay Wadsworth, the vice president of commercial banking at Illinois Bank & Trust, who is available to testify regarding the bank's longstanding relationship with OrthoIllinois and their firm commitment to provide loan for this project. And, finally, we have Michael Smith, OrthoIllinois's financial consultant for the practice.

Members of the Board, the project before you today has had a long road to get to this point. And I know the folks from OrthoIllinois are eager to discuss their plans for improving access to care for this part of our state and their holistic approach to orthopedic care.

This project is designed to address the goals and mission that this Board is charged with, increasing access to high-quality care where there are currently access issues and reducing costs to the health care delivery system.

Admittedly, the project has received some

opposition that you've heard today, and, specifically, it's from two groups. One is our state's largest health care system, Advocate, which owns Sherman Hospital located within the geographic service area, and two ASCs that are located within the geographic service area, and one of those, Advocate Sherman, is the majority shareholder of.

While we understand their opposition, and as you will hear today in our presentation, we believe there's ample justification for the Board to use their discretion and approve these projects despite those objections.

We also heard from elected officials today. And we understand why they would oppose the project based on the Advocate side of the story, but that's why we're here today, to provide you with the other side and allow you to weigh both and make your decision.

We (indiscernible) community health plan, and we're happy to play a role in increasing access to care in the region. Kane County, where the proposed facility will be located, is one of the few counties in our state where there's

actually been strong population growth. That growth is cited in your State Board staff report, and, more importantly, it's reflected in the growing patient volumes of OrthoIllinois.

This is not a multispecialty ASC designed to capture any and all outpatient surgeries in the area. On the contrary, this is a well-designed project that involves a specialty ASC designed to relieve area hospital outpatient surgical suites and remove barriers to access for patients who are unable to have their procedures performed at other area ASCs.

If there are questions, we would be happy to respond to those. And we hope you will conclude, as we believe, that this is a worthy project of being approved. With that, I'd like to hand it off to Dr. Brian Bear, the president of OrthoIllinois Group. Dr. Bear.

DR. BEAR: Thank you. Thank you for the opportunity to speak -- hold on a second, we're getting our slides up here -- on behalf of our ASC and to tell you a bit about our organization.

MR. MORADO: I'm sorry. Give us one second here.

CHAIRWOMAN SAVAGE: And, Juan, if he could speak just a little bit louder.

MR. MORADO: Of course. We can get that going. Yep. There we go. Is that working, Mark? We're going to switch computers. Just give us one moment. Can you hear us, Madam Chair?

CHAIRWOMAN SAVAGE: Yes. We can hear you now.

MR. MORADO: Okay. Hold on one second. There we go.

DR. BEAR: Thank you. Thank you for the opportunity. I want to tell you about our organization and who we really are.

Our mission statement is partnering with people to promote and restore active lives. We have 48 physicians, 550 employees, multiple clinics throughout northern Illinois, and we're very community centered.

Every day, many physicians give to charity by donating their time and professional services. Most physician groups, understandably, feel this is enough. At OrthoIllinois, we do more. We donate to many charities in our community, but I'd like to highlight the Northern Illinois Food Bank

that is very close to our organization.

For 15 years, we have been donating to the Northern Illinois Food Bank. Our funds are earmarked for nutritious meals for children. These meals we provide are often the only nutritious meal these children get during the entire day.

I'd like to quote from the Northern Illinois Food Bank newsletter 2019, These funds will not only continue to support child nutrition programs right here in Winnebago County, where more than 18 percent of the children face hunger every day, but we're excited that these funds will also support child nutrition programs in McHenry Counties -- McHenry and Kane Counties as well. To date, we've given over $500,000 to the Northern Illinois Food Bank. We're very proud of that.

With regards to our organization as a health care company, we're a full-service, specialized orthopedic center of excellence. We provide high-quality care and top patient experience. We're dedicated to teaching. We're active in innovation and research. And we're providers of safety net care.

What's unique about our group is our surgeons are specialized, and what I mean by that is they are fellowship trained in one specific area of orthopedics. If you know orthopedics, you'll recognize these hospitals as the top training programs for orthopedic subspecialties. Our surgeons have trained at these prestigious institutions.

We provide total joint replacement, hand surgery, sports medicine, trauma surgery, pediatric surgery, foot-and-ankle surgery, rheumatology, physical medicine and rehabilitation, spine surgery, neurosurgery, occupational medicine, and orthopedic specialized anesthesiology.

We're very proud that 100 percent of our doctors have a four- or five-star rating on Health Grades, not common for organizations of our size, and the majority of our doctors are five stars.

Quality is very important to us. The overall complication rate at the OrthoIllinois Surgery Center in Rockford is less than one percent, and that includes our total joint program. The national average for complications

for total joint replacement is 2.4 percent. Sherman Hospital's complication rate for total joint replacement is 2.4 percent. We're 200 percent less likely to have a complication at our surgery center than the national average or Sherman Hospital. If you have a joint infection or a dislocated joint, it's a miserable outcome. Your life is changed forever.

We're a member of the Press Ganey Patient Experience Scorecard. This is a scorecard which compares us to surgery centers across the country, hundreds of surgery centers, and we're consistently in the top eight percent.

We're involved in research, not common for a community practice. We have three full-time employees helping us with research, eleven peer-reviewed papers published last year, multiple innovative products have come to market. Products that our surgeons invented are being used all over the world. Also, innovations in total joint instruments, and that's what you're seeing one of our surgeons working on here in the image to the right.

We're the only group in the midwest that

has a functioning wet lab. This lab allows our doctors to practice on cadaveric specimens prior to performing new techniques on real people. In addition, we train surgeons not only from all over the United States, from all over the world. These surgeons are from South Korea. Surgeons from these countries have traveled to Rockford to learn the latest techniques from our doctors, not common for a community group.

We're dedicated to teaching. On average, 111 students rotate through our organization in a year. We teach medical students, podiatry students, family practice residents, orthopedic residents. We teach surgical technicians and orthopedic nurses. We have a cast technician training program.

We noticed that people were showing up to our office after being seen in the local emergency room with a painful split or a cast on, sores, red heels, and unnecessary suffering. We started a certified cast technician training program; we now train the cast technicians for the local hospitals, and that problem is no longer present in our community. We train physical therapists,

and we train physician assistants.

We're committed to safety net access, contrary to what you've heard. 40 percent of the proposed payor mix will be Medicaid and Medicare. Access to ambulatory surgery, better outcomes, and cost savings for this group of people.

There's a fundamental shift in the delivery of outpatient care. This shift is driven by Medicare and private insurances to provide better outcomes and manage medical costs across the health care system.

Moving orthopedic surgeries to an ASC will save Medicare, on average, 42 percent. Blue Cross Blue Shield is decreasing reimbursement by 15 percent for eligible surgeries performed in a hospital when they can be performed in an ASC, because they understand the outcomes are better.

Percents can sometimes be a little abstract. Let's look at real-dollar cost savings comparing surgeries performed in a hospital to an ASC, and these numbers come from Medicare.gov. Repair of rotator cuff, ASC, cost, $2,803; hospital cost, $5,981. For the savings of $3,178. Anterior cervical fusion, savings of $3,481.

Total knee arthroplasty, savings of $3,291. Knee arthroscopy, a savings of $1,451. And carpal tunnel surgery, even small procedures like carpal tunnel have nearly a $1,000 savings when performed in an ambulatory setting.

But why build a specialty orthopedic ASC? What is the benefit to the community? The overwhelming most important answer, by far, is better outcomes. The benefits of an orthopedic specialty surgery center are specialized orthopedic nurses, specialized orthopedic technicians, and specialized orthopedic anesthesiology.

The operating layout is specific to orthopedics and vastly different than general surgical needs. The building design for orthopedic patients is vastly different. We need dedicated areas for physical therapy after surgery to get our patients walking and moving before discharge. We need areas for durable medical goods. And the hallways and corridors have to accommodate larger gurneys and wheelchairs. And, importantly, the sterilization capacity and equipment is vastly different for orthopedic cases

when compared to smaller general surgical cases.

The patient and community will benefit from an orthopedic specialty ASC. With OrthoIllinois, you will have a fellowship-trained orthopedic surgeon who is trained at the best programs in the country. An orthopedic specialized physician assistant, a specialized orthopedic nurse, and a specialized orthopedic surgical technician, and, importantly, a specialized anesthesiologist.

I have worked for over 20 years at many hospitals in northern Illinois, and I can tell you they are all very well-intentioned. The majority of time, however, when at the hospital, I do not receive a dedicated orthopedic team. The personnel are not familiar with the complicated orthopedic equipment, and they are not familiar with the procedures I perform. Operative times are longer, resulting in higher infection rates and higher complication rates. An infected total joint is a miserable outcome. It's a year off of your life with an inferior outcome. It's a horrible experience for anyone to go through.

Our complication rate is less than one

percent. The national average is 2.4 percent. And Sherman Hospital's average is 2.4 percent. Most of the time when I work at the hospital, I am not assigned an anesthesiologist who is comfortable doing nerve blocks. Now, nerve blocks in orthopedic surgery are critical, because patients can wake up from surgery with essentially no pain. Instead, when I do surgery at the hospitals, patients wake up in severe pain. They require more narcotic pain medication. Clearly, this is not good for patients, especially older patients.

True expertise in surgery comes from repetition, performing the same procedure with the same team over and over again, that's how you decrease complications, that's how you improve outcomes. A general hospital or a multispecialty ASC is unable to achieve this level of care.

I'd like to introduce my partner, Dr. Tom Stanley, vice chair of surgery at Advocate Sherman Hospital and an orthopedic spine surgeon.

DR. STANLEY: Thank you. I'm going to talk about access, an issue that I intimately understand, since I've practiced in Elgin for more

than a decade and as -- because of my role as vice chair of surgery at Sherman.

There are two parts to a safety net, there's the doctors and the nurses and everyone else that actually provides the care and then there's the building for them to do it. In Elgin, there are zero hospital-employed orthopedic surgeons. So when the hospitals talk about providing safety net orthopedic surgery, they're talking about us. We're the ones that actually provide those services.

And in Elgin, OrthoIllinois docs provide the overwhelming majority of orthopedic care. Even with the new surgery center, we are going to continue to provide the majority of hospital care. There's no secret shell company. There's no shadow investors. You heard from some of the investor doctors today.

The doctors building this center are the same doctors that have provided safety net care to this community for decades. And on top of that, we provide subspecialist care. Elgin has not had fellowship-trained trauma, hand, or pediatric orthopedic surgeons for over a decade until we

brought them in. The hospital didn't bring them in, we did.

This is subspecialty care that would normally have to be shipped out to a tertiary center. But because of us, patients can be treated in the community that they live in. And the way we can do this and continue to provide these services going forward is with a specialty center.

This picture is not a picture of our proposed ASC. This is a picture of the new medical office building that this committee approved last month. It's located directly across from Sherman Hospital, and we have already started work on it. It allows us to complete the entire injury pathway from initial diagnosis to full recovery by providing an urgent care, imaging, and postoperative physical therapy within a single facility. This investment shows our commitment to this community in making the safety net stronger.

The second part of a safety net is a place to do surgery. And the bottom line is that there are not enough operating rooms in the area. There are three existing surgery centers within a

ten-mile radius of our facility. The closest is Elgin Gastroenterology, a facility that is solely dedicated to GI procedures. No other services are provided at this facility, so it's not relevant to the discussion. And they have not opposed our application.

Aston Center for Day Surgery is a privately held ASC with restricted admission policies. Almost 94 percent of the patients seen at that facility are private pay based on published annual survey data. This is not a safety net facility.

Algonquin Road Surgery Center is approved for eight categories of service and is jointly owned by Northwestern and Advocate Aurora. We've been trying to expand service line at that facility, but it requires making the facility bigger. The operating rooms are too small, sterilizers don't have the power or capacity to do more complex procedures. I know this not only because I'm staff, but because my partner, Dr. Izquierdo, was president of the Board for more than a decade.

This Board actually approved an expansion,

and we went so far as to draw up plans for that expansion. And then our hospital partners, they blocked it. Our hospital partners have blocked all of our efforts to grow that facility. In fact, Northwestern has an HMO product that doesn't even allow patients to have surgery at Algonquin Road, forcing them instead to have the exact same procedures done at the hospital at a higher cost. This is despite their having ownership. And they don't accept Meridian Medicaid, whereas we already have a signed letter of intent. That is only the first. We are actively negotiating with the other public aid payors.

There are three hospitals within a ten-mile radius. You already heard from Drs. Daniels and Bohnenkamp, and chairmen of surgery at Huntley Hospital, and they spoke to the lack of operative availability at the institution. My personal experience is that I only get operative time one day every other month. That is six days of surgery in a year. And I've been requesting additional time since before the pandemic, but they are full.

AMITA Saint Joseph, it's the same story,

and they are not opposing our CON application. Sherman Hospital is similarly full. We have submitted letters and testimony from all of the chairs of surgery from 2016 until today. That's three different consecutive chairs all saying that there's not enough operative time at the hospital, and they're excited for us to build the surgery center so it can open up more operative time.

The hospital will tell you that they have plenty of OR time, but that time is during off hours into the evening. You have to be willing to operate into the night with a skeleton crew that doesn't specialize in orthopedic cases all while you're exhausted after a long day. That is not how you minimize complications, and that is not how you provide quality care, and it's not in the best interest of the patient. Not to mention missing out on family and dinner and homework and kids' sports. And, right now, this is exactly what we do, because we prioritize our patients over our personal lives, risking relationships and burnout, because we are the safety net.

But this committee already knows the needs in Elgin, because Advocate applied to build a

surgery center five years ago for this exact reason. In January of 2017, this committee approved a CON application to build an ASC on their Elgin campus. That proposal was to alleviate 15 surgeons and to create more operative capacity at the hospital. In 2018, all communications with the surgeons stopped. And when it became clear that the hospital wasn't going to build the center, we actually approached Advocate Aurora to partner with them to build it.

The picture that you see on the left is the exact vision that I shared with both the prior president of Sherman and the current president. It shows Sherman's hospital campus with the two parts of our proposed partnership. First, we would partner with them to build out the surgery center and make it an orthopedic center of excellence. And, second, we would rent land from the hospital to build an orthopedic services center and clinic space. After a year of conversation, they declined to work with us, and they told us to pursue a CON on our own, which is why we are here today.

The photo on the right is the current

state of the Sherman Hospital ASC. I took this photo of an empty lot two weeks ago. Note, there is no construction fence, and the grass is undisturbed. And I cannot explain why after four and a half years they haven't even broken ground. And it's not clear to me that they still intend to build this facility. But even if they did, their facility is designed for multiple subspecialties and would function in parallel to our center, not in competition.

There's a perception in the community that anything that is bad for the hospital is bad for the community. No more urgent care, just send everyone to the more expensive emergency room, because it's better for the hospital. Close all the imaging centers and have everyone pay double for an MRI at the hospital. The problem with this logic is that you are bleeding the community in the form of higher insurance costs, because everything is more expensive at the hospital.

You can measure the total dollars wasted on unnecessary hospital expenses just by looking at how much money they are claiming to lose. Their opposition is a confession about the volume

of surgery that just doesn't belong in a hospital. It's robbing Peter to pay Paul. The community could better spend the money on actually strengthening the safety net. Their higher costs do not expand access to care; it just makes health care unaffordable.

To summarize, there is a need for more OR space in this community, and our center does exactly that. There's no shortage of orthopedic procedures that cannot be done in an ASC and must be done at the hospital, and we will continue to provide the majority of hospital-based orthopedic services.

Our facility provides additional operative capacity, which unburdens the hospital and allows for more appropriate hospital utilization. It lowers the cost of health care for the community and allows us to bring new physicians to fill in voids in subspecialty care. And, finally, it is what is best for the community, reinforcing the safety net.

Thank you. Now, I'd like to turn it over to our CON counsel, Mark Silberman.

MR. SILBERMAN: Good afternoon, everybody.

So my job today is to address -- can you hear me?

CHAIRWOMAN SAVAGE: Mark, you need to be a tiny bit louder.

MS. AVERY: Mark, I'm going to unmute you. Mark?

MR. SILBERMAN: Yes.

MS. AVERY: Okay.

MR. SILBERMAN: Is that better?

MS. AVERY: Yes.

CHAIRWOMAN SAVAGE: Yes, we hear you now.

MR. SILBERMAN: All right. My apologies. As I've said, literally, never in my life have I been told I was too quiet.

My job today is to address for you the negative findings that are contained within your staff report. There are eight negative findings, four of which we agree and we expected them. And those are the ones that relate to your need criteria. And those negative findings are driven by the fact that there are other existing facilities within the ten-mile radius and that there is capacity with regards to utilization. The other is related to how firm the commitment is regarding the financing available for our project.

There are also four findings that, with all due deference and respect to the Planning Board staff, we disagree with. We strongly believe that the available facts should either warrant conversion of those findings to being positive or, at the very least, we want to address for you today why those should not act as an obstacle to the Board using its discretion in approving these projects.

Now, we want to address these points with you. We're going to try to point out all the relevant details. But we also firmly believe that it's important that we also allow staff to comment on these as well, as well as to address any questions the Board has. We really do want this to be a discourse rather than a disagreement.

I'd like to first address the question with regards to the availability of funds and the commitment from the bank. We fully understand why the Planning Board staff concluded why the letter that was originally provided by Kay Wadsworth, which talked about the longstanding history between the entities and expressed the interest of financing this project, was not accepted by your

staff as a firm commitment as envisioned by the Board's rules.

I think you all understand, this is an ongoing challenge that most any financed project experiences. Because in today's economic landscape, these decisions tend to be more corporate or committee driven, rather than based on personal relationships or result from individual decisions.

That being said, we hope that the Board will take into consideration the testimony you heard today from Kay Wadsworth during public comment where she stated unequivocally that there is a firm commitment from Illinois Bank & Trust to finance this project, subject, obviously, to this Board approving it. We hope that this testimony should resolve any concerns regarding this issue, but we also do have them available if there are any specific questions that the Board members or staff may have.

The second issue that we want to address relates to the question of the referrals that were provided. Now, there are two separate issues with regards to the referrals. The first, as Mike

mentioned to you somewhat, is that Drs. Mox and Kazaglis both did provide referrals to support the Advocate Surgery Center that was presented to this project Board in Project 16-038.

Now, whether or not physicians should be handcuffed when they commit referrals to a project that is no closer to being completed today than it was three years ago, is, fortunately, a philosophical question that I don't think we're going to have to answer today. And the reason that we're not going to need to answer that is, as you heard in today's public testimony from both Dr. Kazaglis and Dr. Mox, is the growth that their practices have experienced over the last five years since they made those commitments more than allows them to not only fulfill the projections that they made to the unbuilt Advocate Surgery Center, but also to support the, as of yet, unapproved OrthoIllinois project.

They've also both made it clear to you that they will continue to refer patients to both facilities on the assumption that Advocate ever does finish its facility. They are going to make those decisions as best suits their patients'

needs, and they are going to fulfill their obligations. However, what I think is most exemplified by this is the fact that it is clear just from these two doctors that the existing availability for the provision of the necessary orthopedic services does not exist within the current landscape and is not able to meet the needs of the patient population. Without approving this project, their ability to do so becomes an impossibility.

Now, at this point, I'm going to turn to Mr. Morado, who is going to address for you the mechanics of the numbers to show how -- no matter which way the Board looks at this, whether you choose to look at this as the appropriate use of your deference, or whether you choose to actually realize that we have shown enough need for referrals for this project, this is a project that warrants approval.

MR. MORADO: Thank you, Board. We originally (indiscernible) --

MS. AVERY: Hey, Juan, can you increase your volume, please?

MR. MORADO: How is that?

CHAIRWOMAN SAVAGE: A little bit more.

MS. AVERY: Yes.

MR. MORADO: All right. How's that? Okay. Does that work?

MS. AVERY: It's better. But if you can speak louder, that would be great.

MR. MORADO: No problem.

Members of the Board, we originally submitted referral letters for this project that justified 2,744 projected patient referrals. Back in December, Advocate submitted a letter pointing out that five years ago, Dr. Kazaglis and Dr. Mox submitted referral letters to support their project. Staff in their report then pulled all of the Mox and Kazaglis referrals for this project. We respectfully disagree with this approach.

Your rules state that the referral cannot exceed historical caseload, but they do not state that all projected referrals should be discounted and not included. And I'd like to walk you through how this project justifies four operating rooms.

I'll begin with Dr. John Daniels who submitted an updated referral letter back in

February increasing his referrals by 30 patients for a total of 180 projected referrals. You've heard Mike talk about those today. Those additional 30 projected referrals are important, and let me explain why.

First, we'll start with Dr. Mox, whose patient base increased 61 percent in the last five years. Dr. Mox provided data reflecting 356 historical procedures performed in 2019. That means that Dr. Mox can meet his commitment to refer both 170 patients to the OrthoIllinois Surgery Center and 116 patients to the Advocate Sherman ASC, if it's ever constructed.

Next, let's look at Dr. Kazaglis. His patient base has increased 56 percent in the last five years. And Dr. Kazaglis has provided data that he performed 425 procedures in 2019. We disagree with the premise, and, quite frankly, we think it's an abuse of the planning process, for a permit holder to obtain a commitment for referrals from a doctor and then never construct the facility.

Nevertheless, we recognize that the commitment to that project came first, and,

therefore, we agree that once you subtract the 157 referrals that would go to the Advocate Sherman ASC from Dr. Kazaglis's 425 number, that will leave the OrthoIllinois project short 29 referrals. However, when you account for the 30 additional referrals from Dr. Daniels that we started with and you remove the 29 from Dr. Kazaglis, we believe, as staff has explained and would agree, that 2,745 proposed referrals justifies four operating rooms as shown on the slide in front of you.

With that, I'd like to turn it over to Mark to address the impact on other providers.

MR. SILBERMAN: Okay. Can we hear me?

CHAIRWOMAN SAVAGE: Yes.

MR. SILBERMAN: All right.

So as we all know, when it comes to evaluating an ambulatory surgical treatment center and the question of need, that need assessment is driven by whether or not there are other facilities within ten miles that have existing capacity. If there are, you are going to receive a negative finding that there's a lack of need for your facility and that the creation of it is going

to create maldistribution, and that's okay, because that's what you're rules are.

But, importantly, that isn't the end of the discussion. Because that is the very reason this Board is afforded discretion to approve projects despite negative findings. Because if it weren't, there is literally not a single ASTC that would have been approved in years, because virtually all ambulatory surgery treatment centers, all regions, have some degree of capacity.

So I think when we talked about the surgery centers that are contained in your staff Board's report, we can address some of them very quickly, and we can address the appearance of there being sufficient capacity to be summarily resolved.

As we documented in our submission and as Mr. Constantino acknowledged this morning, neither Valley ASC nor Fox Valley ASTC are within ten miles of the proposed facility. And even though they don't like this project and even though Valley chose to offer opposition, they should not be considered in your consideration of this

application, because they should not have been part of the State Board staff report. They are outside of the statutory service area defined by your rules.

Also, and as I'm sure you expected this to be pointed out, and as Mr. Constantino acknowledged, the Elgin Gastroenterology is only approved for GI procedures, and, therefore, even though any capacity that it has will force a negative finding, that is simply not an option for providing the services that are contemplated by this application.

So what that leaves us with are Ashton, Algonquin, and Advocate. Now, Ashton is virtually an all private-pay facility. It has a close staff that none of the excellent doctors that make up OrthoIllinois are on their staff. And this project and these doctors are committed to a Medicare and Medicaid population. This project is predicting to serve over 40 percent of government-sponsored patients. So the Ashton Center for Day Surgery is simply not a realistic option.

Then we have to talk about Algonquin.

Algonquin is a multispecialty ASC that is approved for nine different categories of service. And multispecialty ASCs are a necessary part of health care delivery, but, if you are going to consider the capacity of a facility like this, then you have to ask yourselves and be honest about whether this facility can address the problem that is being proposed to solve through this project.

The problem that's being solved is how do these doctors meet the needs of their patients. Remember, our doctors work at these facilities. They have provided care and been in leadership positions at this facility, and this facility has proven not to be the solution to the orthopedic access issues, and, as such, we suggest that it cannot be viewed as a solution.

The rooms are not appropriate for the procedures. The sterilization and turnaround time is just not sufficient. And I think it's important to acknowledge that the sterilization and turnaround time is not reflected in their utilization numbers. And in doing that, that creates the appearance of there being capacity that does not really exist.

Finally, as a multispecialty ASTC, it just simply isn't designed for supporting a specialized staff nor maintaining the specialized equipment that these physicians and, more importantly, their patient population needs.

So now let's talk about the Advocate opposition. Now, you can't conclude that any reasonable health care system would object to this process, because I think it's important to note that there was no opposition from AMITA. Advocate, on the other hand, has come out guns blazing. They are making it clear that the approval of this facility will jeopardize Advocate's very existence.

But before I start addressing the hospital system claims, let me address the ASC. All of the same issues that I talked about a moment ago with regards to Algonquin would be true for the Advocate Surgery Center if it's ever built. It's a multispecialty ASC, and it is not being designed to facilitate and allow for the provision of orthopedic specialized care.

You heard from Don Schreiner, CEO, that OrthoIllinois, we offered to partner with Advocate

with regards to this facility. We offered to do this. We offered to help them. We were willing to be their partner, and they passed. They told us to build our own, go get our on CON, they told us they wouldn't object. Now that we've done that, they're objecting. They have every right to do so.

But you have to consider that objection of whether or not that objection is truly what's in the best interest for the community or whether it's what's in the best interest of Advocate. Because here we are years later, and they haven't even obtained the necessary permits or even broken background on this surgery center. But OrthoIllinois and all of its physicians are experiencing growth and growth and growth in their practices with nowhere to accommodate these patients.

More importantly, I think we need to discuss the fundamental and philosophical issues with the Advocate opposition, both with regards to its impact on the unbuilt surgery center, but also to their claimed impact on the Advocate system.

Members of the Board, you have heard these

claims before, claims of poverty from a health system that despite experiencing an enjoying system-wide profits, they will isolate one facility to feign poverty. And they either do it, as the case is here, to object to appropriately increasing access by a project like this, or, as we've seen far too often, they feign poverty to shut down one hospital, which really decreases access to care for a community. And they do this all the while still enjoying system-wide profits.

Let me state this as simply and as plainly as I can. The suggestion that Advocate is going to experience financial ruin upon the approval of this project is laughable. You heard the CFO of Advocate this morning that they think the approval of this project is going to cost them $2 million in reimbursement. Now, I'm going to try really hard to resist speculating on the numbers, but I think it's important that we look at some of the things we do know.

In 2019, Advocate Sherman, just that hospital, enjoyed profits of $35 million. Now, there's some confusion, apparently, about what their numbers were in 2020. They claimed

previously to be down approximately 13 percent in profits for 2020. And while those numbers aren't published yet, that would result in them enjoying profits of only $30 million. Today we heard them claim that they had a $15 million operating cost.

Regardless of how the numbers play out, the one thing you have not heard from anyone is that Advocate is losing money. The best they could do when they submitted their safety letter is claim that, quote, The Sherman service area lost money. And let's just assume that that wasn't a very strategic and intentional choice of words.

Let's look at the performance of the system. According to the reports by Crain's, when they announced the advancement of Advocate's private equity group fund in 2020, they announced that, unfortunately, in 2020, Advocate only enjoyed a half-billion dollars in annual profits. I said that right. One-half billion dollars in 2020, which would apparently be a significantly down year for them, because their own 990s show that in 2019, the Advocate system enjoyed a profit of $1.45 billion.

If somehow the $2 million that they're going lose, according to their own CFO, is insufficient to bear the brunt of this ASTC, if that is the line between whether or not Advocate can provide safety net services to this community, we have a much bigger health care delivery problem that we need to address.

What else do we know? We know that there is a strong push to move procedures to ASTCs. You've seen the letter from Blue Cross Blue Shield. One of the testimony today, I think it was the Valley testimony, acknowledged that there's a push to move things out of hospitals and into surgery centers.

But the capacity to meet the needs of this patient population simply doesn't exist. While Advocate testified to the fact that it would be inconvenient, cost them money, cost them money, what did you hear from OrthoIllinois doctor after doctor after doctor? They don't have access to the surgical time to meet the needs of their patients.

MS. AVERY: Mr. Silberman, I apologize for interrupting, but I think it's fair to alert you

that we will be losing a member at 12:30.

MR. SILBERMAN: I will be --

MS. AVERY: Okay. Thank you.

MR. SILBERMAN: Then I will be incredibly quick.

OrthoIllinois has heard -- has committed itself to this population and has done everything it can.

The one thing I do need to address is this, let's assume for a second you deny this project and all of a sudden all of the OrthoIllinois needs has to be met by the existing facilities, if all of these facilities suddenly show the commitment to this patient population, then where do the other 10 to 12 specialties that are being served by these multispecialty ASCs go to receive the care that they need.

As simply as I can put this, the OrthoIllinois doctors have made it clear; they will meet their needs to the community. This is not about turf. This is not about hospital versus doctor. This is not about profit margins, at least not for OrthoIllinois. This is about what is in the best interest of responsible health care

delivery and about being in a position to meet the needs of their patients.

As simply and plainly as I can state this, this is about OrthoIllinois doctors being able to do their best and no longer being forced to do the best they can under someone else's priorities. With that, we'd be happy to address any questions that you have.

CHAIRWOMAN SAVAGE: Okay. Thank you. One moment. Okay. Do any of our State Board members have any questions for our applicants?

MEMBER GRUNDY: I have a question.

MEMBER KAATZ: Madam Chair, I do.

CHAIRWOMAN SAVAGE: Dr. Grundy first.

MEMBER GRUNDY: Okay. I have a question as far as -- I know during your presentation you spoke about having only one day of OR time at -- was it NW Huntley -- and you talked about insufficient OR time at Advocate. How many days or how much time do you all currently operate at Advocate?

MR. MORADO: Dr. Stanley, do you want to take that one?

DR. STANLEY: I can speak for myself,

personally. I get operative time three days a month at Advocate, and then I'm also on staff at AMITA Saint Joseph Hospital where I have additional operative time. Essentially, that's -- what we are all doing right now is we are all on staff at multiple hospitals and juggling our operative days to try to meet the volume requirements. Because -- and even still with doing that, we end up operating late.

MEMBER GRUNDY: Okay. And then I have one follow-up question. Looking at table 5, as far as the summary of physician historical referrals, for many of your physicians, if you would look at the referrals that will go to the proposed center, you would take away all of the referrals that have historically gone to those hospitals. And so as far as -- how do you think that will impact the -- you know, the current services that are being provided to those?

DR. STANLEY: So as we have continued to grow, our hospital volume also continues to grow. We're actually bringing in two additional surgeons in the next three months. And there's no shortage of cases that have to be done at the hospital.

So this doesn't become a take cases away from one facility and then that facility is empty. What ends up happening is that cases that belong in the hospital can actually be done at the hospital and cases that don't belong in the hospital will be done at the surgery center.

MEMBER GRUNDY: Thank you.

MEMBER KAATZ: Madam Chairman, I have a couple questions, if I may, please.

CHAIRWOMAN SAVAGE: Yes. Go ahead, Member Kaatz.

MEMBER KAATZ: I'll address this first question to all of you. With your current complication rate, which is a function of your business model, if your complication rate went from 1 percent to the 2.4 percent that is expressed for Sherman, give me a really rough ballpark estimate on what that additional or opportunity cost would look like.

MR. MORADO: Dr. Bear, do you want to touch on what the opportunity costs would be like?

DR. BEAR: So I think I understand your question. If we can take our complication rate from 2.4 percent to less than 1 percent, how many

lives would that affect?

If you look at all the total joints done by our organization at that hospital -- I've got to think about that. Let me do quick math in my head. That's about 500 joints. Now, you can't move all of them out. But let's say you can move, you know, 300 out of the hospital or 250 out of the hospital and your complication rate, you know, that would be -- you know, three -- that would be ten patients that you could potentially avoid a catastrophic, life-altering complication by shifting those surgeries.

I mean, these complications are not little. You have to have the prosthetic taken out of your knee; you have to have a cement spacer for three months; you have to go and try to have another revision, the outcome is never good. It's a horrible complication. So you would affect the lives, at minimum, of ten people. And if that person is you, you'll appreciate that.

MR. SILBERMAN: The only other thing that I think needs to be clarified is what's going to drive where a patient should be seen is what's in the best interest of the patients. This isn't an

abandonment of the existing facilities. This is just making sure that there's another facility available that allows the meeting of the needs.

DR. BEAR: And I think there's other complications in other -- I'm just picking joint replacements, but the overall complication rate for every surgery is down. So you'll see additional savings and decreasing complications by shifting them to an ambulatory surgery center by just having less complications --

MEMBER KAATZ: I'm just trying --

DR. BEAR: -- the problem, also, of going to four different operating rooms and operating in four different operating rooms is you're never at one enough to build a real expertise, and you're having different people rotate in your room. That is the way you drive up complications and you drive up cost and drive down efficiency. You want to be at the same place with the same team.

MEMBER KAATZ: Another question, if I may, Madam Chairman, just as a follow-up. I didn't hear anybody from the opposition and I didn't really hear the proponent talk about the impact on physician efficiency or productivity, which is

really behind everything that's being improved with regard to health care today.

Could I ask any of you from OrthoIllinois, what do you think the estimated benefit to the patient, to the system, to the community, however you want to define it, is from enhanced physician efficiency and productivity?

MR. SILBERMAN: I'll address this from a nonmedical perspective, and then I'll let the doctors chime in.

But I think the reality is this. Whether it's the patient being able to be seen in the facility that's designed for them, the patient being able to be seen in a facility with a staff that's specialized for the care they need, access to the equipment, not having to have surgical time based on when a facility's availability is but based on what's in the best of their care. I think these are the fundamental advantages.

I think you've highlighted an important point, which is, the majority of the opposition was not driven by what is going to be in the best interest of the orthopedic patient. The majority of the opposition really seemed to be focused on

Advocate will lose so much money that they won't be able to provide safety net services.

And I will reiterate what I said. If, in a bad year, they're only experiencing a half a billion dollars worth of profits. I have a hard time believing that whatever profits might lose, by placing care in the appropriate setting within their community is -- is sufficient to topple their system.

MR. MORADO: Dr. Bear, do you want to chime in on that as well?

DR. BEAR: The ambulatory surgery center makes physicians, on average, up to 100 percent more efficient. And that translates to patients in that, one, the footprint of an ASC is much smaller than a hospital and is much less intimidating, especially for older patients. They can drive right up and walk into the center and not have to park their car and valet park it or navigate through a complicated hospital system.

The total time spent in the facility is cut in half for an outpatient procedure done in the hospital versus an outpatient procedure done in an ambulatory surgery center for the patient

and their families. So time off of work for family and loved ones is cut in half. So there's a lot of intangible benefits of the efficiencies that get translated down to the patients by having their surgeries performed in a more efficient system.

MEMBER KAATZ: So last week the Chicago Tribune spent a lot of time on specialties in journalism with regard to Leapfrog where they rated all the regional and Chicago hospitals based on their outcomes, and with the exception of Rush, most performed poorly. And it really goes to patient safety issues. We touched on it here in terms of infection rates, complication rates.

What would your estimated result be -- and I know this is maybe a nuts question, crazy question -- but how would you guys stack up with regard to Leapfrog criteria that's also applied to a place such as Sherman Hospital?

DR. BEAR: Yeah. I think we would be very competitive with that. Our complication rate of less than one percent is difficult to improve upon.

MEMBER KAATZ: Last question. I'm a

little puzzled on all this discussion about access. Tell me again what your public aid and self-pay policy would be at the surgery center.

MR. SILBERMAN: We are predicting a 40 percent population of Medicare, Medicaid. I can tell you that the facility already has an agreement in place with Meridian. We accept public aid, and we're in active negotiations with regards to the other public aid.

And I'm going to turn to the CEO who's going to tell me -- oh, and this is one other interesting detail. This facility has taken it upon itself, they, to my knowledge are the only ASTC -- they're rates are published. So even though ASTCs are not required to have the same kind of transparencies -- physician groups aren't required to have the same kind of transparency -- and generally don't -- that hospitals do, they have -- I believe are leading the way by having -- their rates are all published.

So anyone who has any concerns with regards to their rates, they have made them all available and they are all transparent, because they believe that rate transparency and commitment

to a patient population is fundamental and key.

MEMBER KAATZ: Thank you very much for all of the answers.

MEMBER MARTELL: Chairwoman Savage?

CHAIRWOMAN SAVAGE: Do you have a question?

MEMBER MARTELL: Yes, I do.

Again, I've heard the 40 percent Medicare, Medicaid. Why are you predicting that would differ from what you posed for the Rockford location?

MR. SILBERMAN: Dr. Bear is going to address that.

DR. BEAR: So if you look -- what's posted in the data, it's amount of collections, number of -- the amount of collections as a percent. So our percent of collections of Medicare and Medicaid are low. But if you look at the number of cases, we do a total of about 25 percent combined Medicare and Medicaid.

The other issue is that Medicaid currently does not pay for many orthopedic implants, you know, hip, knee, wrist, elbow, shoulder implants are not covered by Medicaid in an ASC setting, but

are covered by Medicaid in a hospital setting. And our hospital partners have asked us to do those procedures in the hospital. But that's changing, because Medicaid is following suit to allow those implants to be covered in an ASC.

So our total blended rate in Rockford, if you look at number of cases, about 25 percent. But as a percent collection, it's much lower. The reimbursement is lower for Medicaid and Medicare patients compared to work comp and private insurance.

MR. MORADO: And, Dr. Martell, I think it's probably prudent to also add that the ASC in Rockford is a joint venture with OSF, so that's the hospital partner that Dr. Bear was referring to in terms of their request to send those procedures there.

The other thing I make mention of is, if you look at your 2019 data for ASCs and you look through the Medicaid column, for all of the ASCs that are owned by some of the folks that are opposing this project, Advocate, for example, they're either at a zero amount for Medicaid or at two-tenths of a percent. And that's the net

revenue.

And so we would expect that, like us, that might be a little bit higher once you look at the total number of patients, but it's a phenomenon, as Dr. Bear described, that some of these types of procedures aren't currently approved by Medicaid, but we fully expect, with this continued shift, that they will be.

MR. SILBERMAN: When we saw those numbers, Madam Martell, we actually looked at that, because we thought the numbers were off. And I think the way that the State's numbers are reported, it's driven by volume. But when -- as Dr. Bear testified, the actual number of patients being served is closer to 25 percent Medicare and Medicaid.

MEMBER MARTELL: Thank you.

CHAIRWOMAN SAVAGE: Other questions? Yes, Toni.

MEMBER HARDY-WALLER: Question. So is it fair to presume, then, that if Medicare is not currently covering all of those procedures, that they will be actually referred to one of the hospitals in the service area through your

relationship? And when do you propose to get the level of care provided for that population increased over time? And, I think, in addition to that, as you look at the 40 percent that you propose to cover, are you suggesting that you will cover that regardless of Medicaid coverage and payment or not, or will they be transferred to one of the local hospitals?

MR. SILBERMAN: So I'll answer that in a few ways. One is this, we would love -- OrthoIllinois would love to be part of that discussion and how to advance that. We've been trying as much as we can, but the efforts have been splintered.

And part of the challenge is that we haven't been in a position to meet the needs of our Medicare and Medicaid population. Having this facility approved is going to go a large way towards doing that, and we will continue to Advocate, and we'll cooperate with anyone, state legislatures, local leaders, to accomplish that.

But as I've said before and as the doctors have talked about, what will always drive where a procedure is going to be performed is going to be

what's in the best interest for the patient. So as long as the reimbursement model mandated by the Illinois Department of Public Aid says -- or Health Care and Family Services, sorry, I'm showing my age there, as long as it shows that it will only be reimbursed if it's in a hospital, it will either be taken on as charity care or it will be performed in a hospital.

But as long those discussions can continue and as long as we can figure out how not to have the reimbursement or the insurance that's available drive the care, we'd love to be part of those discussions. The way that we plan on fixing that is our continued commitment to a Medicare and Medicaid population. Dr. Bear?

MEMBER HARDY-WALLER: You're on mute.

DR. BEAR: Can you hear me?

MEMBER HARDY-WALLER: Yes.

DR. BEAR: We are absolutely committed to the Medicare and Medicaid population. Soft tissue procedures like carpal tunnel, flexor tendons, cut tendons, nerve lacerations can already be done and are already being done.

We also do cases there and just accept the

loss. If it's an urgent case and we can't get time at the hospital and the patient and family want it done soon, we'll frequently do those cases at a loss at our surgery center, and we'll do that in Elgin.

And I think, to this Board, I can give you our word that our commitment to that population is strong. We already are contracting with Meridian, which is going to allow those cases to come to our center. We do take straight public aid. And we're in active negotiations with the other -- other managed care public aid contracting companies. So we're there.

Also, Medicare has just recently allowed total hips and total knees. So that -- that volume is going up just naturally. And so you'll see that naturally go up, because those have just been approved.

MEMBER HARDY-WALLER: Thank you. I think one follow-up question would be my only concern is given the splintered relationship, as you called it, with Advocate Sherman, my question becomes, how do you repair that relationship in the event of, one, ensuring that those patients that you

can't cover in the clinic or in the surgery center are covered at the hospital? And, in the event you have higher acuity patients that require hospitalization, how do you ensure that there's continuity and consistency in care with those hospitals that are local?

MR. MORADO: Member Hardy-Waller, I'm going to have Dr. Stanley talk a little bit about that. One of the things I think I did want to point out, though, is these are all physician leaders within every single one of these hospitals.

And I think you heard a commitment today from everyone who testified in both public comment and during this presentation that this is not an abandonment of those hospitals, and they're going to continue to send patients there and perform procedures there. But it's probably better that you hear it from the vice chair of surgery at Sherman.

DR. STANLEY: The Elgin medical community is pretty small, right, and so we're not in competition with Sherman-employed orthopedic surgeons. There are none. So we will continue to

provide all of the orthopedic care or the vast majority of the orthopedic care at that hospital.

And even with this ASC, even with the approval, that won't change. I don't think that there's a splinter, as your describing it. Even Trent Gordon, their CFO, said it earlier today, right, they respect us, we respect them. We understand what their objection is. And what it really comes down to is they're worried about some financial loss to this billion-dollar cooperation. But at the end of this day, we are still serving this community, and we are going to continue to serve the community at all the Elgin hospitals, regardless of what this Board decides.

MR. MORADO: Did that answer your question, Member Waller?

MEMBER HARDY-WALLER: Thank you. Yes, it did.

CHAIRWOMAN SAVAGE: Any other questions from our Board members?

DR. BEAR: We are building a 50,000 square foot new clinic in Elgin that's going to service the entire population, and insurance status is not a factor in who we see. Our doctors typically --

for patients that have to go to the hospital, we take them to the hospital that they're comfortable with or the hospital that their primary care is at. And that's not -- that tends to be the best continuity of care.

MR. MORADO: Thank you.

CHAIRWOMAN SAVAGE: Last call for questions.

MEMBER MARTELL: One more -- one last follow-up on the alternatives to the proposed project. Given the successful partnership with OSF in Rockford, can you speak to a little bit -- I think, kind of going through that process, it does not seem like that was identified in the application. Did I miss that someplace?

MR. MORADO: The partnership with OSF?

MEMBER MARTELL: Correct. Sherman Advocate, since you had a successful model.

MR. MORADO: I'm sorry. My computer muted. Can you say that one more time for me?

MEMBER MARTELL: The question I had was under the kind of alternatives to the proposed project, the providers had a strong history of having a good partnership with a hospital come

into that. And, again, what I see is no discussion of was there an attempt to partner with Sherman Advocate in a similar way as an alternative.

MR. MORADO: Yeah. Definitely.

MR. SILBERMAN: So if I can address that, and I'll let -- but I'll refer to what Dr. Stanley testified to. Dr. Stanley met with them. He came up with a proposal. He designed not only how to join with the surgery center, but how to turn them into an orthopedic center of excellence, and they passed. And we don't begrudge them that. They're allowed to make their own economic decisions.

But when their economic decisions start to affect access to care, and when their economic decisions reach a point where it's affecting their ability to meet the needs of their patients, that's when OrthoIllinois decided they had to step up, and, candidly, take the advice that Advocate gave them, which is, if you want to do this, do it yourself.

DR, STANLEY: Yeah. So it wasn't just me that met with Advocate leadership. Our entire C-suite actually had multiple meetings with

Advocate over the course of a nine-month period where we offered to build their surgery center for them since they already had the CON and they weren't building it. And we offered them the exact same terms that they had for the facility that they were going to build.

And after extensive discussions, the conclusion was that the time that it would take them to really be able to partner with us would be so extensive and they would have so many restrictions that they just didn't think it would be worth their effort.

MR. MORADO: And I'd also highlight that this is a project that's supposed to be completed in September 2021. So September of this year, that project, which you saw that beautiful plot of grass, is supposed to contain a surgery center. I would gather that there's probably going to be a permit renewal coming your way in the future.

MS. AVERY: Madam Chair, please let the record reflect that Member LeGrand has departed.

CHAIRWOMAN SAVAGE: Thank you. Okay. If there are no further questions, George, would you please call the roll?

MR. ROATE: Thank you, Madam Chair.

Motion made by Dr. Martell seconded by Dr. Grundy.

Dr. Grundy.

MEMBER GRUNDY: Okay. I'm actually going to have to vote no based on the staff report and that based on the information received in the report, especially table 5, I'm not convinced that there is an unmet need that this center will provide and that it looks to me that it will result in duplication of services. So my vote is no.

MR. ROATE: Thank you.

Mr. Kaatz.

MEMBER KAATZ: I vote yes. And I think while there are compelling arguments presented on both sides of the debate, I'm going to go to the responsibility that I have as a member of this Board to serve patients and communities in the best way possible and to also take responsibility for cost behavior.

And I think this business model shows an incredible clinical benefit to the people living in the surrounding area. And I think when you

move from the traditional, old archaic definition of cost to maybe the newer one that includes opportunity costs related to decisions, I think -- I think this is a compelling reason to vote yes. It is a significant decrease in the cost of service and a significant increase in the benefit to the people who live in this area.

MR. ROATE: Thank you.

Dr. Martell.

MEMBER MARTELL: I'm going to vote no, although, I'm challenged by the information as well and the arguments on both sides. But I do have a concern regarding the documentation of the unmet need and concerns regarding the impact and the payor mix.

MR. ROATE: Thank you.

Dr. Murray.

MEMBER MURRAY: Well, this really doesn't matter how I vote, because we're not going to get to six votes. But let me say before I say my vote that I hope we can remember this specific application as we consider all of our rules and reqs.

And while I have some concerns about the

numbers and shifting and referrals, I was -- I was swayed by the fact that the ability to operate and to do it in a timely way with small operating times and small turnaround times is important. So there's more involved in need than just how many patients you have and how those patients are treated.

I am aware of the huge opposition that came forward in public testimony from the community, but, again, that was mostly in concern for the impact on this one hospital, which is part of a very wealthy network of hospitals. So I'm going to vote yes on this.

MR. ROATE: Thank you.

Ms. Hardy-Waller.

MEMBER HARDY-WALLER: I would vote yes as well. You know, as we go through the application process, I didn't see, as you argued, that there would be any material impact on the existing facilities in the area, particularly, Advocate Sherman, who had the largest opposition, particularly because OrthoIllinois is very narrowly focused on ortho surgery. And I do believe by having such a narrow focus, there is a

significant impact on quality care, as was demonstrated in your complication, your less than one percent, and your patient experience scores that you demonstrated.

So from that standpoint, I say yes. As well as, I believe that by moving patients -- and we know this, it's been proven -- from an inpatient to an outpatient or an ambulatory service, we can significantly reduce costs and infection rates and so on and so forth. Also, I believe that by having the ambulatory service treatment center, we can also increase capacity as well -- allow for more capacity.

My only concern, minor concern, and I think you've made the argument around safety net patients and access for those patients who are Medicaid or unable to pay, that you have a commitment to that patient population. And my hope would be if this went -- if this got approved that that would be -- that you would ensure the 40 percent patient population would indeed be served by that.

So, again, based on those comments and those observations, I would vote yes.

MR. ROATE: Thank you.

Chairwoman Savage.

CHAIRWOMAN SAVAGE: I, too, was a bit conflicted. But with the testimony and relooking at everything, I vote yes, based on the clinical benefits to our patients and the decreased complication rates that just outpatient surgery, in general, can offer, the decreased costs, and also still keeping the appropriate patient procedures, of course, at the hospital that are required to do so.

And then under oath, they, in testimony, talked about keeping their commitment to Advocate Sherman and the other hospitals that they go to bring the volume that they had talked to, but with the ASTC that Sherman has yet to build, that they would still bring the patients that they promised to bring there.

So I think with the increasing volumes they talked about and the aging population, that that probably would be possible. And then their commitment to our safety net patients, which are so very important, Dr. Bear, I believe, his testimony was most compelling in that regard.

MR. ROATE: Thank you, Madam Chair.

CHAIRWOMAN SAVAGE: One moment.

MR. ROATE: Okay.

MS. AVERY: Okay. I'm sorry. We now have -- Member LeGrand is back on the record.

Member LeGrand.

MEMBER LeGRAND: I voted yes.

MR. ROATE: Thank you.

MS. AVERY: Do you want to expand on your vote, Member LeGrand?

MEMBER LeGRAND: I just -- listening to what everyone had to say about, you know, the center and not having enough places at some of the hospitals, I think there is a need there. So I vote yes.

MS. AVERY: Okay.

MR. ROATE: Thank you. That's five votes in the affirmative, two votes in the negative.

CHAIRWOMAN SAVAGE: Thank you, George.

MR. MORADO: Thank you, members of the Board. We recognize that had this been last week, this would have been a passed motion. So we look forward --

CHAIRWOMAN SAVAGE: One second, Juan. We

haven't gotten to that yet.

MS. AVERY: One second, Juan.

CHAIRWOMAN SAVAGE: Yeah. Sorry. I have to say that, unfortunately, the motion failed. And you have received an intent to deny. You will be given an opportunity to reappear before the Board and present additional information relevant to the approval of the permit.

Please notify the Board staff in writing within 14 calendar days to indicate whether you intend to reappear and/or submit additional information. Thank you.

MR. SILBERMAN: Thank you.

MS. AVERY: Mr. Morado, did you want to finish your comments?

MR. MORADO: I was just saying thank you to the Board. We appreciate it. We fully intend on coming back so we can address Member Grundy's concerns and make sure that we can address Dr. Martell's concerns as well. We think we have some good information for them that hopefully we can win their support the next time up. So, thank you.

MS. AVERY: Thank you, Mr. Morado.

CHAIRWOMAN SAVAGE: Okay. We're going to proceed to lunch for 30 minutes. And then we'll be back at 1:30.

MS. AVERY: For the audience information, we will have a quorum. Member LeGrand will not rejoin us. Thank you.

(A recess was taken.)

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