



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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

DOCKET NO: I-01	BOARD MEETING: December 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>

CORRECTION

TABLE FOUR on page 10 of the report has been updated to reflect the referral information of Algonquin Surgery Center.

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.

CHRONOLOGY:

- **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.
- **On June 9, 2021** additional information was provided by the Applicants addressing the Intent to Deny.
- **On October 26, 2021** the State Board did not approve the permit renewal for Permit #16-038 the establishment of Advocate Sherman ASTC. As a result, Permit#16-038 was revoked and is no longer being considered in the analysis of this Application for Permit.
- **On November 4, 2021** the Applicants submitted a response to the revocation of Permit #16-038 stating: *“As we previously represented in our application and our testimony before the Board, this project truly is an AND not an OR. We have provided more than enough referrals to fully utilize this facility and still intend to continue seeing patients at the hospital and the other area ASTCs. Since we do not yet know what Advocate is planning to do in response to its CON not being renewed, we do not want to commit further referrals that would preclude us from continuing to support those efforts, if appropriate. Therefore, while the Board can rest assured that the capacity exists to serve the orthopedic needs of the community, it can also rest assured that our commitment to community was not a line for the CON application but, in fact, reflects OrthoIllinois’ actual commitment to the community.”*
- **On November 17, 2021** three ASTCs submitted an impact statement stating in part: *“Finally, it must be emphasized that the revocation of the Sherman ASTC permit, in Project # 16-038 has no impact on the need for the OrthoIllinois project, the adverse impact on existing providers, or the excess capacity in surgical capacity in the area. That is because Project # 16-038 was a joint venture with a hospital and the hospital had committed to close three operating rooms upon the opening of the surgery center, which would have had three operating rooms. Consequently, there would have been no net increase in the area's surgical capacity. In addition, all of the Sherman ASTC's surgical volume was based on Sherman Hospital's own volume and the project did not rely on surgical volume from any other area provider. By contrast, the OrthoIllinois project is adding surgical capacity by four operating rooms and removing all of its surgical volume from other area facilities.”*
- 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.
- In response to the State Board’s concern at the May 2021 State Board Meeting the revenue by payor source and patients by payor source of the Applicants the State Board Staff has provided payor source information for the period 2015-2020 for the ASTC owned by OrthoIllinois in Rockford, Illinois [**See End of this Report**].

CONCLUSION:

- There are four ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs provide Gastro procedures only [Elgin Gastroenterology Endoscopy Center, LLC]¹ and is not considered in this evaluation. Three ASTCs have been approved for the procedures proposed by this Application for Permit and all were underutilized in 2020. There are two hospitals within this 10-mile GSA, and both were underutilized in 2020.

¹ Elgin Gastroenterology Endoscopy Center would need to apply to the State Board to establish the surgical specialties proposed by this project.

Executive Summary TABLE ONE Facilities within the 10-mile GSA					
Facility	City		Rooms	Hours	Rooms Justified
Algonquin Road Surgery Center	Lake of the Hills	Multi-Specialty	4	4,205	3
Ashton Center for Day Surgery	Hoffman Estates	Multi-Specialty	4	1,126	1
Valley Ambulatory Surgery Center	St. Charles	Multi-Specialty	8	7,137	5
Advocate Sherman Hospital	Elgin		19	22,618	16
Presence Saint Joseph Hospital	Elgin		12	4,276	3
1. All ASTCs have been approved for the surgical specialties proposed by this project. Information Rooms and Hours from 2020 Hospital and ASTC Profile Information.					

- 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.

Executive Summary TABLE TWO Facilities impacted by Proposed ASTC					
	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley Hospital	Algonquin Road Surgery Ctr.	Valley ASC
Total Cases ⁽¹⁾	12,407	2,888	5,158	2,511	3,131
Total Surgery Hours ⁽¹⁾	22,867	3,647	9,014	3,972	5,235
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	7.58%	11.32%	11.15%	33.09%	2.24%
% of hours Removed	7.34%	15.99%	11.37%	37.31%	2.39%
1. Cases and Hours taken from 2020 Hospital and ASTC Profile Information					

- The Applicants addressed a total of 21 criteria and did not meet the 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.
 - 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 four ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs 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 four ASTCs and two hospitals within the 10-mile GSA. One of the ASTCs 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. It appears an unnecessary duplication of service will result with the establishment of this facility.
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 37% 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 12% of their cases and 16% of their hours redirected to the proposed project.



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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
Can Applicants Request Deferral	Yes

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.

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

IV. 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.

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%

TABLE ONE				
Project Costs and Sources of Funds				
USE OF FUNDS	Review	Non-Reviewable	Total	% of Total
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				
Procedure Code	Description	Charges		
		Medicare	Medicaid	HOPD
27447	Total Knee Arthroplasty	\$8,875	\$4,467	\$11,900
64721	Carpel Tunnel Surgery	\$818	\$412	\$1,719
29827	Rotator Cuff Repair	\$2,978	\$1,499	\$5,981
22551	Anterior Cervical Fusion with Interbody Fusion	\$8,657	\$4,357	\$11,900
29881	Knee Arthroscopy, Meniscectomy, Medial OR Lateral	\$1,350	\$680	\$2,737

V. Projected Utilization

A) Criterion 1110.120 (b) – Projected Utilization

Revised Finding:

- a) With the revocation of Permit #16-038 at the October 2021 State Board Meeting the referrals to Advocate Sherman ASTC by Dr. Kazaglis and Dr. Mox will no longer be considered. The Applicants propose to refer 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.

Physicians	Refer to Proposed Project # [20-040]
Dr. Kazaglis	268
Dr. Mox	170

- b) The Average Case Time for ASTCs in the State of Illinois for CY 2018, CY 2019 and CY 2020 is approximately 91.2 minutes. Using that average case time, the Applicants cannot justify the 4 rooms being requested. [2,745 referrals x 91.2 minutes = 4,172 hours ÷ 1,500 hours or 2.78 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.

VI. 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: With the revocation of Permit #16-038 the referrals to Advocate Sherman ASTC by Dr. Kazaglis and Dr. Mox will no longer be considered. 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.**

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.

TABLE FOUR

Summary of Physician Historical Referrals

Physician	Specialty	Referrals to Proposed ASTC	Historical Referrals					
			Total Referrals	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley	Algonquin Road Surgery Ctr	Valley ASTC
Bohnenkamp	Ortho	292	612	64	0	514	34	0
Brissey	Ortho	94	158	26	0	123	9	0
Carlile	Ortho	30	253	52	0	201	0	0
Daniels	Ortho	180	503	0	0	419	84	0
Holtkamp	Ortho	597	660	34	0	29	597	0
IzJuierdo	Ortho	263	523	250	0	10	263	0
Kazaglis	Ortho	297	425	366	35	24	0	0
Mox	Ortho	170	356	330	8	18	0	0
Palmer	Ortho	420	760	190	400	0	0	170
Stanley	Ortho	320	469	206	79	44	140	0
Van Thiel	Ortho	111	136	24	0	16	96	0
Whitehurst	0	0	21					
Ferry	0	0	39					
Lawton	0	0						
Harvey	0	0						
Schott	0	0						
Total		2,774	4,915	1,542	522	1,398	1,223	170

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 2,745 referrals the Applicants have justified the 4 operating rooms being requested at 107 minutes per procedure. [2,745 procedures x 107 minutes = 4,895 hours ÷ 1,500 hours = 3.26 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 four ASTCs and two hospitals within the 10-mile GSA. One ASTC 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 FIVE					
ASTCS and Hospitals within the 10-mile GSA.					
Facility	City	Procedures	2020		
			Rooms	Hours	Rooms Justified
Algonquin Road Surgery Center	Lake of the Hills	Multi-Specialty	4	4,205	3
Ashton Center for Day Surgery	Hoffman Estates	Multi-Specialty	4	1,126	1
Valley Ambulatory Surgery Center	St. Charles	Multi-Specialty	8	7,137	5
Elgin Gastroenterology Endoscopy Center	Elgin	Gastro	2	4,891	4
Total Operating Procedure Rooms			18		13
Advocate Sherman Hospital	Elgin		19	22,618	16
Presence Saint Joseph Hospital - Elgin	Elgin		12	4,276	3
Total Operating Procedure Rooms			31		19

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. Based upon this ratio 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 four ASTCs and two hospitals within the 10-mile GSA. One ASTC 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 SIX					
Facilities impacted by Proposed ASTC					
	Advocate Sherman Hospital	AMITA St. Joseph Elgin	NW Huntley Hospital	Algonquin Road Surgery Ctr.	Valley ASC
Total Cases ⁽¹⁾	12,407	2,888	5,158	2,511	3,131
Total Surgery Hours ⁽¹⁾	22,867	3,647	9,014	3,972	5,235
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	7.58%	11.32%	11.15%	33.09%	2.24%
% of hours Removed	7.34%	15.99%	11.37%	37.31%	2.39%
1. Cases and Hours taken from 2020 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 OrthoIllinois 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 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 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. The Applicants have successfully addressed this criterion.

VII. 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. The Applicants have stated there will be **representative or Illinois Bank and Trust** at the Board Meeting to attest that the loan will be made.

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]

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.

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 2015-2020. Medicaid Revenue was less than ½ of 1% of total net revenue for those years. The number of Medicaid patients cared for was (2%) of the total patients provided care for those six years at the Rockford ASTC.

Rockford Orthopedic Surgery Center d/b/a Ortho							
Net Revenue by Payor Source							
Year	Medicare	Medicaid	Other	Insurance	Private Pay	Charity	Total
2020	\$2,711,268	\$33,890	\$0	\$17,286,511	\$1,325,600	\$0	\$21,357,269
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	\$11,583,054	\$336,040	\$0	\$84,224,826	\$6,386,196	\$0	\$102,530,116
% of Total	11.30%	0.33%	0.00%	82.15%	6.23%	0.00%	100.00%
Number of Patients by Payor Source							
Year	Medicare	Medicaid	Other	Insurance	Private Pay	Charity	Total
2020	1,011	41	\$0	3,315	23	0.00	4,390
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	5,341	444	0	18,013	60	0	23,858
% of Total	22.39%	1.86%	0.00%	75.50%	0.25%	0.00%	100.00%

Response to Safety Net Impact Statement

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

“Outpatient surgery is a critical service we provide to all patients in our service area, regardless of their ability to pay. It is also a service that contributes to our margin and allows us to offer safety net services that we would not otherwise be able to offer unless we had other services to subsidize them. This is especially important as the pandemic has seriously weakened our financial state. We're grateful for federal assistance but even that money does not come close to stemming our losses in 2020. In response, we are currently undergoing a significant leadership restructure which will help lower our expenses going into 2021. Our net revenues 2020 are down by \$37M (-13%) and we are budgeting an operating loss for 2021, which is a significant deterioration in financial performance over past years. We continue to provide care to the uninsured and financially deprived individuals within our community. Our charity care and the amount uncollectible from patients is up by \$21 M (53%). The proposed OrthoIllinois project directly undermines our ability to provide for these persons in need. Furthermore, this Project will do nothing to further the care for the underserved in our community. Unlike ambulatory surgery centers, Advocate Sherman Hospital cannot influence the payer mix of our emergency department nor do we screen out patients due to their insurance or uninsured status. In its CON application OrthoIllinois emphasizes the problem when it states that "Ambulatory Surgical Treatment Centers are not providers of safety net service". CON Application, p. 275. By not providing safety net services, this means that other providers, such as Advocate Sherman Hospital, must provide these necessary services.”

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

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

detrimental impact to Advocate Sherman Hospital and the safety net services we provide at a time when we are already challenged as noted above.”

20-040 Orthollinois Surgery Center - Elgin

