

April 14, 2021

Via Electronic Mail

Ms. Courtney R. Avery
Administrator
Illinois Health Facilities and Services Review Board
25 West Jefferson Street
2nd Floor
Springfield, IL 62761

Re: OrthoIllinois Surgery Center Elgin, Project No. 20-040
Summary of Opposition

Dear Ms. Avery:

Community leaders, elected officials, community organizations, physicians and other area health care facilities have filed numerous letter of opposition in connection with the Project referenced above. To assist Review Board members and staff this letter highlights and summarizes some of the many reasons expressed as to why the Board should deny this Project.

1. Under the Board's Rules, there is no Need for this Project

The Board's rules set out four conditions under which a Project can show need: (i) that there be no other ASTCs in the service area, (ii) all other hospitals and ASTCs are operating at or above target utilization, (iii) the specific type of procedures are not available from existing hospitals or ASTCs, or (iv) the project is a joint venture with a hospital and meets other requirements. This Project fails all these requirements.

The chart below shows the low utilization of existing surgery centers. We also note that 2 of 3 hospitals in the area also operate below target occupancy.¹

¹ See January 6, 2021 ARSC letter for more detailed analysis.

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Name	Address	City	State	Zip	# of Operating/ Procedure Rooms	Distance from Proposed facility (in miles)	2019 Utilization %
Advocate Sherman ASTC*	1445 North Randall Road	Elgin	IL	60123	4	0.6	0%
Algonquin Road Surgery Center	2550 Algonquin Road	Lake in the Hills	IL	60156	4	7.4	62%
Ashton Center for Day Surgery	1800 McDonough Road	Hoffman Estates	IL	60192	4	9.2	23%
Elgin Gastroenterology Endoscopy Center	745 Fletcher Drive	Elgin	IL	60123	2	2.7	0%

*Approved but not yet in operation

2. Project has Significant Negative Impact on Other Facilities

Every procedure proposed for the Project is a procedure taken from an existing facility. According to the chart requested by State Board staff the Proposed project would take the following number of cases from each facility.

	Sherman Hospital	Northwestern Huntley	Amita St. Joseph Elgin	Algonquin Surgery Center	Valley Ambulatory Surgery Center
Izquierdo	185	5	0	73	0
Palmer	100	0	250	0	70
Stanely	160	25	50	85	0
Van Thiel	20	10	0	81	0
Daniels	0	130	0	20	0
Holtkamp	15	15	0	567	0
Kazaglis	252	20	25	0	0
Bohnenkamp	30	257	0	5	0
Carlile	5	25	0	0	0
Mox	160	8	2	0	0
Brissey	14	80	0	0	0
Total	941	575	327	831	70

In its April 12 letter of Opposition Valley Ambulatory Surgery Center pointed out that except for one provider, no facility in the area operates at target utilization. If this Project went forward not

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a single facility in the area would meet target utilization and other provider would see their utilization lowered considerably.²

3. Project will Threaten Safety Net Services in the Area

Perhaps the most prevalent concern among those community leaders, organizations and elected officials who wrote in opposition was how this Project could affect the delivery and access to essential safety net services in the community.³ Hospitals, and particularly not-for-profit hospitals, are the backbone of the health care delivery system. Many of the services provided often are part of the hospitals mission and are make no economic sense for a business enterprise. This includes services such as trauma, obstetrics and other services that operate at a loss. In addition, charity care, Medicaid reimbursement losses, and other uncompensated care can only exist if there is some cross-subsidization from other services.

Review Board members have recently seen the devastating impact on a community when a hospital needs to reduce services or even close when the operations become unsustainable. A Response to Safety Net Impact Statement was filed January 6, 2021 which detailed the safety net services provided by Advocate Sherman Hospital and how these services were threatened if the revenue from these 931 cases were lost to the new Project.⁴ In a recent Supplement to the Response to Safety Net Impact Statement, Advocate Sherman updated financial information to show that it suffered a \$15,000,000 loss in 2020 and is projected to lose even more in 2021.⁵ Current Safety Net services are not sustainable in the long term with these type loses which would be even worse if the new Project goes forward.

4. Project Relies on Impermissible Duplicate Physician Referral Letters

The Board's rules require as part of any referral letter the physician must "verify that the patient referrals have not been used to support another pending or approved CON application". We note that it appears that two physicians, Dr. Mox and Dr. Kazaglis submitted referral letters previously for the Advocate Sherman project and that consequently the referrals from those physicians should not be counted. If these duplicate referral were omitted, as the Board's rules require, the referrals would only justify 2.69 operating room, not the 4 rooms being requested.⁶

² See April 12, 2021 letter of Valley Ambulatory Surgery Center for more detailed analysis.

³ See letters referenced in attachment.

⁴ See response to Safety Net Impact Statement, January 1, 2021

⁵ April 14, 2021 Supplemental Safety Net Impact Statement

⁶ See December 31, 2020 letter from Damon Havill. See also January 26, 2021 opposition letter from ARSC for more detailed analysis.

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5. Letter Providing Assurance of Achieving Target Occupancy Cannot be Valid

The Applicants provided the typical letter stating that the applicants fully anticipate that it will achieve target utilization (which is 80%). In this case with a proposed four operating rooms, this would be 6,000 hours/year. Here the applicants own projections prove this assurance wrong. On page 230 of the CON application, the applicants forecast that it will perform 5,137 hours of utilization in the second year of operation. 5,137 hours/year is far less than the State Standard of 6,000 hours.⁷

6. Applicants have not Proven “Availability of Funds” Criterion

The bank financing letter contained at pages 265-266 makes clear that the term sheet is not a commitment, stating “This is an outline of a proposed structuring of your funding needs *and is not a commitment to lend.*” Application p. 266 (emphasis added).⁸

7. Applicants do not Meet the Financial Ratios

A review of the Financial Viability ratios shows that from the applicants projections, the Project will not meet the financial ratios and consequently there must be a negative finding.⁹

⁷ Id

⁸ Id

⁹ Id

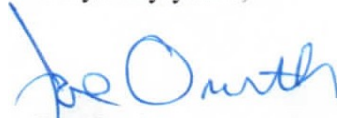
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Conclusion

This Project is inconsistent with the purpose of the Planning Act and the Board's regulation. The effect of the Project would not benefit the community and the essential services offered by existing providers and should be denied.

Very truly yours,

A handwritten signature in blue ink that reads "Joe Ourth". The signature is written in a cursive style with a large, prominent "O".

Joe Ourth

JRO/eka
Attachment

Links to Letters of Opposition or Concern

Elected Officials

1. [Opposition Letter - State Sen. DeWitte 4/12/2021](#)
2. [Comments on Project - State Sen. Castro 4/12/2021](#)
3. [Opposition Letter - Elgin City Councilman Corey Dixon 4/13/2021](#)
4. [Opposition Letter - Elgin City Councilman Baldemar Lopez 4/13/2021](#)
5. [Opposition Letter - State Rep. Suzanne Ness 4/14/2021](#)
6. [Opposition Letter - Elgin City Councilperson Carol Rauschenberger 4/14/2021](#)
7. [Opposition Letter - State Rep. Sonya M Harper, Chair, Illinois Legislative Black Caucus 4/14/2021](#)

Community Organizations

1. [Opposition Letter - Executive Director, Centro de Informacion 4/8/2021](#)
2. [Opposition Letter - The Elgin Woman's Club 4/8/2021](#)
3. [Opposition Letter - The Elgin Woman's Club 4/8/2021](#)
4. [Comments on Project - Carol K. Gieske, Elgin Area Chamber of Commerce 4/12/2021](#)
5. [Opposition Letter - Jaime di Paulo, Illinois Hispanic Chamber of Commerce 4/13/2021](#)

Community Leaders and Members

1. [Opposition Letter - Pastor Emeritus, Second Baptist Church of Elgin 1/6/2021](#)
2. [Opposition Letter - Terry Dunning, Advocate Sherman Hospital Board of Directors 3/17/2021](#)
3. [Opposition Letter - Pat Crawford, Elgin Medi Transport 3/24/2021](#)
4. [Opposition Letter - Linda Wallace, Advocate Sherman Hospital Board Member 3/24/2021](#)

5. [Opposition Letter - Linda Wallace, Advocate Sherman Hospital Board Member 3/24/2021](#)
6. [Opposition Letter - William A Hoffer, Hoffer Plastics Corporation 4/5/2021](#)
7. [Opposition Letter - Jim and Rita Corbett 4/8/2021](#)
8. [Opposition Letter - Kenneth D Koehler 4/8/2021](#)
9. [Opposition Letter - Janelle Dixon 4/13/2021](#)
10. [Letter of Concern - Scott G. Richmond, Esq., AHR 4/13/2021](#)
11. [Opposition Letter - Audrey Reed 4/14/2021](#)
12. [Opposition Letter - Rose Diaz 4/14/2021](#)

Physicians and Nurses

1. [Opposition Letter - Susan Morby, Advocate Sherman Hospital 1/6/2021](#)
2. [Opposition Letter - Doctors with Fox Valley Orthopedic 4/14/2021](#)

Response to Safety Net Impact Statement

1. [Opposition Comments to Applicant's Safety Net Impact Statement 1/6/2021](#)
2. [Additional Response to Safety Net Impact Statement - Advocate Sherman Hospital 4/14/2021](#)

Other Area Providers

1. [Opposition Letter - Damon Havill, AdvocateAuroraHealth 12/31/2020](#)
2. [Opposition Letter - Bridget S. Orth, Northwestern Medicine Huntley Hospital 1/5/2021](#)
3. [Opposition Letter - Trent Gordon, Advocate Sherman Hospital 10/27/2020](#)
4. [Opposition Letter - President, Algonquin Road Surgery Center 1/6/2021](#)
5. [Opposition Letter - Administrator, Ashton Center for Day Surgery 1/5/2021](#)
6. [Opposition Letter - Lauren Blanchard, Valley Ambulatory Surgery Center 4/12/2021](#)
7. [Opposition Letter - Algonquin Road Surgery Center 4/14/2021](#)

8. [Comments on Addition of Applicant - Lauren Blanchard, Valley Ambulatory Surgery Center
4/13/2021](#)