

June 8, 2021

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

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

Dear Ms. Avery:

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

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

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

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

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

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

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

Need for additional operating rooms in GSA

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

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

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

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

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

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

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

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

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

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

OrthoIllinois Eastern Division Surgical Cases			
<i>Service Dates: 2019</i>			
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

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

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

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

A handwritten signature in black ink, appearing to read "Juan Morado Jr.", with a stylized flourish at the end.

Juan Morado Jr.



May 12, 2021

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

Re: Updated Referral Letter- OrthoIllinois ASTC CON Application

Dear Ms. Avery,

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

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

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

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

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

ALBANY
650 S. Randal Rd., 61802

ELGIN
Medical Bldg., Advocate Hospital
1435 N. Randal Rd., 57E 103

MCHENRY
4710 W. Shamrock Lane, #103 60050

Historical Caseload by Licensed setting:

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

Kathleen M. Shukis

Subscribed and sworn to before me

this 18 day of May 2021



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May 12, 2021

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

Re: Updated Referral Letter- OrthoIllinois ASTC CON Application

Dear Ms. Avery,

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

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

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

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

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

ALSOQUIN
650 S. Randall Rd., 60102

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

MCKENRY
470 W. Shamrock Lane, #103 60050

Historical Caseload by Licensed setting:

Name of Healthcare Facility	Type of Healthcare Facility	Number of Cases Referred in 2019
Advocate Sherman Hospital	Hospital	330
AMITA St. Joseph Elgin	Hospital	8
Northwestern Huntley	Hospital	18
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:

Kathleen M. Shukis

Subscribed and sworn to before me

this 18 day of May 2021



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