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VIA E-MAIL

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

**Re: Quincy Medical Group Hospital, Quincy, Illinois- Project #20-044, Letter of
Opposition**

Dear Ms. Avery:

We represent Blessing Hospital in its opposition to the proposed project to construct an unnecessary second hospital in the small, rural community centered around Quincy, Illinois. Please accept this letter which provides clarification on statements made by Quincy Medical Group in its application for Project #20-044.

Blessing Hospital is Physician-Led and Governed

The applicants seek to establish a second hospital to be named the Quincy Medical Group Hospital ("QMGH"). Throughout the application and in testimony at the public hearing in support of this project, the applicants have focused on the idea that the success of this facility will be because it will be physician-led and governed by QMG. The applicants go on to state that "there is a need and desire in the community for a physician-led and governed hospital" and that the establishment of *this second hospital* will allow for the deployment of a fully integrated healthcare model in Quincy. The applicants would have the Board believe that physicians lack input at Blessing Hospital and that they are shut out from leadership roles at the facility, and that because they are left out of leadership they are unable to fully integrate healthcare for the patients at Blessing Hospital.

Nothing could be further from the truth.

What the applicant fails to include in its application is that there already is a QMG physician-led and governed hospital in Quincy, Illinois and that's Blessing Hospital. The President of the Medical Staff at Blessing Hospital today and for the past decade has been a QMG physician. QMG physicians currently lead Blessing Hospital's Surgery, Pediatrics, and OB/GYN Departments. As the regional leader in providing services to all patients regardless of their ability to pay, Blessing Hospital has always maintained an open staff model at the facility. That is why the leadership of its medical staff is composed of physicians who are affiliated with QMG, Southern Illinois

University Medicine, other Independent systems, and those who are employed directly by Blessing Hospital.

The graph below clearly illustrates just how much Blessing Hospital has been physician led over the last 20 years and, as you can see, many of those leadership roles were filled by QMG physicians (show below in orange).

Role	2020-2021	2018-2019	2016-2017	2014-2015	2012-2013	2010-2011	2008-2009	2006-2007	2004-2005	2002-2003	2000-2001
President	A. Hake	A. Reyburn	T. Petty	H. Ghanekar	D. Go	J. Barbagioanni	J. Kuhlman	C. Zwick	T. Miller	C. Olson	R. Saalborn
Immed. Past President	A. Reyburn	T. Petty	H. Ghanekar	D. Go	J. Barbagioanni	J. Kuhlman	C. Zwick	T. Miller	C. Olson	R. Saalborn	W. Bray
Vice-President	J. Hammock	A. Hake	A. Reyburn	T. Petty	H. Ghanekar	D. Go	T. Beth	J. Kuhlman	C. Zwick	T. Miller	C. Olson
Secretary/Treasurer	K. Koduru/ J. Arnold	J. Hammock	S. Efstratiadis	A. Reyburn	V. Vrtikapa	A. Reich	M. Nassery	T. Beth	J. Kuhlman	C. Zwick	T. Miller
At Large Member*	R. Leifheit	R. Schulz	J. Meyer	J. Schlepphorst	B. Gutekunst	Y. Yu	J. Dieckhoff	R. Merrick	J. Rodriguez	S. Bharwani	K. Knepel
At Large Member	S. Vardaros	S. Sanchez	J. Hammock	E. Chbeir	N. Seaman	H. Ghanekar/ A. Reyburn	J. Barbagioanni	J. Heilman	R. Schulz	F. McHugh	M. Moulton
At Large Member	J. Arnold/ Vacant	S. Efstratiadis/ J. Arnold	N. Somanna	S. Efstratiadis	D. Batra	B. Dougherty	I. Schwartz	G. Fernandez	T. Beth	A. Richardson	T. Beth
Medicine Chair	I. Schwartz	H. Ghanekar	A. Hake	W. Derian	A. Reyburn	J. Rodriguez	J. Rodriguez	L. Johnson	G. Andrews	K. Leimbach	D. Sullivant
Family Med Chair	B. Dixon	J. Wilford	T. Ott	T. Ott	A. Richardson	A. Richardson	T. Miller	C. Perry	E. Frazier	M. Eling	D. Lockhart
Surgery Chair	A. Geisendorfer	H. Polavarapu	H. Wilkins	R. Leifheit	R. Dooley	C. Miller	T. Petty	J. Meyer	A. Reynolds	T. Smith	C. Zwick
ED Chair	S. Hough	A. Wollaston/ S. Hough	R. Saalborn/ A. Wollaston	R. Saalborn	R. Saalborn	R. Saalborn	R. Saalborn	R. Saalborn	R. Saalborn	R. Saalborn	C. Lemon
Pediatrics Chair	R. Schlepphorst	R. Schlepphorst	K. Collins	R. Schlepphorst	R. Schlepphorst	T. Torre-Hilotin	D. Go	D. Go	Dr. Go	R. Schlepphorst	L. Minnick
OB/GYN Chair	J. Alexandre	J. Alexandre	T. Mero	M. Oatey	P. Dureska	G. Dietrich	D. Woodard	T. Mero	J. Hoon Kim	P. Dureska	L. DeGreeff
QMG											
Blessing Employee											
SIU Employee											
Independent/Other											

In addition, there are multiple QMG physicians on the Board of Directors for the Blessing Hospital. We recognize that the idea of a physician-led hospital *is an attractive soundbite*. But it does not change the information that we have previously submitted in our detailed opposition report describing why the Illinois Health Facilities and Services Review Board (“HFSRB”) should deny the Certificate of Need (“CON”) application for Project #20-044 because of the notable areas in which it fails to comply with the Board’s established rules and regulations, sufficient to make its approval arbitrary and capricious. The application for this project simply fails to meet the basic elements necessary for approval by the HFSRB.

QMGH Will Not Increase Access To Care

The application for this project portrays that a second hospital is desperately needed in this community, but the truth is that it is not needed and it will have a negative impact on existing Area Providers. The proposed facility is to be located *only 3.5 miles from Blessing Hospital*, an inexplicable decision that promotes maldistribution, and will not increase access to care in the region in any meaningful way. The applicants do not hide the fact that this proposed facility will service lower-acuity patients. As a lower-acuity hospital without an ICU or advanced stroke/cardiac care capabilities, the facility will rely on Blessing Hospital for the advanced life-

saving care patients may require. This is the type of duplication of services the Certificate of Need process was created to avoid.

QMGH is the Barrier to a Clinically Integrated Network in the Region

QMG physicians have been partners in working on Blessing Hospital's clinical protocol development, the introduction of new procedures, and the introduction of and training on new equipment in the hospital. However, QMG has consistently ***declined to participate*** in the Clinically Integrated Network created and maintained by Blessing Hospital. Blessing Hospital believes greater coordination is not only possible - it is a necessity. However, ***the solution is increased collaboration, not unnecessary competition***. Blessing Hospital's innovative and collaborative approach is evident in Blessing's participation in the BJC collaborative with seven other health systems (who also ***strongly oppose*** this project). Building another hospital is not the solution, instead it further divides the necessary partnership between Blessing and QMG ***solely to suit the interests of QMG***. Blessing stands ready, willing, and able to further coordinate care with QMG.

This application does not justify a second hospital in a small rural community where inpatient demand is not only flat but in fact falling. If approved this project will shift higher acuity patients to Blessing Hospital while draining precious resources from this necessary provider. We hope the Board will dig deep and ask the applicant to address what is clearly a skewed portrayal of need in the community and why QMG historically refuses to be the leaders in healthcare innovation and collaboration that they claim they will be in the future? What in their past would make us believe their future behavior would be any different?

The HFSRB Must Clarify Any Potential Kickback Issue Before Approving this Project

We do not claim to have all of the relevant information to present a definitive conclusion that this is improper. However, there is sufficient baseline information to make it clear that evaluation under the Anti-kickback statute ("AKS") is warranted. ***Uncontested facts which subject this transaction to increased AKS scrutiny***, are:

- Two hospitals have volunteered to 'donate' beds from their own system ("donating hospitals") for the benefit of QMG hospital's bid to establish a competing hospital;
- QMG doctors historically provide services and refer patients to the donating hospitals and will continue to provide services and refer patients to these hospitals;
- The donating hospitals will refer patients to the proposed QMG hospital;
- All involved facilities participate in Federal health care programs;
- Hospital beds have value;
- Selling beds is not legal in Illinois;
- At least one hospital executive has been offered a seat on the Board of the QMG hospital, something that presumably has value.
- ***No explanation is offered*** as to why the donating hospitals are giving up hospital beds for the benefit of a competitor to whom there will be ongoing referrals for services reimbursable by Federal health care programs.

The Federal anti-kickback statute makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any remuneration to induce, or in return for, the referral of an individual to a person for the furnishing of, or arranging for the furnishing of, any item or service reimbursable under a federal healthcare program. *See* Section 1128B(b) of the Act. For purposes of the Federal

anti-kickback statute, “remuneration” includes the transfer of *anything of value*, directly or indirectly, overtly or covertly, in cash or in kind. The statute has been interpreted to cover any arrangement where *even one purpose of the remuneration is to induce referrals* for items or services reimbursable by a Federal health care program. See, e.g., *United States v. Nagelvoort*, 856 F.3d 1117 (7th Cir. 2017); *United States v. McClatchey*, 217 F.3d 823 (10th Cir. 2000); *United States v. Davis*, 132 F.3d 1092 (5th Cir. 1998); *United States v. Kats*, 871 F.2d 105 (9th Cir. 1989); *United States v. Greber*, 760 F.2d 68 (3d Cir. 1985). This information is contained in virtually all of the guidance provided by the OIG in evaluating anti-kickback advisory opinions.


Since the applicant has not provided any explanation it becomes the responsibility of the HFSRB to clarify this issue before blessing this project.

There are notable issues with this proposed project. They have been outlined and detailed and unless and until sufficient explanation can be presented as to why this Board should act inconsistently with its own regulations, there is no basis by which to approved this project. Accordingly, the HFSRB should deny Project #20-044.

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP


Juan Morado Jr.


Mark J. Silberman

cc: Mike Constantino, Senior Project Reviewer
April Simmons, General Counsel