



HSHS St. Joseph's Hospital
Breese

July 6, 2021

HSHS St. Mary's Hospital
Decatur

Via Electronic Delivery

HSHS St. Anthony's Memorial Hospital
Effingham

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

HSHS Holy Family Hospital
Greenville

HSHS St. Joseph's Hospital
Highland

HSHS St. Francis Hospital
Litchfield

Re: Project #21-011, Physicians' Surgical Centre, O'Fallon

HSHS St. Elizabeth's Hospital
O'Fallon

Opposition Statement of HSHS

HSHS Good Shepherd Hospital
Shelbyville

Dear Ms. Avery:

HSHS St. John's Hospital
Springfield

On behalf of the Hospital Sisters Health System ("HSHS") and HSHS St. Joseph Hospital Highland ("Highland"), a 25-bed Critical Access Hospital, I respectfully submit this objection to the CON application Project #21-011, Physicians' Surgical Centre, O'Fallon. Like its predecessor project, MetroEast Endoscopic Surgery Center, #20-017, which the Review Board unanimously voted against, this project also seeks to add orthopedic surgery services to a limited specialty endoscopy center in the MetroEast area.

St. John's College of Nursing
Springfield

The prior project, #20-017, received *no* votes for approval at the Review Board meeting on September 22, 2020. In response to the Intent to Deny on Project #20-017, the applicant advised that its only referring physician was no longer supporting the project and was withdrawing all prior patient referrals to it. For reasons unknown, the applicant is still allowing that project to proceed to the Board for a vote at the July 27, 2021 meeting notwithstanding that it has no physician referrals and the applicant failed to respond to any of the negative findings upon which the Intent to Deny was based, thereby providing the Review Board with no basis in the record for approving the project.

Project #21-011, Physicians' Surgical Centre, is owned and operated by the same interested party that owns and operates MetroEast Endoscopic Surgery Center and is simply a second attempt to obtain what the Review Board unanimously rejected in the prior project. Like the prior project, Project #21-011 should also be denied as it unnecessarily duplicates existing services, does not improve access, and fails to provide the claimed cost savings.

Project #21-011 is an Unnecessary Duplication of Services: The stated purpose of the Illinois CON process, as set forth in the Health Facilities Planning Act, is to establish a procedure that "avoids unnecessary duplication of [healthcare]"

facilities and promotes the development of facilities “in areas where the health planning process has identified unmet needs.” There is no identified unmet need for additional orthopedic surgery services in the Metroeast area and, as the Review Board determined on the applicant’s first CON application, this project also constitutes an unnecessary duplication of services.

The Board’s staff found that the original application constituted an unnecessary duplication of services because the area has six hospitals and a surgery center that all provided the same orthopedic surgery services. In addition, the Review Board previously approved another new surgery center in Edwardsville, which is included within the designated service area. All providers have excess surgical capacity and none were operating at the Review Board’s target utilization levels which are minimum levels determined by the Board and designed to be a “measure of service capability and efficient operation” of health care services. 77 Ill. Adm. Code 1100.370(a). Given that the locations of the applicant’s two surgery centers are only three miles apart (the first in Fairview Heights and the second in O’Fallon) the same six hospitals and surgery centers are available to residents of the area. The current project is just as much an unnecessary duplication of services as the first one.

Project #21-011 will Not Improve Access to Care: The Review Board’s regulations require an applicant seeking to add services to an existing surgery center to document that the services “are necessary to improve access” for residents of the area. The Board has identified five indicators of need for additional services to improve access and only requires an applicant to document that one of the five exists. On the first page, the Board’s staff found that the applicant could not identify even one of the five factor, and none exist on this second application. The factors are: (1) there are no other surgery centers in the service area, (2) all area surgery centers and hospitals are operating at target utilization levels, (3) existing providers do not provide the proposed service, (4) patients cannot access existing providers due to restrictive admission policies, and (5) the project is a joint venture with an existing area hospital. Not even the applicant itself claims that any of these factors are present.

Project #21-011 will adversely impacts a federally designated Critical Access Hospital: The applicant’s first CON project, voted down by the Review Board, relied on the patient referrals of one surgeon, Dr. Felix Ungacta, who sought to redirect 200 surgeries annually from the St. Joseph Hospital in Highland which is a Critical Access Hospital. The current project also relies entirely on patient referrals from Dr. Ungacta. In an attempt to minimize the impact of the project on a Critical Access Hospital, the applicant now claims that Dr. Ungacta will only redirect seven procedures from St. Joseph’s and a total of 16 procedures redirected from St. Joseph’s and other facilities combined. This is an obvious bait-and-switch as the applicant itself openly states in its CON application that it “expects orthopedic surgery volumes to grow over time” and Dr. Ungacta himself states in his referral letter he expects to increase the volume of referrals, presumably after the Review Board were to approve the project. (CON application at pages 90, 91.)

Project #21-011 will significantly increase patient costs: The primary justification offered in support of the project is supposed cost savings that the surgery center would charge lower facility fees as compared to existing hospitals. But there are no documented cost savings; to the contrary, the information included in the application proves otherwise. For example, for CPT Code 29807 (Arthroscopy Shoulder Surgical Repair Slap Lesion), the applicant proposes to charge \$39,897 – which is more than double what SJH charges for the same procedure at \$17,535.

Courtney R. Avery

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Moreover, even if the project were able to demonstrate lower facility fee charges (which it has failed to do), the project still could have an overall negative effect on the delivery of health care services to the area due to the adverse impact on the hospital's ability to cross-subsidize other hospital services that operate on a negative margin. The Review Board' staff noted on the first CON application:

"[A]ny savings from lower reimbursements for surgical services at an ASTC need to be compared against the fixed costs that remain at the hospital. It is not clear how much impact the shifting of revenue from one cost center (hospital) to another cost center (ASTC) on the overall cost to health care delivery."

Also, almost half of Dr. Ungacta's referrals to the proposed project are from existing surgery centers. Obviously, there is no cost savings based on facility fees for patients redirected from one surgery center to another.

HSHS St. Joseph's has Devoted Significant Resources in Collaboration with the Applicant's Referring Physician: We respectfully note that in 2015, at the request of Dr. Ungacta, St. Joseph's invested close to \$1 million on a Mako surgical robot and spends \$120,000 annually for preventative maintenance. In addition, in February of 2019, St. Joseph's invested another \$290,000 in the "Total Knee Application" software upgrade for the MAKO. It is disappointing, to say the least, that Dr. Ungacta now wants to redirect the bulk of his surgical cases to a competing facility.

For the above reasons, HSHS and St. Joseph Hospital, Highland respectfully request the Health Facilities and Services Review Board to deny Project #21-017, Physicians' Surgical Centre, O'Fallon.

Very truly yours,



Julie Goebel, MHA
Vice President, Strategy
HSHS Illinois