RML SPECIALTY HOSPITAL
CHICAGO - HINSDALE

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November 24, 2021

Ms. Debra Savage, Chair
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761

SENT VIA ELECTRONIC MAIL TO Mike.Constantino@Illinois.gov

RE: Written Comment – Rush Specialty Hospital
Certificate of Need Application – Project Number 21-026

Dear Chair Savage:

I am the President and Chief Executive Officer of RML Specialty Hospital ("**RML**"), a long-term acute care hospital ("**LTACH**") with two campuses in the Chicago metropolitan area (one near the *Illinois Medical District* on the west side of Chicago, "**RML Chicago**", and one in suburban Hinsdale, Illinois, "**RML Hinsdale**"). RML is a not-for-profit limited partnership and leader in the LTACH industry (both locally and nationally). RML Chicago is a *Medicaid High Volume Provider*, with almost half (48%) of its patients being Medicaid beneficiaries. In accordance with the accelerated timetable that moved the hearing for the above-referenced project from January 2022 to this December, I submit this written comment for your consideration with respect to the Certificate of Need ("**CON**") application for project number 21-026 (the "**Application**") filed with the Illinois Health Facilities and Services Review Board (the "**Board**") by: Rush University System for Health ("**Rush**"); Rush University Medical Center ("**RUMC**"); Rush Partners, LLC; Select Medical Corporation ("**Select**"); Select Illinois Holdings, Inc.; and, Rush Specialty Hospital, LLC (collectively, "**Rush/Select**").

As you know, Rush/Select have submitted a proposal to establish a new 100-bed hospital (to be 73.5% owned by a subsidiary of Select and 26.5% by a subsidiary of RUMC) at a cost of $110 million in the designated LTACH planning area defined as the combination of Health Service Areas ("**HSAs**") 6, 7, 8, and 9 (the "**Planning Area**") dedicated to providing both inpatient rehabilitation ("**IR**") and long-term acute care ("**LTAC**") services. As proposed, their new hospital would *initially* include 56 IR and 44 LTAC beds (with the probability of Rush/Select later endeavoring to reconfigure the proposed space, including both finished and shell, to increase the number of IR and/or LTAC beds available being high). Given RUMC has indicated contingent willingness to discontinue its own existing 59-bed IR unit, RML does not oppose Board approval of the IR-component of the Application submitted by Rush/Select. However, RML opposes approval of the LTAC-component of Rush/Select's Application, as the proposed LTAC beds are not needed (as clearly indicated by the Board's own 2021 *Inventory of Health Care Facilities and Services and Need Determinations* for the Planning Area), a large unnecessary investment in duplicative LTAC services would occur (counter to the express intent behind enactment of the State's CON program), and considerable negative impact on other (already financially-challenged) area LTAC facilities

would result. Moreover, the proposed project would provide no increased services or access to care for area patients.

Significant Excess LTAC Capacity Already Exists

A core purpose of the State's CON program is to encourage health care providers to engage in cost containment, better management, and improved planning. To be issued a permit by the Board for proposed construction or modification projects, as well as major medical equipment acquisitions, an applicant must justify that its proposed project is needed. Rush/Select have not done that, at least with respect to the LTAC-component of their proposed project, as the proposed new hospital does not comport with the Board's bed-need requirements. As illustrated in the table below (based on the Board's own 2021 *Inventory of Health Care Facilities and Services and Need Determinations*), the Planning Area currently has an excess capacity of 31% for the LTAC category of service (i.e., 171 excess out of 557 existing beds). Factoring in the Board's recent approval of Woodlake Specialty Hospital's ("**Woodlake's**") CON application (which included approval for 44 new LTAC beds in the Planning Area) would increase the Planning Area's calculated excess capacity to 36% for the LTAC category of service (i.e., 215 excess out of 601 existing beds).

	LTAC Beds (HSAs 6, 7, 8, and 9)		
	Existing	**Calculated Need**	**Excess**
Excluding Woodlake	557	386	**171 (31%)**
Woodlake	44		
Including Woodlake	601	386	**215 (36%)**

Looked at another way, the table below (based on the Board's own 2020 *Facility Profiles)* illustrates that the number of beds currently approved in the Planning Area greatly exceeds the number of beds justified by 2020 actual utilization rates. In fact, the overall 2020 actual utilization rate (adjusted to reflect the recent closure of one LTACH and the approval of another new one in the Planning Area) was only 55% versus the *State Standard Utilization Rate* of 85%.

2020 LTAC Bed Utilization (HSAs 6, 7, 8, and 9)					
LTACH	**City**	**State Standard Utilization**	**Actual Utilization**	**Existing Beds**	**Beds Justified**
Kindred Chicago – Central	Chicago	85%	26.7%	95	25
Kindred Chicago – North	Chicago	85%	24.8%	133	33
Kindred Northlake	Northlake	85%	35.4%	94	33
Holy Family	Des Plaines	85%	66.0%	129	86
RML Chicago	Chicago	85%	69.0%	86	59
RML Hinsdale	Hinsdale	85%	84.9%	115	97
Total		85%	51.1%	652	333
Exclude: Kindred Chicago – Central *(Closed 2021)*				(95)	
Include: Woodlake *(Expected to Open 2023)*				44	
Adjusted Total		85%	**55.4%**	601	333

Rush/Select even conceded in the Application that there is "an 'excess' number of [LTAC] beds in the State Board inventory," but then argued that such excess is overstated since not all existing beds are staffed (including 17 beds at RML Chicago). However, rather than this being accepted as an argument for approving even more LTAC beds (in an already over-bedded planning area), the fact that not all existing beds are staffed should be acknowledged as further evidence of the negative impact the current excess bed situation is having on existing LTACHs. If there was sufficient demand for LTAC services at RML Chicago, I can assure you that RML would increase the number of staffed beds at that campus.

Proposed Project Will Harm Other Area Providers and Physician Referral Letters Submitted Are Invalid

Furthermore, Rush/Select's assertion that approval of their project will have no impact on other area LTACHs is incorrect. As illustrated in the table below, RUMC is currently the largest referral source (by a wide margin) to RML Chicago, representing almost 23% of RML Chicago's total admissions; it is also a significant referral source to RML Hinsdale, representing more than 7% of RML Hinsdale's total admissions. Likewise, the University of Illinois Hospital ("**UIH**") is the fifth largest referral source to RML Chicago, representing an additional almost 7% of RML Chicago's total admissions. On a combined basis, RUMC and UIH contributed more than 29% of RML Chicago's admissions and more than 17% of RML's total admissions over the two-year period ended June 30, 2021.

	Admissions from RUMC and UIH to RML (Annual Average 3Q 2019 – 2Q 2021 [1])					
	RML Chicago		**RML Hinsdale**		**Total RML**	
	Admissions	**% of Total**	**Admissions**	**% of Total**	**Admissions**	**% of Total**
RUMC	129	**22.6%**	55	**7.1%**	184	13.7%
UIH	37	**6.5%**	12	1.6%	49	3.7%
Total	166	**29.0%**	67	8.6%	233	**17.3%**

Although Rush/Select included with the Application referral letters from physicians at both RUMC and UIH, none of such letters included all referral documentation required to be considered valid, since none indicated to which other facilities anticipated future referrals to Rush/Select's new project are currently being referred (i.e., from which other facilities referrals will be reduced in the future); therefore, none of the physician referral letters submitted by Rush/Select should be considered by the Board. In other words, Rush/Select omitted the fact that most, if not all, of anticipated future referrals to Rush/Select's new hospital would otherwise be referred to other existing LTACHs in the Planning Area, with RML Chicago likely receiving a large portion of those referrals; the expected loss of referrals to other existing LTACHs (including RML Chicago) would increase even further should Rush/Select later increase the number of LTAC beds available at their proposed new hospital above the initial 44 beds proposed in the Application (which, depending on how configured, may be possible for them to do without requiring further Board approval). As illustrated in the table below, 58% of RUMC's discharges to LTACHs over the two-year period ended June 30, 2021, were discharged to RML; over the same period, 52% of UIH's discharges to LTACHs were discharged to RML. Clearly, any redirection of RUMC's and UIH's discharges

[1] Represents the most-recent eight calendar quarters for which information from the *Illinois Health and Hospital Association's COMPdata Informatics* affiliate ("**COMPdata**") is currently available; although the admissions information presented in this table is based on RML's own internal records, this period was selected for consistency with certain other tables below (which are based on information obtained from COMPdata).

to an LTACH from RML to Rush/Select's proposed new hospital would have a significant negative impact on RML's operations (especially with regard to RML Chicago).

LTACH Discharges Summary

	3Q 2019	4Q 2019	1Q 2020	2Q 2020	3Q 2020	4Q 2020	1Q 2021	2Q 2021	Total
RUMC									
Discharges to LTACHs	78	71	79	75	91	78	78	82	632
RML Admissions	53	48	50	35	53	43	40	45	367
• RML Chicago	38	39	38	21	39	26	29	28	258
• RML Hinsdale	15	9	12	14	14	17	11	17	109
RML Admissions % of Discharges to LTACHs	68%	68%	63%	47%	58%	55%	51%	55%	**58%**
UIH									
Discharges to LTACHs	18	31	41	24	16	16	21	23	190
RML Admissions	12	18	23	12	7	10	9	7	98
• RML Chicago	9	15	18	8	4	7	9	4	74
• RML Hinsdale	3	3	5	4	3	3	-	3	24
RML Admissions % of Discharges to LTACHs	67%	58%	56%	50%	44%	63%	43%	30%	**52%**
Total									
Discharges to LTACHs	96	102	120	99	107	94	99	105	822
RML Admissions	65	66	73	47	60	53	49	52	465
• RML Chicago	47	54	56	29	43	33	38	32	332
• RML Hinsdale	18	12	17	18	17	20	11	20	133
RML Admissions % of Discharges to LTACHs	68%	65%	61%	47%	56%	56%	49%	50%	57%

Notes
Discharges to LTACHs identified by COMPdata discharge disposition code 63 (and 91).
Pediatric, maternity, psychiatric, chemical dependency, and rehabilitation patients excluded.

RML is a Safety Net Provider

Rush/Select has suggested that a sufficiently large, but currently underserved (due to payer constraints), patient population exists that will allow them to fill their new proposed LTAC beds, while continuing to refer the same historical number of patients to other area LTACHs; while eloquently argued, there is in fact no basis for such an assertion. Furthermore, RML could not locate a required *Safety Net Impact Statement* in the Application submitted by Rush/Select. In its own CON application for approval to acquire Advocate Bethany Hospital (now RML Chicago) in 2010, RML committed to expand its Medicaid patient population, which it has. RML Chicago is now a *Medicaid High Volume Provider*, with Medicaid (or a Medicaid Managed Care provider) being the primary payer for more than 48% of its patients over the one-year period ended June 30, 2021. RML also has a long history of working collaboratively with RUMC and UIH to facilitate the timely transfer of LTACH-appropriate patients to RML regardless of patients' payer status. Conversely, based on RML's analysis of discharges over the same one-year period reported by RUMC and UIH to COMPdata, as illustrated in the table below, Medicaid (or a Medicaid Managed Care provider) was the primary payer for less than 7% of RUMC's and only 30% of UIH's discharges to an LTACH. [2]

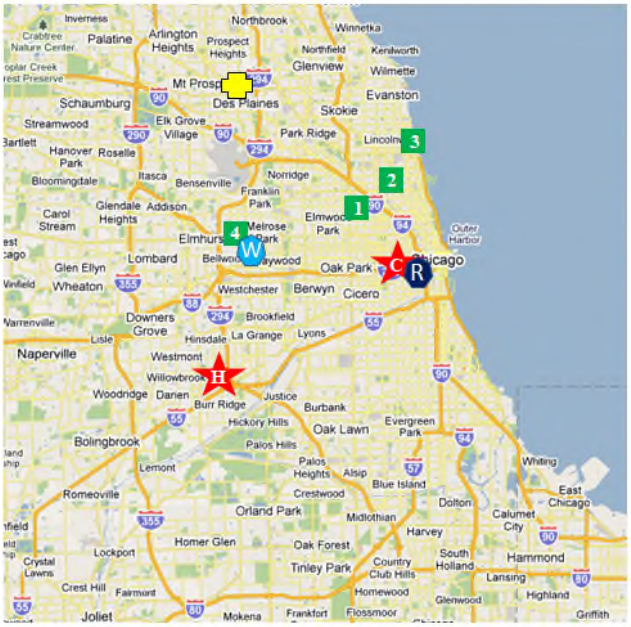
[2] Information regarding discharges for Select (a for-profit entity that will own 73.5% of the proposed new hospital) was not available for comparison.

		Discharges 3Q 2020 – 2Q 2021		
		All Payers	**Medicaid Only [3]**	**% Medicaid**
RML Chicago	*All Discharges*	565	273	**48.3%**
RUMC	*Discharges to LTACHs Only [4]*	329	22	**6.7%**
UIH		76	23	**30.3%**

Proposed New Hospital Offers No Geographic Benefit to Patients Given RML Chicago's Close Proximity

Another argument presented by Rush/Select in the Application for approval of their proposed project was reference to the fact that there are currently no LTACHs within the confines of the *Illinois Medical District*. While technically true, Rush/Select failed to note that RML Chicago is a mere 1.5 miles outside said *District* (right alongside the same Interstate highway). Given ambulance transport would be required for all patients from both RUMC and UIH to Rush/Select's proposed new hospital (since neither RUMC nor UIH would be physically connected to such new hospital), the additional 2-minute travel time required for similar transport to RML Chicago (rather than to Rush/Select's proposed new hospital) is inconsequential (noting that no such transports to either facility would be made on an emergency basis). The map below illustrates the close proximity of both existing and recently-approved LTACHs within the Planning Area to Rush/Select's proposed new hospital. As is evident, Rush/Select's proposed new hospital is almost identically situated to RML Chicago and, therefore, offers no measurable geographic benefit to LTACH patients.

LTACH Planning Area



Existing / Recently-Closed LTCHs

- RML Chicago
- RML Hinsdale
- Holy Family
- 1 Kindred – Central ***(CLOSED 2021)***
- 2 Kindred – Lakeshore
- 3 Kindred – North
- 4 Kindred – Northlake

Recently-Approved LTCHs

- Woodlake ***(EXPECTED 2023)***

Proposed New LTCHs

- Rush/Select ***(PROPOSED 2025)***

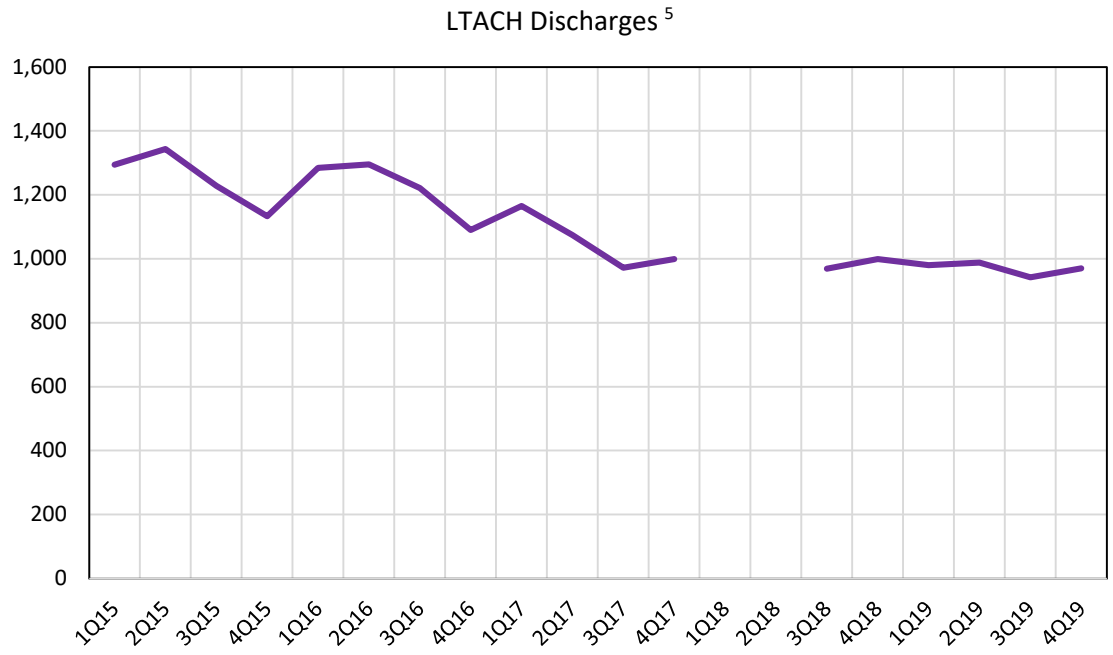
[3] Includes Medicaid Managed Care providers.
[4] Pediatric, maternity, psychiatric, chemical dependency, and rehabilitation patients excluded.

Demand for LTAC Services is Declining

As illustrated in the table below (based on the Board's own periodic *Inventory of Health Care Facilities and Services and Need Determinations*), overall demand for LTAC services is declining both within the Planning Area and across the State (which is consistent with similar declines occurring nationwide).

	LTACH Patient Days		
	2015	**2017**	**2019**
HSAs 6, 7, 8, and 9	143,746	132,094 **(-8%)**	117,339 **(-11%)**
State of Illinois	168,195	162,057 **(-4%)**	137,070 **(-15%)**

This decline in demand for LTAC services was confirmed by RML's own analysis of discharges by LTACHs in the Planning Area over the same five-year period. As illustrated in the graph below (based on discharges reported to COMPdata), total annual LTACH discharges decreased by more than 22% from 2015 to 2019.



Several primary factors have contributed to the overall decline in the Planning Area's LTACH market over this five-year period, including a steady decrease in the size of the ventilator-dependent population, a significant increase in the Medicare Advantage component of the market (many payers of which prefer to have their beneficiaries bypass LTACHs to achieve short-term cost savings, at the expense of more favorable long-term episodic outcomes and reduced overall spending), and

[5] Includes Kindred Chicago Lakeshore, which operates as an LTACH in the Planning Area, but is licensed under the "Subacute Care Hospital Demonstration Program" category; excludes pediatric, maternity, psychiatric, and chemical dependency patients; excludes 1Q 2018 and 2Q 2018, as discharges for those two quarters were not reported by two Kindred LTACHs in the Planning Area to COMPdata.

implementation of Medicare *Site-Neutral* regulations (which significantly reduced the reimbursement available for many types of patients who would have otherwise been admitted to an LTACH). Although the COVID-19 pandemic temporarily increased the demand for LTAC services during 2020 (due, in part, to Medicare's temporary waiver of the above-mentioned *Site-Neutral* regulations), these increases have not been sustained through 2021 and the overall market decline is expected to resume once Medicare *Site-Neutral* regulations are re-implemented.

As noted by Rush/Select in the Application (and referenced above), Kindred Healthcare ("**Kindred**") closed one of its LTACHs in the Planning Area (i.e., Kindred Hospital Chicago – Central) in April 2021; Kindred also closed another of its LTACHs in the Chicago metropolitan area during 2021 (i.e., Kindred Hospital – Northwest Indiana, located in Hammond, Indiana). The supply-demand imbalance of LTAC beds in the Planning Area surely contributed to Kindred's decision to close one of its LTACHs located there. Although this closure removed 95 LTAC beds from the Planning Area's excess inventory, almost half of those removed were quickly replaced (in August 2021) by the Board's approval of Woodlake's CON application (which included approval for 44 new LTAC beds in the Planning Area). The Board's approval (by legislative necessity) of Woodlake's application likely boosted Rush/Select's confidence that the Application for their proposed new hospital would similarly be approved. However, doing so would further threaten the core principles underlying the State's CON program, widening the already-opened door to additional unnecessary and unwarranted healthcare spending to duplicate services that already exist. If Rush/Select's proposed project is approved as submitted, it will essentially denote the end of the bed-need requirement for approval of future CON applications.

Rush/Select stated in the Application, "Moreover, while it is fully expected that competitors will present objections that, while cloaked in concerns of declining utilization and limited Medicaid funding, are truly reflective of a desire to avoid competition." While expedient, this dismissive statement glosses over the fact that utilization of LTAC services in the Planning Area has indeed declined significantly over the past several years and that significant competition already exists (with four major competitors, including Woodlake, none of which holds a dominant market position). Furthermore, expansion of competition is not an objective or tenet of the State's CON program.

Better, Less Costly Alternatives Exist – Collaboration with RML for Provision of LTAC Services

One important consideration of any CON application is an evaluation of viable alternatives that would require less investment, include collaboration with one or more other providers to meet the proposed project's intended purposes, and utilize other health care resources that already exist. One such highly attractive alternative not presented by Rush/Select in the Application is establishment of a dedicated Rush/Select LTAC unit at RML Chicago. The table below illustrates how RML Chicago's *existing* facility could be utilized to provide 80% (35) of the 44 LTAC beds proposed by Rush/Select at the *State Standard Utilization Rate* of 85%; all 44 of Rush/Select's proposed LTAC beds could be provided at a utilization rate of 95%.

	RML Chicago		
	Utilization Rate		
	100%	**85%**	**95%**
Current Staffed Beds	69		
Current Un-Staffed Beds	17		
Total Current Beds	86	73	82
Current Average Daily Census	54		
Less: Current RUMC and UIH Patients (29%)	(16)		
Current Non-RUMC/UIH Patients	(38)	(38)	(38)
Current Beds Available for RUMC/UIH Patients	48	**35**	**44**

In addition, RML Chicago's entire 5th floor (which is currently unused space) could be built out to accommodate an additional 28 LTAC beds for use by RUMC/UIH. This could all be accomplished at a significantly lower cost than the LTAC-component of Rush/Select's proposed new hospital.

RML and Rush have a long history of working together effectively, as Rush was one of the founding partners of RML in 1997 (representing the "R" in RML), remained an active partner through July 2010, and continued thereafter to manage RML Chicago's pulmonary services until just prior to the time Rush/Select submitted the Application for a proposed new hospital. RML would welcome the opportunity to re-engage with Rush to further help meet their patients' future LTAC needs. RML would also readily support a new Rush/Select IR-dedicated facility via the discharge of RML patients who require post-discharge acute rehabilitation to it, provided such facility could accept more complex patients than can be accepted by RUMC's current IR unit.

Better, Less Costly Alternatives Exist – IR-Only Hospital (An Established Model in Illinois)

Although Rush/Select proposed the establishment of both IR and LTAC beds in the Application, a smaller new IR-only facility is a financially viable alternative, is within the scope of operations for both Rush and Select, and would avert the addition of more LTAC capacity in an already over-bedded planning area. The financial viability of such an alternative is evidenced by the three similarly-sized IR-only new construction projects listed in the table below that were all recently proposed by Encompass Health and approved by the Board.

Facility Name	Location	HSA	IR Beds	Facility Type	Total Cost Estimate	Anticipated Project Completion Date
Rehabilitation Institute of Southern Illinois	Shiloh, IL	11	40	Free-Standing	$31 M	March 2021
Encompass Health Rehabilitation Hospital of Libertyville	Libertyville, IL	8	60	Free-Standing	$52 M	June 2022
Quad Cities Rehabilitation Institute	Moline, IL	10	40 [6]	Free-Standing	$34 M	May 2022

Project Approval Would Jeopardize Financial Viability of Both RML Chicago and Woodlake

As noted above, RML purchased in July 2010, rebranded as RML Chicago, and then revitalized Advocate Bethany Hospital ("**Bethany**"). At the time, Bethany (located in an impoverished inner-city neighborhood) was incurring significant financial losses and would likely have closed within a relatively short period of time. RML made significant investments in that facility, currently employs more than 300 people there, and provides care for almost 600 patients from the surrounding community each year. As a result of the declining market for LTAC services in the Planning Area (as described above), as well as the continued downward pressure being placed on Medicare reimbursement rates, RML Chicago is currently operating at or near its break-even level. The Board's recent approval of Woodlake (expected to add 44 LTAC beds to the Planning Area's inventory as of January 2023) will put additional downward pressure on the demand for RML Chicago's beds. Given the high fixed cost component of providing LTAC-level care for chronically, critically ill patients with catastrophic or acute illnesses and injuries, complicated by complex or multiple co-morbidities, the loss of even 10-15 patients per day from RUMC and/or UIH, should the LTAC-component of Rush/Select's proposed project be approved, would be devasting to RML Chicago's continued financial viability.

Closure of RML Chicago, should it come to that, would result in a sizable loss of employment for the area, the abandonment of a large, otherwise productive healthcare facility, and a significant increase in the number of underserved patients in the community who require LTAC services (noting that RML Chicago's patients reflect the community it serves, with almost 80% of its patients being persons of color). The financial viability of Woodlake would also be jeopardized, resulting in a significant loss for that community (as well as for the myriad of public officials who supported and unanimously approved the legislation that made the Board's approval of it possible).

[6] This new 40-bed free-standing IR facility will replace an existing 22-bed IR unit at Trinity Medical Center – Rock Island.

Conclusion

For the reasons outlined above, I respectfully request that the Board not approve the Application as submitted by Rush/Select (i.e., without excluding the authorization of LTAC beds, which are not needed by the Board's own assessment). The authorization of additional LTAC beds in the Planning Area would provide no additional benefit to the community, add even more beds to an already over-bedded market, result in unnecessary and unwarranted healthcare spending to duplicate services that already exist, and jeopardize the continued financial viability of both existing and already-approved LTACHs in the Planning Area.

If you have any questions and/or would like additional information regarding my position with respect to the Application submitted by Rush/Select, please feel free to contact me via email at jprister@rmlsh.org or by phone at (630) 286-4120. Thank you in advance for your consideration.

Sincerely,

James R. Prister
President and Chief Executive Officer