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September 2, 2025

Mr. John Kniery
Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street
2nd Floor
Springfield, IL 62761
dph.hfsrb@illinois.gov
john.kniery@illinois.gov

**Re: Project #25-012, Mt. Zion Center for Surgery
Response to Applicants' Supplemental Information**

Dear Mr. Kniery:

On behalf of HSHS St. Mary's Hospital, Decatur, I respectfully submit this response to the applicants' supplemental information dated July 23, 2025. The information fails to address numerous concerns previously raised to the project by the following:

- **Damond Boatwright**, President and CEO, Hospital Sisters Health System in his letter of July 17, 2025.
- **State Senator Doris Turner**, 48th District, in her dated July 17, 2025.
- **State Representative Sue Scherer**, 96th District, in her letter of July 18, 2025.
- **Illinois Critical Access Hospital Network** in its letter dated May 20, 2025.

In addition, the Original State Staff Report determined that the permit application failed to address the issue of the project's negative impact on Safety Net Services raised in the HSHS Response to the Applicants' Safety Net Services Statement dated July 21, 2025. This issue remained unaddressed in the applicants' supplemental information.

The concerns raised are addressed in detail below.

A. In Violation of Review Board Regulations, the Parties with Control of the Licensee, the Real Estate, and the Building, and the Parties Responsible for Project Financing are Not Applicants.

The Review Board rules state that the following persons shall be made applicants:

- The person who has final control of the entity that will hold facility's license.
- The person who controls the capital assets of the project, including the building.
- Any person who will be financially responsible for guaranteeing or making payments on any debt related to the project.

77 Ill. Adm. Code 1130.220(a)(2), (3) and (4)). In contravention of these regulatory requirements, the application does not include these necessary parties as co-applicants.

The Parties Controlling the Licensee are Not Applicants

The permit application did not even identify the owners of the licensee, Surgical Partners & Associates, LLC, referring to them merely as “Individual Investors”. The applicants’ supplemental information states that those investors are Joseph Sams, MD, and D. N. Sullivan, MD, who both own a 50% interest in the LLC. Under Review Board rules, parties with 50% ownership in a facility are controlling persons that are required to be included as applicants. *See*, 77 Ill. Adm. Code 1130.140 which defines “control” as including those having the right to 50% or more of the profits¹ of an entity and 77 Ill. Adm. Code 1130.220(a) which requires persons who control the licensed facility to be made applicants.

If, in fact, Dr. Sams and Sullivan each own 50% of the licensee, they must added as co-applicants. It must noted, however, that the licensee’s most recent filing with the Illinois Secretary of State *contradicts* the applicants’ supplemental information as to the ownership of the licensee. The Articles of Organization of the licensee, Surgical Partners & Associates, LLC, filed on February 26, 2025, states that the only other owner of the licensee besides Dr. Sullivan is an entity called 72671034, LLC. (*See*, attached Articles of Organization.) If that entity is the true 50% owner of the licensee, then the parties that control that entity must also be added as co-applicants.

The Parties Controlling the Building are Not Applicants

The application states that Agility Properties, LLC, will “own the structure to be built to house the proposed ASTC.” (CON Appl. at 28.) Under the Review Board’s regulations, a facility’s building is specifically identified as a capital asset, and the parties who control this asset are necessary parties to the application. (77 Ill. Adm. Code 1130.220(a)(4)). Again, if Drs. Sams and Sullivan each own 50% of Agility Properties, LLC, they must be added as co-applicants for this additional reason.

The Parties Responsible for Project Financing are Not Applicants

The permit application did not identify who was supplying the project financing or who was responsible for paying it. The supplemental information states that project financing will be supplied by a loan from Busey Bank up to \$12 million which, according to the bank’s letter, will be “issued to a newly-formed LLC, led by Dr. Sams and Sullivan...” Neither the LLC nor the guarantors of loan are identified in the supplemental information. It is unthinkable that a bank would lend \$12 million to a newly formed shell entity, whose very purpose is to shield its owners from personal liability for the entity’s debts, without requiring guarantees from others.

The Review Board’s regulations require that all parties who will be financially responsible for guaranteeing or making payments on any debt related to the project are necessary applicants on the permit application. (77 Ill. Adm. Code 1130.220(a)(3)) Whomever those parties are must be included as co-applicants.

¹ According to the Profit and Loss statement in the supplemental information, Drs. Sams and Sullivan will each net over \$2 million annually from the facility. That is in addition to the nearly \$400,000 in annual rent that the facility will pay to an entity wholly owned by the two doctors.

B. The Applicants Have Not Addressed the Deficiency in Their Safety Net Impact Statement Noted in the Original Staff Report.

The original State Staff Report made the following determination:

The project file and the State Board Staff Report contain a letter from Hospital Health Sisters Health System (HSHS), disputing the Safety Net Impact Statement supplied by the Applicants (application, p. 84). The Applicants claim the proposed project “will not impact the ability of any other provider to provide or cross-subsidize safety net services.” HSHS disputes this claim and attests that “The project’s diversion of nearly 1,900 Orthopedic and Podiatric surgeries from existing Safety Net Service providers will materially adversely impact Safety Net Services”, **an issue that the Applicants failed to address in the application.** Original State Staff Report at pages 2-3, Emphasis added.

The safety net service providers referenced above are two area Critical Access Hospitals – Kirby Medical Center and Pana Community Hospital – and the two Decatur Hospitals – HSHS St. Mary’s Hospital and Decatur Memorial Hospital. All four of these hospitals are not-for-profit entities that use positive margins from outpatient surgeries to cross-subsidize crucial safety net services to the entire Decatur, Monticello and Pana communities, whereas the proposed facility will instead pay out \$4.3 million annually to the two individual owners of the facility, according to the applicants’ Profit and Loss statement. As noted above, the Illinois Critical Access Hospital Network (ICAHN) has submitted a letter of concern into the project file.

The applicants still have failed to address the substantial adverse impact of the proposed project on safety net service providers and their ability to continue to cross-subsidize safety net services after nearly 1,900 high-margin orthopedic and podiatric services are redirected from their facilities.

To conclude, the applicants’ supplemental information completely fails to address the serious concerns to the project raised by numerous area stakeholders including elected officials, ICAHN, HSHS and others. Thank you for your consideration of this response to the applicants’ supplemental information.

Very truly yours,
Lawler Law Office



By: Daniel J. Lawler

cc: Paige Toth, Associate General Counsel, Hospital Sisters Health System
Mike Constantino, Lead Project Reviewer, HFSRB
George Roate, Project Review, HFSRB
Blanca Dominguez, General Counsel, HFSRB

Form LLC-5.5	Illinois Limited Liability Company Act Articles of Organization	FILE # 15861525
Secretary of State Alexi Giannoulas Department of Business Services Limited Liability Division www.ilsos.gov	Filing Fee: \$150 Approved By: MXB	FILED FEB 26 2025 Alexi Giannoulas Secretary of State

1. Limited Liability Company Name: SURGICAL PARTNERS & ASSOCIATES, LLC

2. Address of Principal Place of Business where records of the company will be kept:
1645 ST. HWY 121
MT. ZION, IL 62549

3. **The Limited Liability Company has one or more members on the filing date.**

4. Registered Agent's Name and Registered Office Address:

MATTHEW C. SPAIN
202 S FRANKLIN, 2ND FLOOR
DECATUR, IL 62523

5. Purpose for which the Limited Liability Company is organized:
"The transaction of any or all lawful business for which Limited Liability Companies may be organized under this Act."

6. The LLC is to have perpetual existence.

7. **Name and business addresses of all the managers and any member having the authority of manager:**

72671034, LLC
120 SOUTHBROOKE COURT
DECATUR, IL 62521

SULLIVAN, DR. DONALD N.
1645 ST. HWY 121
MT. ZION, IL 62549

8. **Name and Address of Organizer**

I affirm, under penalties of perjury, having authority to sign hereto, that these Articles of Organization are to the best of my knowledge and belief, true, correct and complete.

Dated: FEBRUARY 26, 2025 DR. JACOB D. SAMS
120 SOUTHBROOKE COURT
DECATUR, IL 62521