

Murer Consultants, Inc.

11-095



58 North Chicago Street
7th Floor
Joliet, IL 60432
815-727-3355 Telephone
815-727-3360 Telefax

George Roate
Illinois Department of Public Health
Office of Health Systems Development
525 West Jefferson St., 2nd Floor
Springfield, Illinois 62761

RECEIVED

JAN 23 2012

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Dear Mr. Roate,

Palos Hills Surgery Center, LLC wishes to submit supplemental documentation in response to its receipt of a Notice of Intent to Deny regarding its Certificate of Need Application. Please find such supplemental documentation enclosed with this letter.

It is our understanding that Palos Hills Surgery Center is scheduled to appear at the Health Facilities and Services Review Board's hearing on February 28, 2012 for consideration of the additional information presented here. Furthermore, as per conversations between yourself and Murer Consultants, it is our understanding that this documentation is very likely to be reviewed and given due consideration by the Board in time for the hearing.

This letter and attached report were prepared on behalf of Palos Hills Surgery Center by Murer Consultants. As per your request, it is being sent both in hard copy form and electronic means. Should you require any additional information or should there be any issue related to scheduling for the February hearing, please contact us at (815) 727-3355.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Dunne'.

Matthew Dunne, JD
Murer Consultants, Inc.

Murer Consultants, Inc.



58 North Chicago Street
7th Floor
Joliet, IL 60432
815-727-3355 Telephone
815-727-3360 Telefax

January 20, 2012

Mr. Dale Galassie, Chairman
Illinois Health Facilities and Services Review Board
525 W. Jefferson St., Second Floor
Springfield, IL 62761

RE: Additional Documentation Submission in preparation for Appearance to Intent to Deny

VIA EMAIL & OVERNIGHT MAIL

Dear Mr. Galassie:

Murer Consultants is submitting, on behalf of the applicant, Palos Hills Surgery Center (PHSC), this supplemental documentation. Due consideration has been given to both the Staff report and the Board members' comments at the Board's January 10, 2012 hearing. As such, we request that Palos Hills Surgery Center be given the opportunity to address the Board's concern at its upcoming February hearing.

This document will address the following:

PHSC is in conformance with the regulatory requirements:

- Section 1110.1540(e) because it will neither impact other facilities within the GSA nor result in unnecessary duplication.
- Section 1110.1540(f) because it is necessary within the specified GSA to improve access to healthcare. Not only will it provide service not currently available, it will specifically address the restrictive admissions policies of the underutilized facilities.

PHSC submits to the following issues raised by the Board:

- That the multi-specialty facility will benefit its patients, as well as the surrounding community.
- An ASTC of this nature is directly in line in keeping with healthcare delivery in the State of Illinois. This is evidenced by the fact that this Board has, in the past, approved a certificate of need for this specific type of specialized facility in a GSA of overcapacity.

PHSC commits to establish a facility predominantly focused on service to the community and to the work force through:

- Establishment of a facility that will limit the delay in treatment of hand and upper extremity injuries; injuries most common among workers.
- Establishment of a facility that offers a continuum of care not present in the GSA.

Criteria of Section 1110.1540(e), Impact on Other Facilities

PHSC meets the criterion for Section 1110.1540(e) because it will have **no** impact on underutilized facilities and it will not result in unnecessary duplication of services or facilities. To the contrary, it will offer a continuum of specialized care not currently available to patients within the GSA.

1. There is No Impact on Underutilized Facilities

PHSC's limited specialty ASTC will have no impact on any underutilized facilities within the GSA. First, each underutilized ASTC within the GSA offers no services in relation to the limited, hand and upper extremity services PHSC will offer. The Board's report states that of the twenty ASTC's in the GSA, eleven are operating under their target occupancy.¹

Of the eleven ASTC's operating under target, two are single specialty facilities specializing in services far different from the services PHSC will offer. Single specialty facilities, despite being underutilized, cannot offer services outside their specialty without embarking on a lengthy facility change process and without Board approval. Hence, due to the unlikely nature of such a change occurring, these two facilities need not be considered when determining the impact, if any, PHSC would have on facilities within the GSA.

Focusing on the remaining eight underutilized facilities, each generally only provide surgeons and equipment for *general* orthopedic surgery. Capacity for general orthopedic surgery is not an adequate substitute for the services PHSC will offer. Many of the general orthopedic ASTC's in the GSA do not have the specialized equipment necessary for hand/ upper extremity trauma cases. Thus, while the proposed GSA seems to offer underutilized services areas, the reality is that **none** of these facilities offer or even have the capacity to offer the services that PHSC proposed.

The chart on the next page lists the underutilized ASTC's located within the GSA. Each offers at the most, general orthopedic services whereas PHSC will offer specialized care from initial injury to surgery, without the need for delay or referral.

¹ See Board Report, Table Two

<u>Name</u>	<u>City</u>	<u>Specialization</u>	<u>State Standard Met?</u>	<u>HFSRB Distance (miles/mi m)</u>
Novamed	Oak Lawn	Multi-specialty ASC with a hand surgeon, gynecology, urology, ophthalmology, orthopedics, plastic surgery, pain management, podiatry, oral surgery	No	3/6
Palos Surg-Center	Palos Heights	Multi-specialty ASC focusing on ophthalmology, orthopedics, GI issues	No	3.1/6
Justice Med Surgery	Justice	Multi-specialty, colo-rectal, podiatry, general orthopedics	No	4.1/12
Orland Park Surgery Center	Orland Park	Multi-specialty orthopedics, plastics, urology, ophthalmology, GI, colonoscopies	No	10/19
Hinsdale Surgical Center	Hinsdale	Multi-specialty ASC, ear nose and throat, cosmetic, pain management, podiatry, oral surgery, ophthalmology, orthopedics	No	12.7/21
Elmhurst Outpatient	Elmhurst	Multi-specialty ASC, ear nose and throat, cosmetic, pain management, podiatry, oral surgery, ophthalmology, orthopedics	No	16.5/27
Loyola ASC Maywood	Maywood	Multi-specialty including orthopedics	No	15.1/29
Eye Surgery Center Hinsdale	Hinsdale	<u>Single-Specialty Ophthalmology</u>	No	12.8/21
Southwest Surgery Center	Mokena	Multi pain management specializing in spine	No	13.4/26
Chicago Prostate Surgery	Westmont	<u>Single-Specialty Prostate Cancer</u>	No	14.6/26
Children's Memorial Surgery	Westchester	Multi-specialty but for pediatrics	No	15.1/27

PHSC will not draw their patient base from already underused facilities. The three aforementioned single specialty facilities offer services highly unrelated to hand and upper extremity surgery, such as, eye surgery and cancer surgery.² The remaining ASTC's only offer *general* services. PHSC will offer not only specialists in the areas of hand and upper extremity surgery but they will offer a continuum of care that the other facilities lack resources to provide. Patients will have the ability to come to PHSC during extended hours, when other ASTC's are not operating; receive a diagnosis and have a specialist treat them within a short time span. This situation is not a possibility for any of the ASTC's currently in operation within the GSA.

To further this point, the applicants will not draw any of PHSC's patient pool from their previous staffing areas. Currently, seventy-five percent of the applicant's surgeries are performed at one of three facilities: Tinley Woods Surgery Center, Advocate Christ Hospital, and Orland Park Surgical Center. Tinley Woods, as previously discussed, will not be affected in any way by PHSC's new practice. Advocate Christ is, according to the Board's report, actually over-utilized.³ Another fifteen percent of surgeries are performed at physician offices and thus have no effect on facility utilization. Moreover, hospital appropriate procedures will continue to be performed at area hospitals.

2. There is No Unnecessary Duplication of Services

PHSC would not duplicate the services offered at other facilities in the GSA because it is offering something new – specialized, comprehensive, and accessible care for problems of the hand and upper extremity. Within the Chicagoland there are only three facilities that offer specialized hand care and only one of these facilities specializes in both hand and upper extremity care, and that facility is out of PHSC's proposed GSA.

Additionally, much of the applicant's practice is geared toward emergency care, which can be difficult for the applicant to provide at other ASTC's or hospital OP departments due to logistical problems. It should also be noted that the necessary level of equipment and expertise is not available at other facilities.

Criteria of Section 1110.1540(f), Establishment of New Facilities

PHSC also meets the criterion for Section 1110.1540(f) because the specialized services it will offer are necessary to improve access to care within the community. Establishment of PHSC, its stated goal, hours of operation and its extension of the physician practices is currently not available, not only within the GSA, but not available within the State of Illinois.

Statistics of the underutilized facilities in the area show that **it is actually difficult for patients to access the services PHSC is prepared to offer.** There is no facility within the GSA where

² See State Staff Report, page 5, Table 1

³ See State Staff Report, page 5, Table One.

patients can be seen right away, diagnosed and have surgery completed all within the same day. The idea of the continuum of care that PHSC is prepared to offer does not exist and is urgently needed. Patients need to be able to receive specialized and immediate care when an accident occurs, and they currently don't have this option. PHSC will offer, at the patient's choice, pre-operative, operative, and post-operative services in a single location. Further, the location will offer occupational and physical therapy to those patients that choose to continue their care with PHSC. The current facilities in the area often have long wait times; they don't continuously staff specialists; and the need for surgery often includes one or more referrals before its completion. PHSC offers the solution to this ever-present healthcare issue by providing a facility that will offer a continuum of care.

Statistically speaking, only three practices in the Chicagoland area are dedicated to specialized hand care, and two of the three are limited to hand and not full upper extremity. ASPS/ACS studies have concluded that centers of specialization are required to improve access and quality of care for hand and upper extremity patients. If more facilities like this aren't developed, access to care, quality of care, and outcomes for hand and surgical conditions will continue to decrease.⁴

PHSC's proposed ASTC will provide an institution that is dedicated to specialized hand and upper extremity care. PHSC will differ from the current hospitals and ASTC's because it will provide services that aren't available elsewhere within the GSA, such as:

- Extended Hours
- Shortened Treatment Times
- Optimization of Clinical Outcomes
- Specialized Equipment

1. *Extended Operating Hours Will Increase Access*

The proposed center shall be open until 9pm and on Saturdays until 1pm. It shall specialize in hand and upper extremity trauma cases and shall address patients in need of immediate care in a timely manner. Instead of an average treatment period of 7-10 days, if directed to the center a patient may be treated within a 7-10 hour time frame. Other facilities are not able to provide this unique blend of specialized, comprehensive and accessible care.

In comparing PHSC to other ASTC's, PHSC will have *significantly* more opportunity to treat patients with problems of the hand and upper extremity. The charts below illustrate this fact.⁵

⁴ ASPS/ACS 2009

⁵ The data on hours of operation of other ASTC's are taken from the Ambulatory Surgical Treatment Center Questionnaire for 2010.

Chart 1: Total Weekly Hours of Operation by Facility

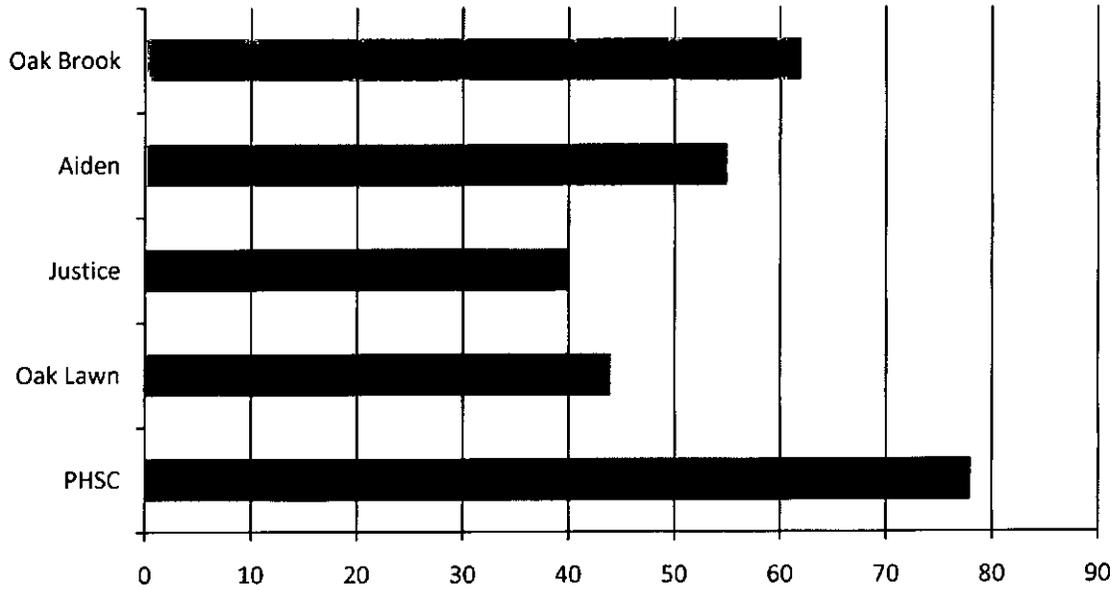
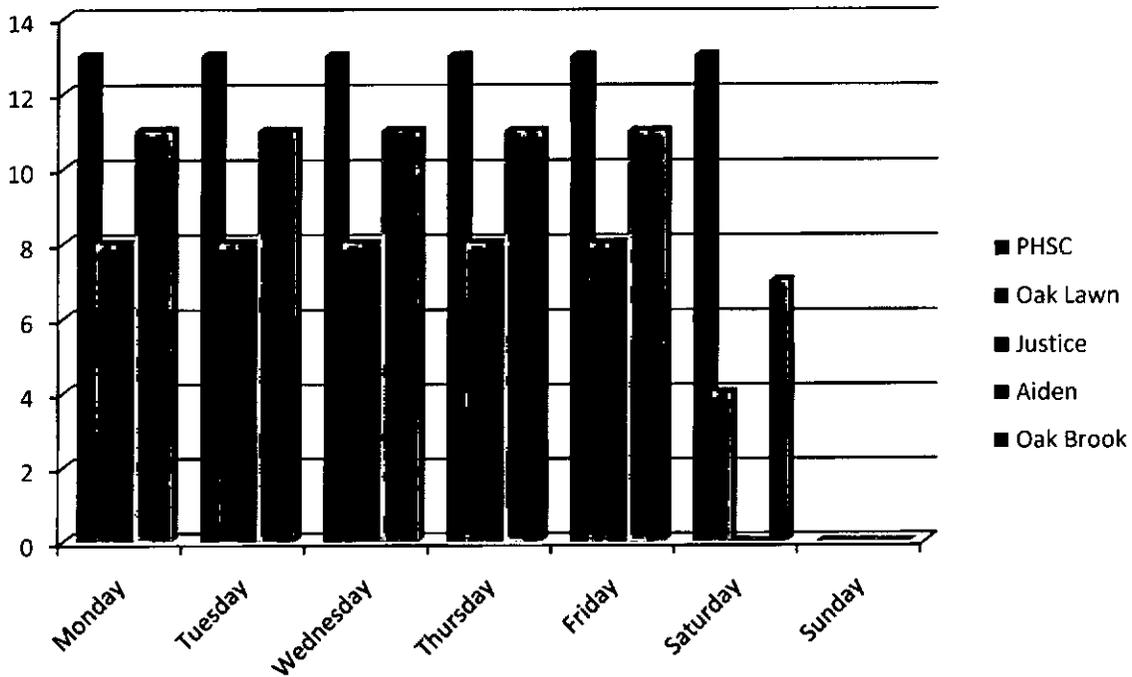


Chart 2: Daily Hours of Operation by Facility



Based on the charts, PHSC will offer double the hours of operation than Justice and nearly a third more than the Oak Brook ASC. PHSC is able to do this because there is no referral process; it sees patients as they come in. PHSC will have two specialists operating out of one facility at

all times, while other ASTC's in the GSA have limited, if any, access to specialists on a continuous basis.

Further, PHSC's extended hours will allow it to operate at full capacity. Morning OR times are the most popular because these times are the most frequently filled. Availability after this is in the afternoon. At most ASTC's, scheduling is structured such that no general anesthesia cases will be scheduled after 2:30 p.m. This allows the ASTC to close at 5 p.m. This means that ASTC's tend to be little used from 2 p.m. to 5 p.m. **Therefore, many ASTC's are underutilized and will continue to be so, not because of overcapacity, but because they are run inefficiently.**

Current ASTC's generally operate in the following manner:

9am → Open

9-2pm → General anesthesia administered - ASTC's have the ability to fully utilize capacity

2-5pm → No anesthesia administered - surgeries that require this will not take place = under utilization

5pm → Close

This brief layout **only** takes into account hours of operation. It doesn't take into account other obstacles that hinder access to care in other ASTC's, such as wait times, availability of on-site specialists, and the need to refer.

PHSC's extended operating hours would solve this problem and extend care to those in immediate need. Injuries occur at the most inopportune times, and there should be access to healthcare when it is needed, not when it is convenient. Not only will PHSC have the ability to administer general anesthesia beyond the 2pm time-structure, it will have the ability to see more patients in the early and late afternoon, thus, it will be able to utilize capacity throughout the day and not just at peak service times. Further, PHSC will always have specialists on-site and available, which will greatly limit the need, if any, to refer.

Because of PHSC's extended hours, it will have a greater opportunity for meeting the urgent needs of patients, as well as accommodating those patients already scheduled for treatment at the ASTC. PHSC has numerous referral sources that already provide direct contact. The issue currently is having the ability to arrange time in a surgical suite to meet the immediate needs of the patients. Establishing an ASTC where the physician offices, pre-operative testing, and surgical intervention can take place under one roof will allow greater access to patients in need of treatment to the hand and upper extremity.

2. *PSHC Will Provide Shortened Treatment Times Compared to Hospital ER Setting*
 Injuries of the hand and upper extremity are given a relatively low priority in an emergency room setting. However, treatment for these injuries is very time-sensitive. The availability of prompt care is critical. PHSC will meet this critical need. Through expanded hours and connection to MidAmerica Hand and Shoulder Clinic, PHSC will provide totality and coordination of expert hand care housed in a *single location*.

To illustrate this point, we provide the “7-10” concept. PHSC will accomplish in *7-10 hours* the same services other facilities accomplish in *7-10 days*. This is illustrated in the table in the following page.

Table 1: PHSC Typical Wait Time vs. ER Typical Wait Time

<u>ASC Wait Time</u>	<u>Emergency Room Wait Time</u>
7-10 <u>HOUR</u> Average	7-10 <u>DAY</u> average
7am: Arrive at ASC, Patient Registration	DAY 1: Patient Registration, Triage, Stabilization, Referral
8am: See Medical Doctor	DAY 2-3: Make Appointment with Primary Care Physician
9am: Pre-Op	DAY 4: Primary Care Physician Will Perform Evaluation and Refer to Injury Specialist
9:30-11:00am: Surgery	DAY 5-7: Make Appointment with Injury Specialist
11:30-12:30pm: Recovery	
1-2pm: Home	DAY 8: Specialist will Evaluate and Perform Surgery

If a patient goes to an ER, he can anticipate, on average, a 6-8 hour process. If necessary, the wound will be closed and the extremity splinted. The patient will then be referred to a primary care physician, who 1-3 days later, will most likely determine that a hand surgeon is needed and make another referral. The patient will then see the hand surgeon and be scheduled for surgery 1-5 days later. This puts the overall delay between injury and definitive treatment between 7-10 days. Delays often have tremendous health effects on the injured and lead to a plethora of economic affects for health care facilities, patients, employers and businesses.

Not only do lengthy wait times cause tremendous inconveniences to the patient, but there are strong clinical issues involved in delayed treatment. Delays may cause complication of infection and extension of recovery time. PHSC's ability to treat patients on a continuum tremendously decreases the risks present when patients have to wait days, if not weeks, for care.

The Importance of Prompt Care for Workers

Many and upper extremity injuries occur in the work force. Thus, resolution of these injuries affects not only the patient but also employers and businesses. Delayed care can increase the likelihood of partial or permanent disability and can delay a patient's return to work. **Lack of prompt treatment can also prolong recovery time and delay a patient's return to work.**

The effect is two-fold. First, generally workers, who are out of work for a prolonged period will eventually lose their private health care benefits precisely at the time they can least afford to. This is because, in many instances, the ability to obtain or maintain health insurance depends upon meeting a certain level of hours worked, either monthly or quarterly. Second, delays in returning to work are, for obvious reasons, costly for employers as well. Employers need their qualified work force healthy and working to optimize operations. This, in turn, impacts both Illinois workers and overall economy at a time when businesses are increasingly contemplating relocating out of the State. PHSC will provide immediate access and resolution for these injuries, which will result in workers returning to work in a timelier manner and will also place employers in a better position. Ultimately, it is in everyone's best interest for an individual to have access to an efficient and effective recovery process.

3. Clinical Outcomes are Optimized

PHSC offers a model of care that will provide tremendous benefit to hand and upper extremity injuries, without the delay. Current operating hospitals and ASTC's have long delay processes between the initial injury and full resolution of the injury. These delays can have serious outcomes to the patient as well as the healthcare facility. Not only does delayed care increase the risk of infection and later complication, but it also results in increased costs to the hospital and patient and even employers.

While effectiveness and efficiency are definitely key when it comes to healthcare facility operations, one of the most important considerations should be the well-being of the patient. A health care facility should focus on quickly returning the patient to their quality of life, and PHSC offers the services to ensure that individuals that come there for care have efficient and effective care and can go back to their normal routines without the complications that come with delay.

Patients that lack the ability to receive immediate care, often require further medical attention in the future. This means that hospitals and physicians are spending twice the amount of time on one patient as a result of the health facilities initial delay. This process requires patients to take

time off of work, and also causes employers a high amount of costs involving time off of work and permanent partial disability payments in the case of work injuries. Delayed care also creates the potential need for additional surgical procedures since delays often lead to increased scar tissue.

The GSA does not currently offer a facility where a patient, in an emergency hand or upper extremity situation, can access immediate and thorough care. PHSC will offer pre-operative, operative, and post-operative services to patients, and also include occupation and physical therapy, all in a single location, as an option to patients.

4. Other Facilities Lack Specialized Equipment

PHSC will have the specialized equipment necessary to care for injuries of the hand and upper extremity. Hospitals and ASTC's are unlikely to purchase such equipment because the costs are very high and also, the equipment requires specialized knowledge. Even facilities that see a number of hand surgeries are reluctant to purchase the equipment due to the cost.⁶ For this reason, the **necessary equipment is only likely to be available in specialized facilities such as PHSC** where the cost can be justified.

Low Income Patients

It should also be noted that, compared to other ASTC's, PHSC will have a much greater proportion of low-income patients. These other ASTC's perform almost entirely elective surgeries, whereas PHSC would have a relatively high proportion of emergent and trauma cases, which tend to be comprised of a disproportionate amount of uncompensated and charity care cases. Likewise, PHSC anticipates a Medicare and Medicaid make up a combined 20% of its payer mix. This stands in stark contrast to other facilities.⁷

There are several reasons PHSC would be able to take more referrals of low-income patients, including self-pay and charity care. First, patients without insurance who are referred from the Emergency Department are not automatically accepted at the hospital. Instead they must qualify for charity care or make payment arrangements prior to admission for surgery. The difficulty is even more pronounced at other ASTC's which require payment in full before proceeding. Second, few facilities will accept liability insurance as a method for securing reimbursement, which is often the patient's only way to pay. Third, other facilities will not allow scheduling of surgery for workers' comp cases that are still in dispute as they do not want to accept the liability of a potentially non-reimbursable case. These disputes can take years to settle. The applicant would not be subject to any of these constraints and would therefore be able to serve a relatively greater proportion of self-pay and charity care cases.

⁷ Based on IDPH Illinois Hospital Report Cards on ASTC's.

Health Care in Illinois: Precedence of Illinois Hand & Upper Extremity Center

The applicant sought this Certificate of Need in good faith, believing that an ASTC of the sort contemplated is fully in keeping with the Board's desire to promote the efficient use of health care resources within the State of Illinois. This belief was based in large part on the Board's previous and unanimous approval of the C.O.N. for Illinois Hand & Upper Extremity Center in Arlington Heights.

This ASTC is also focused on surgeries of the hand and upper extremity. It was also approved by the Board despite the fact that there were multiple facilities within a fifteen minute drive that did not meet their target utilization. The following ASTC's recently received approval although their GSA had facilities not meeting target utilization:

Approved 07/21/11 – Hart Road Pain & Spine Institute

Criteria not met: patient volume, treatment room need assessment, impact to other facilities (10 hospitals and 11 ASCs in the GSA)

Approved 07/21/11 - Apollo Health Center Ltd.

Criteria not met: patient volume, treatment room need assessment criterion, impact on other facilities (15 of 26 hospitals had not reached board's target utilization of 1500 hours, 33 of 46 ASCs had not reached target occupancy in the service area),

Approved 10/13/11-Naperville Fertility Center Inc.

Criteria not met: impact on other facilities (2 out of 5 hospitals not at state board utilization, 15 of 21 ASCs are not at board's target occupancy)

In so doing, the Board set a precedent that highly specialized ASTC's would not be denied a Certificate of Need, simply because there are other, underutilized facilities within its GSA.

Summary

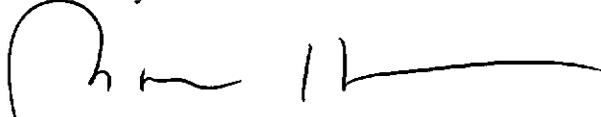
PHSC will offer what no other facility in the GSA offers: totality and coordination of expert hand care, housed in a single location with extended hours to provide access to those in need of immediate care. Despite the apparent overcapacity in the GSA, Palos Hills Surgery Center will provide patients with improved access to care without affecting other facilities. PHSC will improve health care in the area by offering better services to a pre-existing group of patients and could help to alleviate inefficiencies that negatively impact the use of health care resources in the State.

Specifically, in response to the Board's previous determination, PHSC's would like to reiterate the following points:

- It will not negatively impact other facilities providing outpatient surgery or result in unnecessary duplication of services.
- It will improve access to care by providing new services and addressing de facto restrictions on admission
- It will benefit both patients and the wider community
- It is fully in keeping with the State's model of health care.

It is for all these reasons that we urge you to approve the Certificate of Need Application for Palos Hills Surgery Center.

Sincerely



Monica Hon, JD
Vice President