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SAINT ANTHONY MEDICAL CENTER

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HEALTH FACILITIES & SERVICES REVIEW BOARD

March 27, 2012

Ms. Courtney R. Avery
Administrator
Illinois Health Facilities and Services Review Board
525 W. Jefferson St., Second Floor
Springfield, IL 62761

Re: Application 12-013: SwedishAmerican Regional Cancer Center, Rockford

Dear Ms. Avery:

This letter regards the application submitted by SwedishAmerican Hospital for a certificate of need for a proposed Regional Cancer Center in Rockford, Illinois. I have reviewed the application and have a number of concerns about the proposed project that I would like to share with the Board.

1. ***Will the proposed project threaten to reduce access to care for public aid and charity care patients?***

In Attachment 37, SwedishAmerican Hospital ("**SAH**") touts one of the benefits of the proposed project as "maximizing referral of tertiary business to UW Health and reduc[ing] the out migration of cases going to AMC's in Chicago." The Board should not approve a project that states that its objective is to divert patients to facilities located outside the State of Illinois.

- There are many outstanding Illinois academic medical centers available within a reasonable distance that are fully capable of providing quality tertiary care to oncology patients.

- The intentional diversion of patients to out-of-state facilities undermines the Board's charge of carefully allocating medical resources in the State of Illinois.

- The University of Wisconsin ("**UW**"), when providing services to patients referred to Wisconsin, is not subject to Illinois laws designed to protect Illinois residents from unfair or predatory billing and collection practices or from excessive charges if they are uninsured. Furthermore, UW, as an instrumentality of the State of Wisconsin, is not required to comply with the community benefit and other charitable requirements of Sections 501(c)(3) and 501(r) of the Internal Revenue Code. In fact, it is unclear whether UW would even accept public aid or charity care patients. This is of particular concern because Fitch's rating of SAH's revenue bonds in Attachment 40 notes that in 2010 Medicaid accounted for

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20% of SAH's gross revenues. Furthermore, according to the Intellimed Provider Profile System, Medicaid and self-pay patients accounted for 26.4% of SAH's total oncology service line charges in fiscal year 2011. Meanwhile, according to COMPData, Medicaid and self-pay patients with Illinois home ZIP codes accounted for 14.4% of UW's total inpatient medical and radiation oncology service line charges in fiscal year 2011. How does SAH account for this difference?

At a minimum, SAH and its partner UW, should be required to give the Board firm, binding assurances that the proposed project will be operated in such a way that low-income, uninsured, and underinsured patients will be provided necessary care and treatment without regard to their ability to pay and in a manner consistent with SAH's stated charitable mission.

> For example, how will SAH address problems arising out of a need for patients who live in SAH's downtown neighborhood, but who do not own a car, to take a long bus ride across town in order to receive radiation and chemotherapy treatments?

Without assurances, the risks to poor and uninsured patients in the Rockford area are too great. If SAH were to refuse to give such assurances, the Board would have grounds to conclude that the proposed project is motivated by a desire to render lucrative oncology and radiation services to patients with commercial insurance while excluding the patients to whom it must make services available in order to deserve its tax-exempt status.

2. ***What is the extent of the University of Wisconsin's involvement in this project?***

The concern regarding the treatment of poor and uninsured patients is exacerbated by the fact that the nature and scope of UW's role in this project is poorly defined. My review of the application leads me to believe that UW will be a full partner in this project.

- In Attachment 12, SAH states that, "The proposed project will . . . be a part of a new cooperative agreement with the University of Wisconsin, which will allow for the expertise of the University of Wisconsin physicians and specialists to be directly involved in patient care . . . ."
- SAH describes the proposed project as an "affiliation" with UW.
- SAH states that it will be establishing and expanding multidisciplinary clinics "in conjunction with the University of Wisconsin."
- The architectural drawings included in Attachment 14 identify the project as the "SAHS/UW Regional Cancer Center."

- SAH clarifies in Attachment 37 that the project will be branded as the "SAH/UW Regional Cancer Center," and adds that SAH and UW will be "portraying an integrated system to patients and the market."

- In Attachment 37 SAH describes its relationship with UW as a "partnership" multiple times, and notes that UW "selected SAHS as [its] preferred partner."

- SAH states that it entered into an affiliation with UW "to significantly impact [its] strategy to differentiate itself in providing Oncology services in this region."

The extent to which UW exercises control over SAH under the affiliation agreement, and the extent to which UW will direct the property and capital assets of the SAH/UW Regional Cancer Center, are entirely unknown. SAH should be required to submit to the Board a copy of the affiliation agreement defining the terms of its partnership with UW. There is simply too much uncertainty regarding UW's role in the proposed project and its ability or willingness to satisfy the Board's requirements.

3. ***Is this project really a simple consolidation of existing resources?***

SAH states in its narrative description of the project in Section I of the application that the SAH/UW Regional Cancer Center will "consolidate the cancer treatment program of SwedishAmerican Hospital from three separate sites into one new facility for outpatient services." This description seems to indicate that the project would not represent an expansion of cancer treatment services in the market, but would rather be a movement of existing equipment and personnel from current locations to a new location. However, my review of the application leads me to conclude that this project would entail an expansion of oncology services and equipment in the area.

- The narrative description in Section I states that the new facility will have two linear accelerators and a PET/CT scanner with simulation capabilities. Attachment 7 shows that SAH proposes to purchase a *new* linear accelerator and a *new* PET/CT scanner for the SAH/UW Regional Cancer Center.

- Attachment 37 indicates that the SAH/UW Regional Cancer Center will add two medical imaging rooms, eleven medical oncology treatment rooms, and six medical oncology examination rooms to SAH's current totals.

- SAH makes clear in Attachment 37 that it needs to be "proactive" to "accommodate the growing demand" for cancer treatment services.

Clearly, SAH plans to increase clinical oncology services, but seems to desire to characterize to the Board that its plan is simply to consolidate existing equipment and services, thereby avoiding the burden of proving to the Board that there is a real need in the area for the equipment and services it proposes to offer at the SAH/UW Regional Cancer Center. <u>If SAH is in fact planning to expand oncology services in Rockford, it should be required to show that there is a real unmet need for these services</u>.

4. ***Is there an unmet need in the Rockford area for the expensive equipment SwedishAmerican Hospital proposes to purchase?***

In its proposal to add equipment and increase oncology services in the Rockford area, SAH focuses on the historical utilization of its equipment. However, my review of the certificate of need application causes me to question the extent to which SAH really needs additional medical equipment.

- *Linear Accelerators.* SAH argues in Attachment 15 that, based on utilization of its current linear accelerator during the last twelve months, it needs 1.2 machines, so it proposes to house two linear accelerators at the SAH/UW Regional Cancer Center. However, the determination that SAH needs 1.2 machines is based on SAH's assertion that the Board's standard for linear accelerators is 7,000 treatments per year. This is incorrect. The standard is 7,500 treatments per year. Using the Board's actual utilization standard, SAH needs 1.1 linear accelerators. It currently owns one linear accelerator.

- *PET Scans.* Attachment 7 makes clear that SAH proposes to purchase a new PET/CT scanner at a cost of over $2 million. SAH discloses in Attachment 15 that its combined inpatient and outpatient PET procedure volume in 2010 (2011 data were not provided) was 380, approximately 11% of the Board's utilization standard of 3,600 visits per year. SAH projects 366 PET scans will be performed at the SAH/UW Regional Cancer Center in 2015, which would be 10% of the Board's utilization standard.

- *CT Scans.* Although SAH's presentation of the data in Attachment 15 is unclear, it appears that, even in 2015, several years after completion of the proposed project, SAH anticipates patient volume of 4,145 visits, a total that would include CT scans as well as radiation therapy simulations. Even if, for the sake of argument, all those visits were for CT scans, SAH's utilization would be less than 60% of the Board's annual utilization standard of 7,000 visits per year.

It should be noted that SAH does not discuss in Attachment 15 the Board's utilization standards for PET/CT scanners, while it does set forth the standards for accelerators, which should lead the Board to conclude that SAH understands that it cannot demonstrate a need for the additional services to be provided at the SAH/UW Regional Cancer Center, and therefore cannot justify the costs associated with those services, and so hopes to avoid the issue by not addressing the Board's requirements and characterizing the project as a simple consolidation of existing resources.

Even after finding that SAH has not demonstrated that *it* needs additional medical equipment, it must be recognized that SAH has not framed the issue correctly. The question is not whether SAH needs additional equipment. Rather, the question is whether there is a need in the Rockford area for additional equipment and services. SAH has not

shown that there is a need in the market for the services it proposes to provide, and the expensive equipment it proposes to house, at the SAH/UW Regional Cancer Center.

- The conclusion that SAH might need 0.1 more linear accelerators ignores the fact that other linear accelerators in the market currently have unused capacity. For example, OSF Saint Anthony Medical Center already has a True Beam machine, just like the one SAH proposes to purchase, to which area patients already have access. This True Beam machine currently has unused capacity and would serve as an alternative to the addition of another machine to the market. It should be noted that linear accelerators are very expensive; SAH proposes in Attachment 7 to spend almost $5 million on the new accelerator. The addition of a linear accelerator to the Rockford area would unnecessarily increase costs to meet demand that existing resources can satisfy.

- Similarly, there is not an unmet need for PET/CT scans in the area. In fact, even SAH has excess capacity in its current equipment.

5. ***Are there less expensive alternatives available for the proposed project?***

SAH argues in Attachment 13 that there are no superior alternatives to the proposed project. My review of the facts leads me to question this conclusion.

- SAH states that a 60,000 square foot facility on its existing main campus would require an expenditure of over $90,000,000, which equates to $1,500 per square foot. SAH should be required to submit to the Board copies of estimates it received from reputable contractors indicating that a renovation would represent such an enormous cost.

- SAH states that purchasing a building downtown would be impractical. It should be noted that SAH refers only to one building downtown, which has been designated a historical landmark and would require a special process before it could be demolished. It does not follow that SAH therefore could not build downtown or renovate an existing building downtown. It is well known that there are many vacant lots and empty buildings downtown, any number of which could be investigated for use as a cancer treatment center. SAH has for decades served the residents of downtown and surrounding communities. SAH should not be permitted to abandon the areas to which it has dedicated its charitable activities without providing to the Board a more compelling argument than that a single parcel downtown is a landmark and that "the city would have to go through a process" in order to make that site available.

Furthermore, Attachment 14 makes clear that the space used for the radiation oncology and diagnostic imaging departments, where the linear accelerators and PET/CT scanner will be located, do not meet the Board's square footage requirements. For example, the radiation oncology department will occupy 2.5 times more space than allowed under the Board's rules, thereby risking unnecessary cost increases. The costs arising out of this

excessive space use are especially troubling when coupled with the understanding that a second linear accelerator, which accounts for half of the 4,800 permitted square feet, is unnecessary in the marketplace. A statement by SAH in Attachment 14 that "the gross square footage is reasonable when compared to other freestanding facilities across the country," without any facts to support this assertion, is insufficient to address legitimate concerns about the undue costs associated with the proposed project.

6. ***How will the proposed project affect inpatient oncology services at SwedishAmerican Hospital?***

The application is unclear as to the effect the SAH/UW Regional Cancer Center will have on inpatient services at SwedishAmerican Hospital.

- SAH states in Attachment 37 that, "Market indicators show a shift in demand from inpatient to outpatient Oncology procedures . . . ."
- Attachment 9 indicates that the existing radiation oncology and medical oncology departments will be moved in their entirety to the SAH/UW Regional Cancer Center.

If SAH intends to discontinue providing inpatient oncology services as part of this project, it should be required to provide information on the number of beds to be discontinued, the anticipated date of discontinuation, the anticipated use of physical plant and equipment following discontinuation, and the ways in which patients' records will be handled. Furthermore, SAH should be required to explain its reasons for reducing the scope of its inpatient cancer treatment services and give the Board adequate assurances that the reduction in inpatient oncology services will not have an adverse impact on access to care in the market.

Thank you for your attention to this letter. Please feel free to contact me if you have any questions or comments.

Sincerely,

David A. Schertz, FACHE
President and Chief Executive Officer
OSF Saint Anthony Medical Center, Rockford

cc: Mr. Michael Constantino, Supervisor, Project Review
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