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

FEB 20 2014

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Re: Opposition to Project No. 13-072
NorthPoint Health & Wellness Campus
Ambulatory Surgery Treatment Center (Roscoe, Illinois)

Dear Ms. Avery:

I am writing on behalf of Rockford Orthopedic Surgery Center ("ROSC") in opposition to the Application for Permit (the "Application") filed by Beloit Health System, Inc. (the "Applicant") to establish (the "Project") a multi-specialty ambulatory surgical treatment center at 5606 East Rockton Road, Roscoe, Illinois (the "Proposed ASTC").

ROSC is a multi-specialty surgery center located in Rockford, Illinois and represents the absolute best example of a physician-hospital joint venture. Organized in July of 2004, the ROSC is a joint venture between OSF-St. Anthony and Rockford Orthopedic Associates, one of the largest medical groups in Winnebago County.

Simply put, we believe that the Application should be denied.

First, pursuant to Section 1110.1540(f) of the Review Board's Rules and Regulations, an applicant seeking to establish an ASTC **must** satisfy one of the following conditions:

- 1) There are no other ASTCs within the intended geographic service area of the proposed project under normal driving conditions; or
- 2) All of the other ASTCs and hospital equivalent outpatient surgery rooms within the intended geographic service area are utilized at or above the 80% occupancy target; or
- 3) The applicant can document that the facility is necessary to improve access to care. Documentation shall consist of evidence that the facility will be providing services which are not currently available in the geographic service area, or that existing underutilized services in the geographic service area have restrictive admission policies; or
- 4) The proposed project is a co-operative venture sponsored by two or more persons at least one of which operates an existing hospital. The applicant must document:

... a higher standard of care.

A) that the existing hospital is currently providing outpatient surgery services to the target population of the geographic service area;

B) that the existing hospital has sufficient historical workload to justify the number of operating rooms at the existing hospital and at the proposed ASTC based upon the Treatment Room Need Assessment methodology of subsection (d) of this Section;

C) that the existing hospital agrees not to increase its operating room capacity until such time as the proposed project's operating rooms are operating at or above the target utilization rate for a period of twelve full months; and

D) that the proposed charges for comparable procedures at the ASTC will be lower than those of the existing hospital.

By its own admission, the Applicant acknowledges that it cannot satisfy any of the aforementioned criteria. There are several ASTCs in the relevant planning area. There are several underutilized providers in the relevant planning area. Outpatient surgical services are clearly available in the relevant planning area. And the Project is not a joint venture.

Unfortunately, instead of directly addressing these shortcomings, the Applicant asserts that the clear wording of Section 1110.1540(f) can be ignored because the Applicant believes that the other providers in the relevant planning area will not be impacted. To state the obvious, the Applicant is mistaken in its belief. The other area providers will be negatively impacted and the Review Board's Rules specifically assume that a provider will be negatively impacted if Section 1110.1540(f) is not satisfied. In other words, the Review Board cannot ignore Section 1110.1540(f) and rely on the "trust me" statements set forth by the Applicant.

Second, the Applicant asserts that it is prepared to "transfer" 3,467 surgical and procedural cases from its main hospital campus in Beloit to the Proposed ASTC. Leaving aside whether the patients will actually agree to be "transferred" from a hospital based setting in Wisconsin to an ambulatory based setting in Illinois, the proposed transfer of so many cases will completely obliterate the Applicant's utilization figures at its existing hospital in Beloit. According to the Applicant's own data, the proposed cases for the Proposed ASTC comprise approximately 48% of the Applicant's case load at its main hospital in Beloit. If these 3,467 cases leave the main hospital in Beloit for the Proposed ASTC in Illinois, the Applicants will have underutilized operating rooms in Wisconsin. If an Illinois hospital were to propose this maneuver, their actions would be immediately rejected because they would cause underutilization at their own hospital!

Third, and somewhat related to the above point, the Applicant has submitted an affidavit that states that the Applicant will not increase its operating room capacity at its main hospital in Beloit until such time as the Proposed ASTC reaches full utilization (the "Utilization Affidavit"). Given that the Applicant's main hospital in Beloit will be materially below the utilization standards for operating rooms (because of the "transfer" of nearly half of its surgical and procedural cases), the Applicant's Utilization Affidavit is completely meaningless --- unless the Applicant intends to generate its utilization at the Proposed ASTC by pulling cases from the Illinois providers in the relevant planning.

The enforceability of the Applicant's Utilization Affidavit also raises a very interesting jurisdictional question. Does this Review Board (and/or the Illinois Department of Public Health) have any authority to actually enforce the terms of the Applicant's Utilization Affidavit? The Applicant's main hospital in Beloit is licensed by the State of Wisconsin. It is not licensed by the State of Illinois. How can the State of Illinois ultimately prevent a general acute care hospital in Wisconsin from opening new operating rooms?

Fifth, the Applicant asserts that approximately 80% of the projected cases for the Proposed ASTC will be coming from Wisconsin. Only 20% of the projected cases will be coming from Illinois. The notion that so many Wisconsin patients, who are currently receiving treatment at a general acute hospital in Wisconsin, will elect to drive to a surgery center in Illinois to receive treatment is illogical and not consistent with the data currently available vis a vis the Illinois surgery centers and Indiana hospitals on the Indiana-Illinois border and the Illinois surgery centers and Wisconsin hospitals on the Wisconsin-Illinois border.

At our surgery center, only 1.2% of our patients came from Wisconsin last year. Given that we have one of the largest orthopedic surgical practices in all of northern Illinois, we think our patient demographics are a more accurate reflection of the driving patterns and location choices that will be exercised by the Wisconsin and Illinois patients. Meaning, the Proposed ASTC will not be pulling 80% of its patients from Wisconsin; it is far more likely that the Proposed ASTC will be pulling upwards of 90% of its patients from Illinois and the existing facilities in Illinois. Interestingly enough, and despite the fact that the Applicant circulated multiple response letters following its public hearing, the Applicant has never responded to this specific data point. Physician referral letters to a proposed out-of-state location do not automatically equate to patients.

Based upon the foregoing reasons, and for the reasons we previously outlined at the public hearing, ROSC strongly opposes the establishment of the Proposed ASTC. We urge the Review Board to deny the Application filed by the Applicant.

Sincerely,

A handwritten signature in black ink that reads "Don Schreiner". The signature is written in a cursive, flowing style.

Donald Schreiner
CEO