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December 16, 2016

Ms. Courtney Avery
Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson Street, 2nd Floor
Springfield, IL 62702-5056

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DEC 22 2016

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Re: Project #16-048 Ferrell Hospital

Dear Ms. Avery,

I am writing to express the objections of the Board of Directors of Harrisburg Medical Center to Ferrell Hospital's certificate of need (CON) application.

Harrisburg Medical Center is located less than 9 miles from Ferrell Hospital in Eldorado, and we operate an Outpatient Clinic in Eldorado, which we established several years ago because of concerns in the community that Ferrell Hospital would close and leave its residents without access to outpatient medical care.

Harrisburg Medical Center and Ferrell Hospital are both located in Saline County. The cities are connected by U.S. Highway 45, which is a four lane divided highway. The travel time between the two hospitals is about 13 minutes.

Harrisburg Medical Center is a not-for-profit, acute care hospital in Harrisburg, Illinois, the sole hospital in our community. We serve five counties and parts of two more. We are essentially a regional hospital serving all of southeastern Illinois. In fact, we are improving our helicopter ambulance services, and our vendor will be basing a Helicopter Ambulance Service on our campus, which will include housing for the flight crews and medical personnel.

We work cooperatively with Ferrell Hospital as well as the co-applicant, Deaconess Health System in Evansville, Indiana.

We oppose the approval of Ferrell Hospital's CON application because the impact of this proposal on Harrisburg Medical Center would almost certainly doom our hospital to failure and closure.

As you know, Ferrell Hospital is a Critical Access Hospital. The designation of "Critical Access Hospitals" was created by the federal government nearly 20 years ago in order to reduce the financial vulnerability of rural hospitals and improve access to healthcare by keeping essential services in rural communities.

This is accomplished through cost-based Medicare reimbursement, which is not available to other hospitals in rural areas, including Harrisburg Medical Center.



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Critical Access Hospitals (CAHs) receive Medicare reimbursement at 101% of their reasonable inpatient and outpatient costs, rather than at the rates set by the applicable prospective payment systems or fee schedules.

Because of the financial advantage provided to CAHs, the government has placed certain restrictions on the designation of these hospitals, including the following: the desired requirement that a CAH be located more than 35 miles from another hospital unless it is located in mountainous terrain or in an area with only secondary roads or it was designated as a "necessary provider" by its state prior to January 1, 2006; the requirement that a CAH must have 25 or fewer acute care inpatient beds; and the requirement that a CAH's annual average length of stay be 96 hours or less for acute care patients.

In Illinois and perhaps also in other states, some hospitals were designated as CAHs even though they are located less than 35 miles from another hospital and, as noted above, these hospitals are grandfathered as CAHs if they were designated in 2005 or earlier.

This is the case with Ferrell Hospital. It is located less than 9 miles from Harrisburg Medical Center, 21 miles from Hamilton Memorial Hospital in McLeansboro, 32 miles from Franklin District Hospital in Benton, and 34 miles from Heartland Regional Medical Center in Marion.

A 2013 study by the Office of Inspector General of the federal Department of Health and Human Services (HHS) found that 64% of CAHs would not meet the distance requirements, and they recommended that the federal Centers for Medicare and Medicaid Services (CMS) seek legislative authority to remove the distance requirement exemption, thus allowing CMS to reassess these CAHs.

As the Board of Directors of Harrisburg Medical Center, we have a fiduciary responsibility to preserve the financial viability of our hospital. It is difficult for us to maintain the financial viability of our own hospital in the face of two strong factors at Ferrell Hospital.

First, as I have mentioned, as a CAH, Ferrell receives cost-based reimbursement for Medicare patients. This is a sharp advantage over the reimbursement available to non-CAHs, such as Harrisburg Medical Center, and it ensures the financial viability of Ferrell. This results in what is often described in healthcare circles as "an uneven playing field."

Second, Ferrell Hospital has the financial advantage of the active, involved support of the Deaconess Health System of Evansville, Indiana. Lest you think that Illinois benefits from this relationship, let me remind you that, as documented on Pages 118 through 121 of the CON application, the majority of Ferrell Hospital patient transfers leave the State of Illinois, with most going to Indiana. When patients are transferred out of state, that affects jobs in southern Illinois and, most importantly, patients are travelling longer distances than are necessary because excellent healthcare is available for most medical conditions here in Illinois at locations closer than Evansville, Indiana.

We have all been hearing much discussion about forthcoming changes in healthcare. The future of CAHs, particularly those located within 15 miles of existing non-CAHs, has been among the issues that received significant attention, even before the recent election. This issue had been the focus of discussions at CMS, HHS' Office of Inspector General, the Congressional Budget Office, and even given attention in President Obama's budget proposals.

On May 7, 2015, Mr. Sean Cavanaugh, then the Deputy Administrator and Director of the Center for Medicare at CMS appeared before the U.S. Senate Appropriations Subcommittee on Labor, Health and Human Service and Education to testify on rural health. Mr. Cavanaugh stated that President Obama's FY2016 budget proposal would "prevent CAHs, including those currently designated as 'necessary



providers,' which are within 10 miles of another CAH or hospital from maintaining certification as a CAH." These hospitals would be eligible to convert to certified hospital status, and they "would then continue to receive Medicare reimbursement through the ordinary inpatient and outpatient prospective payment systems, under which the majority of acute care hospitals are paid." Ferrell Hospital would fall within this category.

The provision of healthcare in the United States is clearly moving toward the consolidation of services into larger healthcare organizations and away from the expensive, less effective, and more inefficient CAH program. The Office of the Inspector General of the federal Department of Health and Human Services (HHS) and CMS have agreed that the consumers of health services through CAH providers pay more in co-insurance than they would in acute-care hospitals. This issue is addressed in the OIG Draft Report "Most Critical Access Hospitals Would Not Meet the Location Requirements" (OEI-05-12-00080).

Part of our concern about this project is that, if Ferrell Hospital were to be approved and were to undertake this project, and if it were then to lose its designation as a CAH, the hospital could experience severe financial difficulties. If the modernization and expansion had already taken place before this occurred and the predicted negative impact on Harrisburg Medical Center's utilization were to have taken place, both hospitals could fail. Such an event would be catastrophic for the provision of healthcare in southeastern Illinois.

Now is not the time to approve a \$37,000,000 project from Ferrell Hospital that would either be funded by taxpayers through the high reimbursement rates of the CAH program or would need to be funded through normal patient revenues, in which case the applicant might be unable to meet debt service.

Thank you for your consideration of the issues we have addressed in this letter. We, the Board of Directors of Harrisburg Medical Center, respectfully request that the Illinois Health Facilities and Services Review Board deny Ferrell Hospital's CON application.



Harrisburg Medical Center Board of Directors
By David Disney, Chairman





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Courtney Avery
Administrator
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Re: Project #16-048 Ferrell Hospital

Dear Ms. Avery,

I am writing this letter on behalf of Harrisburg Medical Center, which is located less than 9 miles from Ferrell Hospital in Eldorado.

I would like to address some of our concerns about the proposed expansion and modernization of Ferrell Hospital, Project #16-048.

Harrisburg Medical Center is a not-for-profit, sole community status, acute care hospital in Harrisburg, Illinois. We serve five counties and parts of two more. We work cooperatively with Ferrell Hospital as well as the co-applicant, Deaconess Health System in Evansville, Indiana. The leaders and employees in both organizations are fine people with the improvement of healthcare as the core of their existence.

However, we do have several concerns about the scope and size of this project, some of which is excessive and some of which duplicates existing outpatient services that are already provided in Eldorado. Furthermore, we are concerned about the cost impact of this \$37 million capital expenditure for a Critical Access Hospital on the southeastern Illinois region as well as the healthcare system in general.

We understand that, if it is to remain in operation, Ferrell Hospital needs to upgrade its physical plant. However, we have the following concerns regarding the excessive scope and size of the proposed project and its high capital costs.

1. There is no justification for the replacement of all 25 of Ferrell Hospital's authorized beds since the combined average daily census in 2015 for its beds exceeds the justifiable number of beds that can be replaced, based upon the certificate of need (CON) Rules that specify "Projects involving the replacement or modernization of a category of service [e.g., Medical/Surgical Category of Service] shall meet or exceed the occupancy standards for the categories of service, as specified in 77 Ill. Adm. Code 1100." (77 Ill. Adm. Code 1110.530(e)(4))

Ferrell Hospital's historic utilization for CY 2015 justifies replacement of 13.1 beds for its inpatient, swing bed, and observation needs at the 60% occupancy level that is specified in the CON Rules for a hospital with 1 to 25 Medical/Surgical beds (77 Ill. Adm. Code 1100.520(c)(1)(A)).



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2. Ferrell Hospital's desire to retain its 25 existing authorized beds is not justified by its own admission.

In its CON application for this project, Ferrell Hospital stated that its "projected occupancy does not meet the State standards – However, Ferrell Hospital already is licensed for 25 Medical/Surgical beds and does not wish to reduce their bed count." (Page 134)

The notarized statement provided by the applicant on Page 179 of the application contradicts the statement on Page 134 that the projected occupancy does not meet the State standards.

This statement responds to the CON requirement that an applicant for modernization of the Medical/Surgical Category of Service "submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after project completion, the applicant will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal." (77 Ill. Adm. Code 1110.530(h))

Instead, the statement provided, which also appears on Page 189 as part of Attachment 34 (Modernization of Clinical Service Areas Other than Categories of Service), references utilization targets specified in 77 Ill. Adm. Code 1110 Appendix B. Appendix B cross-references utilization standards in 77 Ill. Adm. 1100, which state clearly that hospitals with between 1 and 25 Medical/Surgical beds operate at 60% occupancy.

3. The replacement of all of Ferrell Hospital's existing authorized beds would require the hospital to nearly double its 2015 utilization to achieve 60% occupancy, increasing its utilization of its beds by an average daily census of more than 7 patients.

Increased utilization of this volume would negatively impact utilization of other hospitals, including Harrisburg Medical Center, which is located less than 9 miles from Ferrell Hospital and with whom it shares a service area.

Therefore, Ferrell Hospital's proposal to replace all of its authorized beds would violate the provisions of 77 Ill. Adm. Code 1130.530(d)(3), which specifies that the proposed project:

"(A) Will not lower the utilization of other area providers below the occupancy standards specified in 77 Ill. Adm. Code 1100; and

"(B) Will not lower, to a further extent, the utilization of other area hospitals that are currently (during the latest 12-month period) operating below the occupancy standards."

The CON Rules consider this underutilization to be a maldistribution of services (77 Ill. Adm. Code 1110.530(d)(2)).

4. The scope and size of this project exceed the scope and size of a project necessary to correct Ferrell Hospital's deficiencies and desire to create a contemporary hospital facility.
 - a. This project proposes to replace more authorized beds than permitted under the CON Rules, as discussed in Items 1 through 3 above.
 - b. This project proposes to replace more General Radiology rooms than justified by both historic and projected utilization.
 - c. This project proposes to replace severely underutilized imaging rooms that are frequently



used on an outpatient basis and are available within 9 miles of Ferrell Hospital: MRI; CT Scanning; Nuclear Medicine; Mammography; and Ultrasound.

- d. This project proposes to replace and expand its Surgical Operating Suite (Class C) and Emergency Department with more rooms than can be justified by its historic and projected utilization.
- e. The drawings of the proposed new building have several dotted line areas that allow for further expansion at a future date, which would further increase the scope and size of this project beyond what is needed to serve Ferrell Hospital's historic and projected utilization.

As a result, this project will violate the following CON Rules.

- There needs to be a "caseload necessary to utilize the services proposed by the project at or above occupancy standards." (77 Ill. Adm. Code 1110.530(d)(2)(C))
 - "Projects involving the replacement of a service or facility shall meet or exceed the utilization standards for the service, as specified in Appendix B." (77 Ill. Adm. Code 1110.3030(a)(5))
 - The number of key rooms proposed in a replacement or modernization project shall be justified by the historical utilization for each of the latest two years, per utilization standards cited in Appendix B." (77 Ill. Adm. Code 1110.3030(a)(6))
 - "Projects involving the modernizing of a service or facility shall meet or exceed the utilization standards for the service, as specified in Appendix B. The number of key rooms being modernized shall not exceed the number justified by historical utilization rates for each of the latest two years, unless additional key rooms can be justified per subsection (d)(2) (Necessary Expansion)." (77 Ill. Adm. Code 1110.3030(d)(3)(B))
5. The projected utilization for a number of clinical services that are not categories of service will fail to meet the CON utilization standards, which is contrary to the language in the notarized statement found on Page 189.

That statement, which is required to attest to the applicant's understanding that, "by the second year of operation project completion, the applicant reasonably expects to operate all clinical services included in this application for which there are utilization targets will achieve and maintain the occupancy standards specified in 77 Ill. Adm. Code 1100 for each category of service involved in the proposal." contradicts the projected utilization for a number of the clinical services included in this project.

6. A project of this scope and size will duplicate existing facilities in the service area as well as in Planning Area F-05 and will have a negative impact on Harrisburg Medical Center's utilization.

Harrisburg Medical Center has undertaken a number of capital projects over the last decade or so to serve the communities in our service area, including Eldorado.

Several years ago, when we all thought that Ferrell Hospital might close, we made an investment in our outpatient clinic in Eldorado to serve the patients of Eldorado. This clinic, which is currently operational in Eldorado includes Radiology, Physical Therapy, Occupational Therapy, Speech Therapy and Laboratory.



Recently, we received a Determination of Reviewability and approval from the Design Standards Unit to undertake a hospital expansion project of nearly \$10 million for the purpose of serving the exact population that is listed in Ferrell Hospital's CON application. That project includes the expansion or replacement of many of the same clinical services that are included in Ferrell Hospital's project.

In addition, a few years ago, Hamilton Memorial Hospital in McLeansboro, which is 23 minutes' travel time from Ferrell Hospital, completed a \$20 million expansion to serve the population residing in a majority of the area on the north side of Ferrell Hospital's service area, as identified in their CON application.

Our service area is somewhat unique for rural Southern Illinois. Although it is designated by the federal government as a Health Professional Shortage Area, we do not have a shortage of primary care providers. In fact, the service area for both Ferrell Hospital and Harrisburg Medical Center currently has twice as many primary care providers as needed for the area we serve.

7. Lastly, we are also concerned about the high capital cost of this project.
 - Although many hospitals undertake modernization projects of \$37,000,000 or more, please remember that this project is proposed for a Critical Access Hospital that experienced an average daily census of 7.85 patients in 2015, which included all inpatients, swing bed patients, and observation patients.
 - The project costs are excessive because Ferrell Hospital proposes to construct facilities that significantly exceed the scope and size needed to care for the projected utilization after this project is completed, as identified in the CON application.
 - The project includes \$3,740,962 for medical equipment, much of which is excessive and unneeded to accommodate the projected workload and some of which duplicates existing equipment in an outpatient facility that our hospital operates in Eldorado as well as in our own hospital, which is less than 9 miles from Ferrell Hospital.

Thank you for your consideration of the issues we have addressed in this letter.



Rodney D. Smith
President/CEO
Harrisburg Medical Center

