



STATE OF ILLINOIS  
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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<b>DOCKET NO:</b> H-04	<b>BOARD MEETING:</b> June 20, 2017	<b>PROJECT NO:</b> 17-010	<b>PROJECT COST:</b> Original: \$0
<b>FACILITY NAME:</b> Mercy Circle		<b>CITY:</b> Chicago	
<b>TYPE OF PROJECT:</b> Substantive			<b>HSA:</b> VI

**PROJECT DESCRIPTION:** The applicants/licensees are Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc. The applicants are asking the State Board to remove a Continuum of Care Retirement Community (CCRC) Variance and a Defined Population Variance, set in place at the time of approval for Certificate of Need (CON) application for project #11-008, Mercy Circle. Project #11-008 sought Board approval for a 23-bed Long Term Care facility, in Chicago. **The anticipated completion date is September 30, 2017.**

## **EXECUTIVE SUMMARY**

### **DESCRIPTION:**

- The applicants, Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc., seek Board approval to remove two variances: a CCRC variance and a Defined Population Variance approved at the time of initial project approval (#11-008), for Mercy Circle, a 23-bed skilled nursing facility, located in Chicago. There are no costs associated with this project. **The anticipated completion date is September 30, 2017.**

### **WHY THE PROJECT IS BEFORE THE STATE BOARD:**

- The project is before the State Board because the project proposes a substantial change in scope of a licensed health care facility.
- The applicants are proposing to expand an existing long term care facility through the lifting of a CCRC variance and a defined population variance, and allowing an open admission policy at an existing 23-bed Long Term Care facility, in Chicago. The project is considered a substantive project.

### **PURPOSE OF THE PROJECT:**

- The purpose of the project is to lift a restrictive admissions policy currently in place, and allow open admissions to Mercy Circle Long Term Care unit. The open admissions will allow the applicants to admit more patients referred for long term care service.

### **PUBLIC COMMENT:**

- An opportunity of a public hearing was provided however no hearing was requested. No letters of support or opposition were received by the State Board Staff.

### **SUMMARY:**

- Mercy Circle is a faith-based, not for profit Continuing Care Retirement Community (CCRC), in Chicago. The 23-bed campus was initially established to replace Mercy Convent, on the same campus, housing retired residents from religious vocations.
- Continuing Care Retirement Community (CCRC), is a retirement community with reserved admission standards for its skilled nursing/long term care (LTC) residents. CCRCs generally contain independent living accommodations, assisted living accommodations, and skilled nursing accommodations. Once a resident is enrolled in one of the preliminary living arrangements, they are assured these accommodations as their age progresses, or condition of health deteriorates. Communities identified as CCRCs by the State Board are prohibited from admitting residents to their Long Term Care unit, who were not residents of the preliminary residential facilities.
- The applicants note the demand for reserved skilled nursing accommodations among the religious order has diminished in recent years, presenting the applicants with the option to offer high quality care in a faith based facility, for any patient choosing to live in the prescribed accommodations.

- The applicant addressed 16 criteria, and received a negative finding for the following:

<b>State Board Standards Not Met</b>	
<b>Criteria</b>	<b>Reasons for Non-Compliance</b>
<b>1125.580(c) – Unnecessary Duplication/Mal-distribution of Service</b>	The May 2017 LTC Inventory Update shows an excess of 387 beds in the planning area, and there are underperforming facilities in the same planning area (See Table One).

**STATE BOARD STAFF REPORT**  
**Mercy Circle**  
**Project #17-009**

<b>APPLICATION SUMMARY/CHRONOLOGY</b>	
Applicants(s)	Mercy Circle Sisters of Mercy of the Americas West Midwest Community, Inc.
Facility Name	Mercy Circle
Location	10000 South Central Park Avenue, Chicago
Permit Holder	Mercy Circle
Operating Entity	Mercy Circle
Owner of the Site	Sisters of Mercy of the Americas West Midwest Community, Inc.
Application Received	March 15, 2017
Application Deemed Complete	March 17, 2017
Can applicants request a deferral?	Yes
Review Period Extended by the State Board Staff?	Yes

**I. Project Description**

The applicants, Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc. are requesting the State Board to remove the CCRC variance and the Defined Population Variance at Mercy Circle, Chicago. The current admission policy restricts admissions at the 23-bed skilled nursing facility to members of its continuum care retirement community and members of religious orders. There are no costs associated with this project. **The anticipated completion date is September 30, 2017.**

**II. State Board Findings**

- A. The State Board Staff finds the proposed project is **NOT** in conformance with Part 1125.
- B. The State Board Staff finds the proposed project is not applicable with Part 1125.800, due to the absence of any reported costs or expenses.

**III. General Information**

The applicants are Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc. The operating entity/licensee is Mercy Circle, and the owner of the site is Sisters of Mercy of the Americas West Midwest Company, Inc. The facility is located at 10000 South Central Park Avenue, Chicago, Illinois in Cook County, Health Service Area (HSA) 06, and Long Term Care Planning Area 6-C. Project obligation will occur after permit issuance. This project is a substantive project subject to Part 1125 review. A financial review is not applicable to this project, due to a lack of project costs.

In March of 2011 the applicants were approved (#11-008) for two variances: **the continuum of care retirement community variance (77 IAC 1125.560 a)**) which limits admittance to the nursing care facility to residents of the retirement community and the **defined population variance (77 IAC 1125.560 b)**) which limits admittance to the retirement community to a religious group.

Under the **continuum of care variance** the applicants serve residents of Mercy Center which is a continuum of care retirement community with independent living and assisted living facilities. Under **the defined population variance** the applicants serve members of the Sisters of Mercy and other religious orders even though some of these members would not be residents of the retirement community at the time of admittance.

#### IV. LTC Planning Area 6-C

There is a calculated excess of 387 long term care beds in long term care planning area 6-C. The planning area has a total of 4,586 LTC beds, per the May 2017 Inventory update, Table One lists the 22 Long Term Care facilities in LTC Planning Area 6-C.

<b>TABLE ONE</b>			
<b>Summary of Facilities Located in LTC Planning Area 6-C</b>			
<b>Name</b>	<b>City</b>	<b>Beds</b>	<b>Operational Capacity</b>
Mercy Circle	Chicago	23	69.4%
Symphony at Midway	Chicago	249	76.5%
Belhaven Nursing & Rehab Ctr.	Chicago	221	81.6%
Smith Village	Chicago	100	90.5%
Symphony at 87 <sup>th</sup> Street	Chicago	210	90.2%
Symphony at Morgan Park	Chicago	294	83%
Southport Nursing & Rehab	Chicago	228	79.9%
Bria of Forest Edge	Chicago	328	82.1%
Aperion Care International	Chicago	218	73.7%
Princeton Rehab & Healthcare	Chicago	225	75.4%
Wentworth Rehab & Healthcare	Chicago	300	69.3%
Parkshore Estates Nursing & Rehab	Chicago	318	86.2%
Community Care Center	Chicago	204	88.9%
Kensington Place Nursing & Rehab	Chicago	155	83.3
Symphony of Bronzeville Park	Chicago	302	92.3%
Southview Manor Nursing Center	Chicago	200	88.3%
The Estates of Hyde Park	Chicago	155	18.6%
Symphony of South Shore	Chicago	248	0.0%
Waterfront Terrace	Chicago	118	81.5%

<b>TABLE ONE</b>			
<b>Summary of Facilities Located in LTC Planning Area 6-C</b>			
<b>Name</b>	<b>City</b>	<b>Beds</b>	<b>Operational Capacity</b>
The Villa at Windsor Park	Chicago	240	70.4%
Montgomery Place	Chicago	40	86.3%
Warren Barr South Loop	Chicago	210	79.7%
<b>Total/Average</b>		<b>4,586</b>	<b>74.8%</b>
Information taken from 2015 Long Term Care Profile			

**V. Project Details**

The applicants, Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc. are requesting to rescind the two (2) variances currently in place at Mercy Circle. Project 11-008, Mercy Circle, initially sought to establish a 23-bed Long Term Care (LTC) unit on the campus of Mercy Circle, a retirement community consisting of 54 independent living apartments, 44 assisted living apartments, and 24 assisted living memory support apartments.

Mercy Circle is a faith-based not for profit, continuing care retirement community designed to replace Mercy Convent, located on the same campus. Mercy Circle’s mission is to serve the Sisters of Mercy and other residents serving in religious orders in the metropolitan Chicago area. Since initial project inception (2008), the number of retirement-age members of Sisters of Mercy has diminished significantly, requiring the applicants to focus on a broader skilled care patient population. The applicants propose to continue in their mission to provide high-quality care in a faith based facility, minus the admission policy restrictive to Sisters of Mercy and members of other religious orders.

**VI. Project Costs and Sources of Funds**

The applicants note there are no costs associated with the proposed project.

**VI. Costs Space Requirements**

The existing 23-bed skilled nursing unit consists of 23,303 GSF of clinical space. The spatial configurations will not change as a result of the proposed project.

## **VII. Section 1125.320 and 1125.330 - Purpose and Alternatives**

### **A. Criterion 1125.320 – Purpose of the Project**

**The applicants shall document the purpose of the project.**

**The applicants' state:** *“At the time the application was filed there were approximately 803 Sisters of Mercy members. Of those members, 195 lived in the Chicago area. Over 85% were over 65 years of age. Currently it is estimated that only 85 sisters remain in the Chicagoland area. The demand for the CCRC from the members of the religious orders is declining over time, putting a strain on Mercy Circle’s finances. In addition due to the State’s budget woes, Mercy Circle is owed \$1,000,000 by the State. Removing restrictions on admission on admission to the SNF expands access to health care of the market population. It will help Mercy Circle continue to provide a high quality faith based facility for any patient who chooses to live there.”*

### **B. Criterion 1125.330 - Alternatives to the Proposed Project**

The applicant shall document that the proposed project is the most effective or least costly alternative for meeting the LTC needs of the population to be served by the project.

#### **1. Project of Greater or Lesser Scope**

The proposed project has no related costs, and involves the removal of existing variances on admissions. A project of lesser scope would not save the applicants any money, and a project of greater scope would involve additional beds as well as additional expense. The applicants have no desire to incur additional expense, and rejected this alternative. Estimated cost of this alternative: \$270,000 for each additional bed (project of greater scope).

#### **2. Joint Venture with Other Providers**

The applicants note the 23-bed skilled nursing unit already exists, and is fully operational. The applicants note there would be no significant cost savings or service enhancement if a joint venture was pursued. There were no project costs identified with this alternative.

#### **3. Utilize Other Available Health Resources**

The applicant facility is a faith-based facility, and is the only provider of faith based skilled nursing services in the area. The applicants note the patient base has the option to choose their skilled nursing accommodations, and the patient base that utilizes Mercy Circle do so based on their religious beliefs. There were no project costs identified with this alternative.

#### **4. Proposed Alternative**

The applicants chose the alternative to remove the variances based on economic factors, and the desire to continue in their mission to provide high quality faith based care to its residents. The removal of the variances will ensure sufficient patient population and financial viability for Mercy Circle. There were no costs identified with this alternative.

## VIII. Section 1125.520 - Planning Area Need

### A) Criterion 1125.520 (b) (1) (3) - Background of Applicant

**An applicant must demonstrate that it is fit, willing and able, and *has the qualifications, background and character, to adequately provide a proper standard of LTC service for the community***

The applicants are Mercy Circle and Sisters of Mercy of the Americas West Midwest Community, Inc. The proposed project does not involve construction or modernization, therefore special flood hazard and Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420/1) requirements do not apply. The applicants have attested that Mercy Circle is the only facility under their ownership/control, and no adverse actions have occurred within the past three years of filing of this application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION BACKGROUND OF APPLICANT (77 IAC 1125.520 (b) (1) (3))**

### B) Criterion 1125.530 (b) - Service to Planning Area Residents

**Applicants proposing to establish or add beds shall document that the primary purpose of the project will be to provide necessary LTC to the residents of the area in which the proposed project will be physically located.**

The applicants established primary and secondary service areas around the applicant facility, in Chicago (application, p. 30). The primary service area (PMA) encompassed a 3-5 mile radius around the applicants' facility, and included 9 zip codes. The secondary market area (SMA) extended an additional 7-10 miles, and included 28 zip codes. According to the May 2017 Bed Inventory Update, there is an excess of 387 beds in the service area. Mercy Circle received 195 requests for placement in 2016 (application, p. 34-38), and the number of residents admitted to Mercy Circle in 2016 was 31. The applicants note that 50% of the referral population will come from within the established service area. The applicants attribute the disparity between the placement requests and LTC admissions to the restrictive admissions (CCRC) variance. It appears that the applicants had enough patient inquiries for Mercy Circle to sufficiently operate at or above the State standard, had an open-admissions policy been in place.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION SERVICE TO PLANNING AREA RESIDENTS (77 IAC 1125.530 (b))**

### C) Criterion 1125.550 – Service Demand/Expansion of General Long Term Care

**The number of beds to be added at an existing facility is necessary to reduce the facility's experienced high occupancy and to meet a projected demand for service.**

The applicants reported a total of 5,574 patient days in 2015 (66% occupancy), and 7,088 patient days in 2016 (88% occupancy), which shows a progressive increase in the number

of admissions under the admission variances. The applicants supplied record of inquiry from 195 potential placements at Mercy Circle. However, due to the variances, the applicants allowed only residents of the retirement/assisted living facility, and members of the Sisters of Mercy religious order. Because of the admissions variances, the facility was only able to admit 31 skilled nursing patients. The applicants are confident that the skilled nursing unit at Mercy Circle would have sufficient patient volume to meet and exceed the State standard, had the admission variances been rescinded.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION SERVICE DEMAND (77 IAC 1125.550)**

**E) Criterion 1125.580 - Unnecessary Duplication/Mal-distribution**

- 1) **The applicant shall document that the project will not result in an unnecessary duplication.**
- 2) **The applicant shall document that the project will not result in mal-distribution of services. Mal-distribution exists when the identified area (within the planning area) has an excess supply of facilities, beds and services.**
- 3) **The applicant shall document that, within 24 months after project completion, the proposed project will not lower the utilization of other area providers below the occupancy standards**

The applicants supplied a list containing 27 zip codes that comprise a 30-minute service area in a perimeter around Mercy Circle. Total population within these zip codes is 1,101,561 residents. The May 2017 Long Term Care Inventory Update shows there is an excess of 387 beds in the planning area. Table One identifies 22 existing skilled nursing facilities in the service area. Of these 22 facilities, 3 (13.6%) are operating at or above the State standard (90%). The applicants note Mercy Circle's LTC unit contains only 23 beds, and an open admissions policy at this facility would have minimal to no impact on LTC facilities in the service area. However, the potential for unnecessary duplication/mal-distribution of service exists if the proposed project is approved.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN NOT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION/MALDISTRIBUTION (77 IAC 1125.580)**

**F) Criterion 1125.590 - Staffing Availability**

**The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that staffing requirements of licensure, certification and applicable accrediting agencies can be met.**

Mercy Circle maintains adequate staffing levels for a 23-bed skilled nursing facility, in accordance with IDPH and JCAHO standards. The project does not call for additional beds, but an open admissions policy to sufficiently fill these beds in accordance with State standards. A positive finding results for this criterion.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION STAFFING AVAILABILITY (77 IAC 1125.590)**

**E) Criterion 1125.600 - Bed Capacity**

**The maximum bed capacity of a general LTC facility is 250 beds, unless the applicant documents that a larger facility would provide personalization of patient/resident care and documents provision of quality care based on the experience of the applicant and compliance with IDPH's licensure standards (77 Ill. Adm. Code: Chapter I, Subchapter c (Long-Term Care Facilities)) over a two-year period.**

The project involves the removal of two variances placed on a 23-bed skilled nursing unit on the campus of an existing retirement community. The applicants meet the requirements of this criterion.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION BED CAPACITY (77 IAC 1125.600)**

**F) Criterion 1125.610 Community Related Functions**

**The applicant shall document cooperation with and the receipt of the endorsement of community groups in the town or municipality where the facility is or is proposed to be located, such as, but not limited to, social, economic or governmental organizations or other concerned parties or groups.**

The application contains 5 letters of support from Community/State elected officials and Hospital Officials. These five letters can be located on page 104-108 of the application for permit.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION COMMUNITY RELATED FUNCTIONS (77 IAC 1125.610)**

**G) Criterion 1125.620 Project Size**

**The applicant shall document that the amount of physical space proposed for the project is necessary and not excessive.**

The proposed project requests to have the restrictive admissions (CCRC) variance lifted from the 23-bed skilled nursing unit, at Mercy Circle. The 18,276 GSF initially requested for a 23-bed facility remains, which was over the State standard at the time of project approval. No new space will be incorporated into the proposed project.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION PROJECT SIZE (77 IAC 1125.620)**

**H) Criterion 1125.630 – Zoning**

**The applicant shall document the property to be utilized has been zoned for the type of facility to be developed, zoning approval has been received, or a variance in zoning for the project is to be sought.**

The project proposes to remove two admissions variances in place at Mercy Circle, no new construction or modernization will occur, and the project received sufficient zoning variances as part of the application to establish the long term care unit (#11-008). The applicant has met the requirements of this criterion.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH ZONING CRITERION (77 IAC 1125.630)**

**D) Criterion 1125.640 – Assurances**

**The applicant representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the second year of operation after the project completion, the applicant will achieve and maintain the occupancy standards specified in Section 1125.210(c) for each category of service involved in the proposal.**

The applicant supplied attestation that the proposed facility will meet or exceed the State-prescribed operational capacity by the second year of operation after project completion (application, p. 112). The applicant has met the requirements of this criterion.

**THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH ASSURANCES CRITERION (77 IAC 1125.640)**

**IX. Financial Viability**

- A) Criterion 1125.800 – Availability of Funds**
- B) Criterion 1125.800 - Financial Viability**

**X. Economic Feasibility**

- A) Criterion 1125.800 (a) - Reasonableness of Financing Arrangements**
- B) Criterion 1125.800 (b) – Terms of Debt Financing**
- C) Criterion 1125.800 – Reasonableness of Project Costs**
- D) Criterion 1125.800 (d) - Project Operating Costs**
- E) Criterion 1125.800 (e) - Total Project Capital Costs**

The applicants seek to repeal the restrictive admissions variance (CCRC), placed upon Mercy Circle, a 23-bed skilled nursing unit, and located on the campus of Mercy Circle retirement community. No new construction/modernization will occur as a result of this project, and no financial project costs will be incurred. The financial viability and economic feasibility criteria are not applicable to this project.



# 17-010 Mercy Circle - Chicago

