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Courtney Avery  
Illinois Health Facilities and Services Review  
Board 525 W. Jefferson St Second Floor  
Springfield, IL 62761  
Phone 217-782-3516  
Via Fax and Email

December 20, 2017

**Re: Application # 17-044 Smith Crossing – Project  
OBJECTION**

Dear Ms. Avery,

Please accept this letter as a formal and emphatic objection to the above mentioned Smith Crossing Application (#17-044). As you will see highlighted below, the applicant does not meet the basic criteria for approval in many vital areas. In fact, approval of this application would violate public policy and create a detrimental effect to both the Illinois residents served in the area and to the businesses providing those vital services. Ultimately, we are confident that upon reading the following objection, and upon careful review of the application, its contents, and the proposed service area, this State Staff Report will reflect the determination that the applicant does not meet the applicable standards and the application should be denied.

***First and foremost – there is no bed need in the Planning Area outlined in this proposal.***

Criteria 1125.530a)1), which outlines “Planning Area Need” specifically requires that the number of beds in an established area for general Long Term Care (“LTC”) must conform with the projected bed need of that area and be properly reflected in the updates to the HFSRB Inventory.

In the case of the Smith Crossing proposal, there is a nuance regarding bed need that must be addressed before the application can be reviewed any further. Here, the applicant affirms that its proposed project is within Health Service Area (“HSA”) 9. This HSA is located in Will County and currently has a bed need of two hundred eighty three (283) beds. However, it is our contention that this board must look at this applicant’s proximity to other HSAs to truly determine the area’s bed need.

It is true, geographically this proposed project is located in Will County. However, a simple

glimpse at a map shows the extreme proximity to Cook County, an HSA that is currently “over-bedded.” Smith Crossing is located in the business district of Orland Park. The Business District of Orland Park is located in Will County, however, the remainder of Orland Park, including its other residential structures (ie the most proximate clientele for this proposal), are located in Cook County. Realistically, Smith Crossing is servicing Cook County clients, not the clients living in HSA 9.

Cook County is located in HSA 7E – which encompasses the residential portion of Orland Park. This HSA is over bedded by one thousand, one hundred, fifty two (1,152) beds, which means it represents the HSA with the second largest number of excess beds in the State of Illinois. Given its proximity to the HSA border line, it is clear that these proposed beds would not help alleviate any alleged bed need problem in Will County, but will only increase the “over bedding” in Cook County. There is clearly no bed need for this proposal to meet.

*Next, the proposal failed to properly outline how it is providing services to the HSA Residents – those residents residing in Will County.*

Criteria 1125.530b)1)-3) outlines that applicants must show 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.**” Further, applicants who are proposing to add beds to an already existing LTC must “**provide resident/patient origin information for all admissions for the last 12-months period, verifying that at least 50% of admissions were residents of the area. For all other projects, applicants shall document that at least 50% of the projected resident volume will be from residents of the area.**” Additionally, such applicants must also “**provide resident/patient origin information by zip code, based upon the resident’s/patient’s legal residence.**”

This means, that based on Smith Crossing’s assertion that it was applying to add additional beds to HSA 9 where there is a bed need, the Facility must document that it serves HSA 9. However, the applicant fails to properly make that assertion on the face of its application. Further, the location of the facility and the fact that its “home town” is located in a separate HSA, supports the conclusion that Smith Crossing cannot and does not primarily serve HSA 9 residents.

The applicant clearly did not prove that 50% of its admissions are from HSA 9. Rather, it stated on Page 113 of the application:

“The existing Smith Crossing campus is located in Orland Park and in the Will County side of the Will/Cook County line. It is reasonable that 50% of the admissions will come from Will County and 50% will come from Cook County. Moreover, nearly 60 percent (55.9%) of the admissions came from Will County. Therefore, the primary purpose of the project has served the residents of Will County (Will County Planning Area).”

The assertion that 50% of the admissions come from Will County is contradicted by its own attachment 13B which clearly shows the zip codes of origin for all admissions for the prior 18 months. Of those 346 admissions listed, approximately 287 of them have zip codes in Cook

County, that is 83% of all admissions and 87 % of admissions from within a 30 minute drive time. Conversely, Will County Zip Codes only account for 35 admissions or roughly 10% to 11 % of Smith Crossing admissions as a whole or when only reviewing admissions within a 30 minute drive time (Attachment 10B to the application page 69). Smith Crossing clearly does not meet the this criteria.

Again, applicant's presentation of its data shows exactly why examining the proposed project's proximity to a different HSA (7E) is so vital in reviewing this application. Clearly, applicant realizes what is obviously supported in its own attachments, that the majority of its current, and thus projected future, residents originate in HSA 7E, Cook County, an area that is currently "over bedded" and has no bed need.

Additionally, it is disingenuous for applicant to use the fact that its largest referring hospital is located in Will County to paint each of those referred residents as residing in HSA 9. This hospital, Silver Cross, serves residents of both Will County (HSA 9) and Cook County (HSA 7E). An admission to a hospital in Will County does not convert all of its patients into Will County residents, nor is it appropriate for the hospital address/county to be counted as these patient's county of origin.

Further, Smith Crossing's Medical Director, Ming-Yeng Tang, MD (See Page 187 of application) maintains an office in Cook County and additionally provides care to patients at two additional hospitals, all located in Cook County. It is highly likely, and in fact probable that the majority of Dr. Tang's referrals will continue to have originated in Cook County.

Each of the above points clearly demonstrate that the majority of Smith Crossing residents have come from, and will continue to come from the Cook County HSA, 7E. Here, the criteria cannot be more clear; 50% of the residents must be from the planning area, Will County. Smith Crossing just cannot meet that threshold.

***Applicant did not provide the requested data for Section 1125.540(a).*** Here, applicant is required to submit 2 years worth of data. However, the data submitted only covers an 18 month period. As such, application is deficient.

***Applicant did not provide sufficient data to show a bed need in relation to either Historical referrals or Projected referrals.***

As addressed above, and in this section, Applicant cannot show a bed need based on historical or projected referral data. In Section (c), the applicant submitted information that showed that Silver Cross Hospital and Palos Community Hospital referred a combined total of 4377 discharges to SNF's. Smith crossing is claiming that over 40% of these would have come to Smith Crossing if they had the availability. However, Smith Crossing only admitted 9% of Silver Cross discharges and was one of 15 facilities listed that admitted between 1% and 20% of discharges and under 3% of Palos discharges while 19 listed facilities admitted between half a percent up to 23.5% of Palos discharges. It is unsupported, and unsupportable, to assume that Smith Crossing would admit, or be the facility of choice, for over 30% of all discharges from both hospitals if Smith Crossing had more beds. The reality of today's referral programs is that

hospitals electronically send the referral to many SNF's at once regardless of patient preference, in order to find out which SNF will accept the patient or can meet that resident's needs. All referrals from the hospitals shown obtained appropriate placement and none were turned away from care due any alleged lack of beds at Smith Crossing.

***The Applicant did not meet Criteria 1125.570 - Service Accessibility as it did not prove that adding beds for the proposed category of service would be necessary to improve access for planning area residents.***

Here, the applicant did not prove any of the listed proofs for service accessibility issues, relying only on the assertion that there is a bed need in HSA 9 and the unsupported claim that "it is reasonable that 50% of the admissions come from the planning area." Accordingly, this section needs to be addressed. Since it was not, the applicant is not compliant with the criteria. Further, as addressed fully above, the extreme proximity of this proposed project to HSA 7E must be heavily considered, as it is clear there is no bed need or service access issues in the proposed service area.

***Not only is applicant unable to prove that approval of its proposal won't cause unnecessary duplication/maldistribution of beds and services as required by Section 1125.580a)-c), but its application fully supports that approval of this project will causes each of these issues.***

The Village President/Mayor of Orland Park sent a letter of recommendation (page 190 of application) dated August 8, 2017, in which he explained that the community of Orland Park is the one of the fastest growing in Illinois and is projected to grow at 17.5% by 2020. This population growth is **already accounted** for in the State Bed Need Calculation of HSA 7E, in Cook County, that is over-bedded by 1152 beds. Allowing more beds to be added, specifically to service these residents would cause maldistribution of service, which the CON process is setup to avoid per 1125.580. Additionally, given that Orland Park's residents living in Cook, not Will, County, any such growth would only be in relation to HSA 7E and would have no effect on Will County's bed need.

Any referrals Smith Crossing is projecting will necessarily affect the other SNF's in the area. In regards to (b)(2), it is clear from the data submitted by the applicant and State data that the facilities in this area of HSA 9 and the facilities in this area of HSA 7E that are included in the 30 minute drive time, are not at the required utilization of 90% occupancy. Therefore, the Criterion is not met.

In regards to (c)(1) and (2), Smith Crossing is claiming it will get more discharges that are already going to facilities below the occupancy standard set by the State. This will in fact lower the utilization below occupancy standards or to a further extent lower other area facilities utilization below occupancy standards. This can and will cause displacement of residents from other facilities, if and when the effect of diverted occupancy causes facilities to re-examine their business models.

A recent Certificate of Need granted to Alden of New Lenox further frustrates Smith Crossing's argument that there is a bed need in the area. These new beds are situated directly across from the Silver Cross Hospital that Smith Crossing is counting on for its increased admissions. This criterion is not met as the CON granted to Alden and the presence of empty beds in the area clearly shows that these beds will be duplicative of what is already in the area and a maldistribution of finite resources.

***Applicant fails to meet the standards for approval because it does not offer an unqualified assurance that it will achieve and maintain the occupancy standards specified Section 1125.210(c) for each category of service involved in the proposal.***

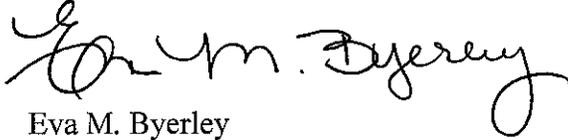
On page 199 of the application, applicant attests that it "understands that it is expected to achieve and maintain the occupancy..." and then qualifies and limits its attestation basically stating that various factors outside of their control or "other unexpected issues outside of our control," may keep them from meeting this requirement. However, such qualification does not meet the criteria outlined by the board.

***Ultimately, this application should fail because there is clearly no bed need in the geographical area in which the project is located.*** While, strictly speaking, the project is located in an HSA with a bed need, the project is located on a boundary line. The practical effect of that truth, is that this project is intended to serve the Cook County population, while taking advantage of the Will County Bed need. This does nothing to serve the needs of Cook County residents, as it will only further dilute the resources available to Cook County facilities and their residents. Further, this project does nothing to serve the needs of Will County residents, as they are not the primary "target audience" for this addition – as all evidence points to the fact that the residents of Smith Crossing primarily originate from Cook County. Will County beds should be placed in the parts of Will County where its residents need the access to care. Will County residents do not have the access to care they deserve, and this misallocation of beds will only further exacerbate this problem. Approving this project is not consistent with the mission of this board and will fail the residents of the State of Illinois.

Further, approving this project only harms the most vulnerable in the service area. Smith Crossing services primarily a private pay population. This Board is entrusted with the duty of looking out for all of the residents of the State of Illinois, including those who cannot afford this level of care. The Indigent deserve access to care, as is outlined in the very Purposes of this Board's enabling legislation. It is clear from reviewing this application, and from reviewing the facility's finances, that the facility's intent is to add private rooms for short-term Medicare patients, who pay the highest rates. Smith Crossing does not intend to provide care for the Public Aid patients in need from either HSA 9 or HSA 7E. Further, diverting Medicare residents from facilities who strive to provide access to all patients, regardless of payor source, clearly affects the care of all involved.

I now respectfully request that this letter be added to the opposition to this project. Further, I would request that this letter be included with the materials presented to the Board Members and their Staff for review prior to the Board Meeting. I remain confident that, upon review of the application and opposition, this project will be denied.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Eva M. Byerley". The signature is fluid and cursive, with a large, looping initial "E".

Eva M. Byerley  
Legal Counsel  
Generations Health Care Network