



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-01	BOARD MEETING: August 6, 2019	PROJECT NO: 18-049	PROJECT COST:
FACILITY NAME: Surgery Center of Illinois		CITY: Oak Lawn	Original: \$7,465,464
TYPE OF PROJECT: Substantive			HSA: VII

PROJECT DESCRIPTION: The Applicant (Surgery Center of Illinois, LLC) proposes to establish a limited specialty ASTC providing orthopedic and pain management services in 11,916 GSF of space at a cost of \$7,465,464. The anticipated completion date is March 31, 2020.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicant (Surgery Center of Illinois, LLC) proposes to establish a limited specialty ASTC providing orthopedic and pain management services in 11,916 GSF of space at a cost of \$7,465,464. The anticipated completion date is March 31, 2020.
- The proposed ASTC will be in a medical clinic building initially with the ASTC designed for four operating rooms and not the two being proposed by this project. As a result, the two-rooms exceed the State Board size standards as documented below.
- Staff Note: There is 2,332 of shell space included in this project. Should the Board approve this project and the Applicant decides to finish the shell space an additional Application for Permit would need to be submitted. [See page 12 of this report]

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The proposed project is before the State Board because it proposes to establish a health care facility as required by 20 ILCS 3920/3.
- Board decisions regarding the construction and modification of health care facilities must consider capacity, quality, value, and equity. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.

PURPOSE OF THE PROJECT:

- **According to the Applicants:** *“The primary purpose of the project is to enable the applicant to meet the current and future needs of its patients and the community for high quality, cost efficient and accessible outpatient orthopedic and pain management surgical care. The establishment of the facility will enable the Applicant to meet this objective by addressing existing issues identified by the Applicants.”*

PUBLIC HEARING/COMMENT:

- A public hearing was offered, no hearing was requested.
- Letters of Support were received from Alex Olejniczk and Paul Mallo, Village of Oak Lawn Trustees that stated *“This facility will provide new healthcare options for our residents who are currently traveling outside of the area to obtain those services. This project also represents an economic investment in our community and partnership with the Village to ensure that our residents have access to state-of-the-art healthcare services.”*
- Letter of Support was received from Larry Deetjen, Village of Oak Lawn Manager that stated, *“The residents of our community will undoubtedly benefit from the addition of this ASTC and it is an important step in helping to provide patients and families with convenient specialized care near their home.”*
- A letter of opposition was received from Palos Health Surgery Center the states in part *“PHSC opposes the establishment of a CON approved licensed facility at 6700 W. 95th Street Oak Lawn, IL 60453 (Surgery Center of Illinois, Oak Lawn). The application suggests a purported need for this ASTC be able to provide within the GSA described, when in effect a center already exists which can provide, or will provide within the next 5 months, all of the orthopaedic care requested, including any proposed case volume from Advanced Orthopaedic and Spine Care. Furthermore, the statistics provided regarding the percentage of their patients which reside within the GSA and what percentage of procedures are currently performed within the GSA appear inaccurate. To establish a Center of Excellence in Total Joint and Spine Surgery not only are we to believe that every current total joint and spine case performed could be shifted to an outpatient center, but there appears to be no statistics showing what percentage of their total cases are even total joint*

or spine surgeries. This proposal also requires a shift of 767 patients from hospital systems to their ASTC. Finally utilizing their statistical methodology and the fact that there is no support to establish that every patient for which that applicant performs surgery could be shifted to an outpatient ASTC for the reasons cited above the project itself is not financially viable.

- **Staff Note:** In March of 2017 Palos Health Surgery Center (#16-059) was approved to establish a multi-specialty ASTC in Orland Park, Illinois at a cost of approximately \$13.2 million with four operating rooms to perform gastro, general, OB/GYN, ophthalmology, oral/maxillofacial, orthopedic, plastic, pain management, podiatry, otolaryngology, and urology surgical services. The expected completion date is June 30, 2019.

SUMMARY:

- The Applicant argues this project will provide a viable option to provide surgical patients with a modern, local ASTC option. Currently there are eight licensed ASTC's and ten hospitals within the GSA. Two (2) of the ASTCs did not perform orthopedic surgery in 2017. Per the Applicant regarding the remaining six (6) clinics, none currently possesses the space or equipment necessary to perform the complex spinal and total joint surgeries to be provided by the Applicant eight of the ten hospitals are not a target utilization. From the information that has been provided the Applicant is financially viable and the project is economically feasible.

A letter from First Midwest Bank was provided stating that *“Surgery Center of Illinois, LLC and Dr. Daniel Troy have been a good and valuable customer of First Midwest Bank for several years. Should the Illinois Health Facilities and Services Review Board approve the proposed project and based upon the positive business experiences from working with Surgery Center of Illinois, LLC and Dr. Daniel Troy, First Midwest Bank is prepared to extend Surgery Center of Illinois, LLC up to \$4,500,000 in credit exposure to finance the ASTC project.” (Application for Permit page 140)*

Criteria	Reasons for Non-Compliance
77 ILAC 1110.120 (a) – Size of the Project	<p>The proposed Surgery Center will be in a building housing Advanced Orthopedic and Spine Care in an orthopedic clinic. As part of the initial construction of this medical clinic building space was designed for four operating rooms and 16 recovery stations. The Applicant designed the facility to support future expansion without significant modifications. This resulted in an expanded floor design, including hallways and larger support areas designed to support four (4) ORs but also servicing the initial ASTC with two operating rooms.</p> <ul style="list-style-type: none"> • Inclusion of a 261 sq. ft. rehabilitation room to enable appropriate space for early postsurgical ambulation. • Three (3) expanded 165 sq. ft. recovery rooms, with three (3) 61 sq. ft. private toilets, for patients with lengthy post-surgical stays up to, but not exceeding 24 hours. • Large Operating Rooms ("ORs") more than 700 sq. ft. each to provide room for equipment and staff on more medically complex procedures. <p>The Applicant could not change the current space allocation without sacrificing the key components of this project that make it necessary and viable. Per State requirement where a project exceeds the State standard on square footage, the Applicant has included a signed and notarized statement from the Medical Director attesting to the necessity of the expanded recovery and rehabilitation spaces. [See page 11 of this report]</p>
77 ILAC 1110.235 (c) (6) – Service Accessibility	<p><i>To successfully address this criterion an applicant must document <u>that at least one of the following conditions exists in the GSA:</u></i></p> <p><i>A) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project;</i></p> <p><i>B) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100;</i></p> <p><i>C) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies;</i></p> <p><i>D) The proposed project is a cooperative venture sponsored by 2 or more persons, at least one of which operates an existing hospital.</i></p> <p>The Applicant was not able to meet <u>one of the four</u> criteria. [See page 14-15 of this report]</p>

Criteria	Reasons for Non-Compliance
<p>77 ILAC 1110.235 (c) (7) – Unnecessary Duplication/Maldistribution/Impact on Other Facilities</p>	<p>There are eight ASTCs in the 10-mile GSA that are providing orthopedic and pain management. Two of these ASTC provide pain management and not orthopedic services. The remaining six ASTC that provide both services proposed by this project only one is at target utilization. There are ten hospitals in this 10-mile GSA. Two are at target utilization. [See page 15-16 of this report]</p>

STATE BOARD STAFF REPORT
Project #18-049
Surgery Center of Illinois, LLC

APPLICATION/ CHRONOLOGY/SUMMARY	
Applicants(s)	Surgery Center of Illinois, LLC
Facility Name	Surgery Center of Illinois
Location	6701 W. 95th Street Oak Lawn IL 60432
Permit Holder	Surgery Center of Illinois, LLC
Operating Entity/Licensee	Surgery Center of Illinois, LLC
Owner of Site	Oak Lawn 95 th Properties LLC
Proposed Gross Square Feet	11,916 GSF
Application Received	December 19, 2018
Application Deemed Complete	December 19, 2018
Financial Commitment Date	March 31, 2020
Anticipated Completion Date	March 31, 2020
Review Period Ends	April 17, 2019
Review Period Extended by the State Board Staff?	No
Can the Applicants request a deferral?	Yes

I. Project Description

The Applicant (Surgery Center of Illinois, LLC) proposes to establish a limited specialty ASTC providing orthopedic and pain management services in 11,916 GSF of space at a cost of \$7,465,464. The anticipated completion date is March 31, 2020.

II. Summary of Findings

- A. State Board Staff finds the proposed project is not in conformance with all relevant provisions of Part 1110.
- B. State Board Staff finds the proposed project is in conformance with all relevant provisions of Part 1120.

III. General Information

The Applicant is Surgery Center of Illinois, LLC. Dr. Daniel Troy is the only member of the Surgery of Illinois, LLC owning 100% of the membership in the limited liability company. This is a substantive project requiring a Part 1110 and Part 1120 review. Financial commitment will occur after permit issuance.

The *Centers for Medicare and Medicaid* defines an *Ambulatory surgical center* as any distinct entity that operates exclusively for providing surgical services to patients not requiring hospitalization and in which the expected duration of services would not exceed 24 hours following an admission.

IV. Health Service Area

The ASTC will be in the HSA VII Health Service Area. This service area consists of Suburban Cook and DuPage County. There are 145 ASTCs and 38 Hospitals in this service area.

V. Project Costs and Sources of Funds

The Applicant is funding this project with cash in the amount of \$500,000, leases with a fair market value of \$2,740,680 and Debt Financing of \$4,224,784. Estimated start-up costs are \$1,506,046.

**TABLE ONE
Project Costs and Sources of Funds**

Uses of Funds	Reviewable	Non-Reviewable	Total	% of Total
Modernization Contracts ⁽¹⁾	\$1,992,174	\$1,093,184	\$3,085,358	41.33%
Contingencies	\$199,217	\$109,318	\$308,536	4.13%
Architectural/Engineering Fees	\$119,530	\$65,591	\$185,121	2.48%
Consulting and Other Fees	\$25,827	\$14,173	\$40,000	0.54%
Movable or Other Equipment (not in construction)	\$979,450	\$126,319	\$1,105,769	14.81%
Fair Market Value of Leased Space or Equipment	\$1,769,620	\$971,060	\$2,740,680	36.71%
Total Uses of Funds	\$5,085,819	\$2,379,645	\$7,465,464	100.00%
Source of Funds	Reviewable	Non-Reviewable	Total	% of Total
Cash and Securities	\$500,000	\$0	\$500,000	6.70%
Leases (fair market value)	\$1,769,620	\$971,060	\$2,740,680	36.71%
Debt Financing	\$2,816,199	\$1,408,585	\$4,224,784	56.59%
Total Sources of Funds	\$5,085,819	\$2,379,645	\$7,465,464	100.00%

1. "Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement and/or expansion, the erection of new buildings, or the acquisition, alteration or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

V. Background of the Applicants, Purpose of the Project, Safety Net Impact, Alternatives

A) Criterion 1110.110(a) - Background of the Applicant

To address this criterion the applicants must provide a list of all facilities currently owned in the State of Illinois and an attestation documenting that no adverse actions¹ have been taken against any applicant's facility by either Medicare or Medicaid, or any State or Federal regulatory authority during the 3 years prior to the filing of the Application with the Illinois Health Facilities and Services Review Board or a certified listing of adverse action taken against any applicant's facility; and authorization to the State Board and Agency access to information in order to verify any documentation or information submitted in response to the requirements of the application for permit.

1. The Applicant has furnished authorization allowing the State Board and IDPH access to all information to verify information in the application for permit. The Applicant attests that no adverse actions have been taken against any facility owned and/or operated by them during the three (3) years prior to the filing of this application. [Application for Permit page 47]
2. Evidence of ownership of the site has been provided as required at pages 28-34 through a copy of the lease.
3. A Certificate of Good Standing has been provided for the Applicant as required. An Illinois Certificate of Good Standing is evidence that an Illinois business franchise (i.e. Illinois Corporation, LLC or LP) is in existence, is authorized to transact business in the state of Illinois and complies with all state of Illinois business requirements and therefore is in "Good Standing" in the State of Illinois [Application for Permit page 26]
4. The Applicant provided evidence that they were in compliance with Executive Order #2006-05 that requires *all State Agencies responsible for regulating or permitting development within Special Flood Hazard Areas shall take all steps within their authority to ensure that such development meets the requirements of this Order. State Agencies engaged in planning programs or programs for the promotion of development shall inform participants in their programs of the existence and location of Special Flood Hazard Areas and of any State or local floodplain requirements in effect in such areas. Such State Agencies shall ensure that proposed development within Special Flood Hazard Areas would meet the requirements of this Order.* [Application for Permit pages 36-37]
5. The Applicant provided the required letter from the Department of Natural Resources at pages 39-40. The Illinois State Agency Historic Resources Preservation Act requires *all State Agencies in consultation with the Director of Historic Preservation, institute procedures to ensure that State projects consider the preservation and enhancement of both State owned and non-State-owned historic resources* (20 ILCS 3420/1).

¹ "Adverse action is defined as a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations." (77 IAC 1130.140)

B) Criterion 1110.110(b) – Purpose of the Project

To demonstrate compliance with this criterion the Applicants must document that the project will provide health services that improve the health care or well-being of the market area population to be served. The Applicants shall define the planning area or market area, or other area, per the applicant's definition. The Applicants shall address the purpose of the project, i.e., identify the issues or problems that the project is proposing to address or solve. Information to be provided shall include, but is not limited to, identification of existing problems or issues that need to be addressed, as applicable and appropriate for the project.

“The primary purpose of the project is to enable the applicant to meet the current and future needs of its patients and the community for high quality, cost efficient and accessible outpatient orthopedic and pain management surgical care. The establishment of the facility will enable the Applicant to meet this objective by addressing existing issues identified by the Applicants. The problem this project intends to remedy is that the Geographical Service Area does not have a viable option for Advanced Orthopedics to provide their surgical patients with a modern, local ASTC option. Currently there are eight (8) licensed ASTC's within the GSA. Two (2) of the ASTCs did not perform orthopedic surgery in 2017. With regard to the remaining six (6) clinics, none currently possesses the space or equipment necessary to perform the complex spinal and total joint surgeries to be provided by the applicant. The applicant notes that Palos Hills Surgery Center is currently undergoing an expansion and modernization to enable its facility to provide some of these complex services. However, their facility is already operating at State standards on volume and the applicant has provided the HFSRB with evidence and committed that their facility will be at capacity with their own internal practice volumes. Palos Hills Surgery Center is also designed as a Center of Excellence for the Hand and Upper Extremities, while the applicant is seeking to design and operate a Center of Excellence for Complex Spine and Total Joint Replacements.”

A detailed discussion of the purpose of the project and the need for an additional ASTC in the 10-mile GSA is provided at pages 48-57 or the Application for Permit.

**TABLE TWO
10-Mile GSA**

Zip Code	City	Population		Zip Code	City	Population
60415	Chicago Ridge	14,039		60452	Oak Forest	27,899
60636	Chicago	51,451		60469	Posen	4,703
60632	Chicago	87,577		60546	Riverside	15,700
60462	Orland Park	38,431		60804	Cicero	86,133
60455	Bridgeview	16,138		60558	Western Springs	12,539
60453	Oak Lawn	54,499		60621	Chicago	47,514
60402	Berwyn	60,373		60526	LaGrange	13,301
60513	Brookfield	19,146		60521	Hinsdale	37,496
60459	Burbank	27,978		60628	Chicago	87,827
60457	Hickory Hills	14,110		60609	Chicago	79,469

**TABLE TWO
10-Mile GSA**

Zip Code	City	Population		Zip Code	City	Population
60482	Worth	11,262		60514	Clarendon Hills	17,313
60465	Palos Hills	17,198		60525	La Grange	32,475
60456	Hometown	4,452		60629	Chicago	113,984
60458	Justice	14,226		60445	Midlothian	25,979
60803	Aisin	22,757		60827	Riverdale	33,209
60655	Chicago	29,138		60619	Chicago	74,963
60652	Chicago	39,126		60467	Orland Park	20,904
60463	Palos Heights	13,286		60623	Chicago	108,144
60805	Evergreen Park	20,821		60141	Hines	247
60501	Summit	11,175		60155	Broadview	8,254
60638	Chicago	55,788		60426	Harvey	47,649
60480	Willow	4,758		60534	Lyons	10,212
60464	Palos Park	9,520		60472	Robbins	6,672
60643	Chicago	52,568		60561	Darien	23,570
60620	Chicago	85,771		60130	Forest Park	15,688
60439	Lemont	20,004		60477	Tinley Park	56,840
60406	Blue Island	25,370		Total		1,829,646

C) Criterion 1110.110 (c) Safety Net Impact

All health care facilities, with the exception of skilled and intermediate long-term care facilities licensed under the Nursing Home Care Act, shall provide a safety net impact statement, which shall be filed with an application for a substantive project (see Section 1110.40). Safety net services are the services provided by health care providers or organizations that deliver health care services to persons with barriers to mainstream health care due to lack of insurance, inability to pay, special needs, ethnic or cultural characteristics, or geographic isolation. [20 ILCS 3960/5.4]

The Applicant provided the following:

“1. Material impact on safety net services in the community: *Surgery Center of Illinois, LLC (“SCI”) will not have a material impact on safety net services in the Chicago metropolitan area. The primary purpose of SCI is to deliver greater access for patients in the southwest-suburban area of Chicago. Thus, SCI will only improve access to safety net services.*

2. Material impact on the ability of another provider or health care system to cross subsidize safety net services: *SCI will not negatively impact the ability of other providers to cross-subsidize safety-net services. The limited scope of SCI reduces its potential impact on other providers. The overwhelming majority of referrals to SCI will be for cases previously performed at other Illinois ASTCs that do not provide safety-net services or in hospitals which have grown overcrowded and resulted in increased wait times and patient inconvenience. Accordingly, the Applicant does not believe SCI will impact the ability of providers to cross-subsidize safety net services.*

3. How the discontinuation of a facility might impact the remaining providers: *The project*

will not involve a discontinuation of a facility. Thus, this criterion does not apply.

4. The proposed project involves the establishment of a new ASTC, and no information regarding the amount of charity care or Medicaid provided in the three years prior to this application is available. Thus, this criterion is not applicable.”

TABLE THREE
Surgery Center of Illinois
Projected Charity Care

Year	2020	2021	2022
Net Patient Revenue	\$2,479,222	\$2,603,183	\$2,733,342
Amount of Charity Care (charges)	\$44,634	\$78,095	\$82,000
Cost of Charity Care	\$44,634	\$78,095	\$82,000
Ratio of Charity Care Cost to Net Patient Rev.	2%	3%	3%

TABLE FOUR
Surgery Center of Illinois
Projected Payor Mix

Payor Source	2020	2021	2022
Medicare	386	463	556
Medicaid	64	77	92
Workers Compensation	129	155	186
Veteran (TriCare)	39	47	56
Commercial	643	772	926
Charity	25	31	37
Total Patients	1,286	1,545	1,853

D) Criterion 1110.110 (d) - Alternatives to the Proposed Project

To demonstrate compliance with this criterion the Applicants must document that the proposed project is the most effective or least costly alternative for meeting the health care needs of the population to be served by the project.

The Applicant considered two alternatives to the proposed project.

1. Maintain Status Quo.

According to the Applicant *“this alternative was dismissed because it would not address the main purposes of the project, to increase capacity in line with demand and equip the facility with the necessary and preferred equipment to provide complex spine and joint replacement surgeries. The inability to provide the quality of care for patients requiring specialized services deprives patients and the community of access to the high quality, lower cost, convenient, and specialized care needed.”*

2. Project of Greater or Lesser Scope and Cost.

The Applicant is currently seeking approval to establish a limited specialty ASTC, with two operating rooms and eight accompanying recovery rooms. The Applicant investigated and

considered the alternative option of only adding one operating room, but it was ultimately dismissed. The current plan for two operating room and eight recovery rooms is necessary to address the service demand for the facility, to plan for expected demand and is more cost efficient.

VI. Project Scope and Size, Utilization and Unfinished/Shell Space

A) Criterion 1110.120 (a) - Size of Project

To demonstrate compliance with this criterion the Applicants must document that that the physical space proposed for the project is necessary and appropriate. The proposed square footage cannot deviate from the square footage range indicated in Appendix B or exceed the square footage standard in Appendix B if the standard is a single number, unless square footage can be justified by documenting, as described in subsection (a)(2).

The Applicant is proposing two operating rooms and eight recovery stations in 7,694 GSF of reviewable space. The State Board Standard for operating rooms is 2,750 GSF per room or 5,500 GSF of space. The proposed Surgery Center will be in a building housing Advanced Orthopedic and Spine Care in an orthopedic clinic. As part of the initial construction of this medical clinic building space was designed for four operating rooms and 16 recovery stations. The Applicant designed the facility to support future expansion without significant modifications. This resulted in an expanded floor design, including hallways and larger support areas designed to support four (4) ORs but also servicing the initial ASTC with two operating rooms.

- Inclusion of a 261 sq. ft. rehabilitation room to enable appropriate space for early postsurgical ambulation.
- Three (3) expanded 165 sq. ft. recovery rooms, with three (3) 61 sq. ft. private toilets, for patients with lengthy post-surgical stays up to, but not exceeding 24 hours.
- Large Operating Rooms ("ORs") more than 700 sq. ft. each to provide room for equipment and staff on more medically complex procedure

The Applicant could not change the current space allocation without sacrificing the key components of this project that make it necessary and viable. Per State requirement where a project exceeds the State standard on square footage, the Applicant has included a signed and notarized statement from the Medical Director attesting to the necessity of the expanded recovery and rehabilitation spaces [Application for Permit page 110].

The proposed gross square feet for the 2-room ASTC is more than the State Board Standard. [7,694 GSF– 5,500 GSF = 2,194 GSF]

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH CRITERION SIZE OF PROJECT (77 ILAC 1110.120 (a))

B) Criterion 1110.120(b) - Project Services Utilization

To demonstrate compliance with this criterion the Applicants must document that, by the end of the second year of operation, the annual utilization of the clinical service areas or equipment shall meet or exceed the utilization standards specified in Appendix B. The number of years projected shall not exceed the number of historical years documented. All Diagnostic and Treatment utilization numbers are the minimums per unit for establishing more than one unit, except where noted in 77 Ill. Adm. Code 1100. [Part 1110 Appendix B]

As documented at Table Five below the Applicant is projecting 3,412.9 hours by the second year after project completion. Should these physician referrals and the subsequent number of hours materialize the Applicant will be at the target utilization of 1,500 hours per room by 2022 the second year after project completion [3,412.9 hours ÷ 1,500 hours = 2 rooms].

Physician	Historical Cases	Projected Cases	Average Case Time	Total Hours ⁽²⁾
Daniel Troy	551	551	2.91	1895.2
Jonathan Watson	190	190	2.71	514.9
Paul Danielsky	156	156	3.39	528.8
Paul Defrino ⁽³⁾	336	150	1.58	237.0
Kevin Luke ⁽³⁾	342	150	1.58	237.0
Total	1,575	1197		3,412.9
Office based Procedures ⁽¹⁾	389	389	0.75	291.75

1. Only cases performed in an IDPH licensed facility are accepted as referrals. Office based cases are not accepted.
2. All Diagnostic and Treatment utilization numbers are the minimums per unit for establishing more than one unit, except where noted in 77 Ill. Adm. Code 1100. HFSRB shall periodically evaluate the guidelines to determine if revisions should be made. Any revisions will be promulgated in accordance with the provisions of the Illinois Administrative Procedure Act. (Part 1110 Appendix B)
3. Average case time for Dr. Defrino and Dr. Luke was not provided. 2017 State of Illinois Average Case Time was used.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION PROJECTED UTILIZATION (77 ILAC 1110.120 (b))

C) Criterion 1110.120 (d) – Unfinished Space

If the project includes unfinished space (i.e., shell space) that is to meet an anticipated future demand for service, the applicant shall document that the amount of shell space proposed for each department or clinical service area is justified, and that the space will be consistent with the standards of Appendix B as stated in subsections (a) and (b).

The shell space totals 2,332 Gross Square Feet of space. The shell space is anticipated to be used as two additional Operating Rooms and eight (8) additional recovery rooms. The Applicant is proposing to include shell space in the ASTC to accommodate future patient need. Should this project (#18-049) be approved the Applicant would have to submit another Application for Permit to build-out the shell space.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION UNFINISHED SPACE (77 ILAC 1110.120 (d))

D) Criterion 1110.120 (e) – Assurances

To document compliance with this criterion the Applicants representative who signs the CON application shall submit a signed and dated statement attesting to the applicant's understanding that, by the end of the second year of operation after project completion, the Applicants will meet or exceed the utilization standards specified in Appendix B.

The Applicant provided the necessary assurance as required at page 107 of the Application for Permit.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT TO BE IN CONFORMANCE WITH CRITERION ASSURANCES (77 ILAC 1110.120 (e))

VII. Non-Hospital Based Ambulatory Surgical Treatment Center Services

A) Criterion 1110.235 (c)(2) - Geographic Service Area Need

The applicant shall document that the ASTC services and the number of surgical/treatment rooms to be established, added or expanded are necessary to serve the planning area's population, based on the following:

A) 77 Ill. Adm. Code 1100 (Formula Calculation)

As stated in 77 Ill. Adm. Code 1100, no formula need determination for the number of ASTCs and the number of surgical/treatment rooms in a geographic service area has been established. Need shall be established pursuant to the applicable review criteria of this Part.

This criterion is not applicable.

B) Service to Geographic Service Area Residents

The applicant shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA) in which the proposed project will be physically located.

i) The applicant shall provide a list of zip code areas (in total or in part) that comprise the GSA. The GSA is the area consisting of all zip code areas that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project's site.

ii) The applicant shall provide patient origin information by zip code for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. Patient origin information shall be based upon the patient's legal residence (other than a health care facility) for the last 6 months immediately prior to admission.

The geographic service area (GSA) for a facility located in Oak Lawn is a 10-mile radius (77 ILAC 1100.510 (d)). Table Two identifies the zip codes in the 10-mile GSA. Approximately 70% of the historical cases (i.e. patients) resided in this 10-mile GSA. The Applicant has met this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION GEOEGRAPHICAL SERVICE AREA (77 1110.235 (c)(2))

B) Criterion 1110.235 (c) (3) - Service Demand – Establishment of an ASTC Facility or Additional ASTC Service

The applicant shall document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant, over the latest 2-year period, as evidenced by historical and projected referrals.

The physicians associated with this project are projecting 1,197 surgeries for a total of 3,412.9 hours of surgery. The Applicant anticipates referring 389 patients for injections, previously performed in an office setting, to provide a higher quality of care at a quality controlled ASTC location, adding an additional 291.75 hours. The injections are separately reimbursable on the Medicare ASC Fee Schedule. There is enough demand (i.e. hours) to justify the 2-operating rooms. As mentioned above only referrals from IDPH licensed health care facilities are acceptable. However, without the office-setting hours the Applicant has enough hours to justify the demand for the two rooms. The Applicant has met the requirements of this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION SERVICE DEMAND (77 1110.235 (c)(3))

C) Criterion 1110.235 (c) (5) - Treatment Room Need Assessment

A) The applicant shall document that the proposed number of surgical/treatment rooms for each ASTC service is necessary to service the projected patient volume. The number of rooms shall be justified based upon an annual minimum utilization of 1,500 hours of use per room, as established in 77 Ill. Adm. Code 1100.

B) For each ASTC service, the applicant shall provide the number of patient treatments/sessions, the average time (including setup and cleanup time) per patient treatment/session, and the methodology used to establish the average time per patient treatment/session (e.g., experienced historical caseload data, industry norms or special studies).

The Applicant is projecting 3,412.9 hours by the second year after project completion. Should those hours materialize the Applicant can justify the two operating rooms.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION TREATMENT ROOM NEED ASSESSMENT (77 1110.235 (c)(5))

D) Criterion 1110.235 (c) (6) - Service Accessibility

The proposed ASTC services being established or added are necessary to improve access for residents of the GSA. The applicant shall document that at least one of the following conditions exists in the GSA:

A) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project;

B) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100;

C) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies;

D) The proposed project is a cooperative venture sponsored by 2 or more persons, at least one of which operates an existing hospital. Documentation shall provide evidence that:

i) The existing hospital is currently providing outpatient services to the population of the subject GSA;

ii) The existing hospital has sufficient historical workload to justify the number of surgical/treatment rooms at the existing hospital and at the proposed ASTC, based upon the treatment room utilization standard specified in 77 Ill. Adm. Code 1100;

iii) The existing hospital agrees not to increase its surgical/treatment room capacity until the proposed project's surgical/treatment rooms are operating at or above the utilization rate specified in 77 Ill. Adm. Code 1100 for a period of at least 12 consecutive months; and

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

A) There are eight ASTCs and ten hospitals in the 10-mile GSA.

B) Not all the hospital and ASTCs providing orthopedic and pain management are at target utilization.

C) The services being proposed by this project are available in the 10-mile GSA.

D) The proposed project is not a joint venture

None of the conditions of this criterion exist in this 10 mile-GSA. The Applicant has not met this criterion.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH SERVICE ACCESSIBILITY (77 1110.235 (c)(6))

E) Criterion 1110.235 (c) (7) - Unnecessary Duplication/Maldistribution

A) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information for the proposed GSA zip code areas identified in subsection (c)(2)(B)(i):

i) the total population of the GSA (based upon the most recent population numbers available for the State of Illinois); and

ii) the names and locations of all existing or approved health care facilities located within the GSA that provide the ASTC services that are proposed by the project.

B) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the GSA has an excess supply of facilities and ASTC services characterized by such factors as, but not limited to:

i) a ratio of surgical/treatment rooms to population that exceeds one and one-half times the State average;

ii) historical utilization (for the latest 12-month period prior to submission of the application) for existing surgical/treatment rooms for the ASTC services proposed by the project that are below the utilization standard specified in 77 Ill. Adm. Code 1100; or

iii) insufficient population to provide the volume or caseload necessary to utilize the surgical/treatment rooms proposed by the project at or above utilization standards specified in 77 Ill. Adm. Code 1100.

C) The applicant shall document that, within 24 months after project completion, the proposed project:

i) will not lower the utilization of other area providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and

ii) will not lower, to a further extent, the utilization of other GSA facilities that are currently (during the latest 12-month period) operating below the utilization standards.

The population within the 10-mile GSA is 1,829,646. The number of operating/procedure rooms is 213 rooms. The ratio of operating/procedure rooms per thousand population in this 10-mile GSA is .1163 per thousand. The ratio of operating/procedure rooms per 1,000 population in the State of Illinois is .214 [2,778 operating/procedure rooms ÷ (12,978,800/1,000 or 12,978.8)]. To have a surplus of operating/procedure rooms within the 10-mile GSA the ratio of rooms to population within the GSA must be 1.5 times the State of Illinois ratio Based upon this ratio there is not a surplus of operating/procedure rooms within this GSA.

There are eight ASTCs providing orthopedic and pain management or both (See Table Six below). Two of the eight ASTCs are at target utilization. There are ten hospitals within the 10-mile GSA. Two of the ten hospitals are at target utilization.

The Applicant stated “*Although there are underperforming hospitals and ASTC's identified in the area, the proposed ASTC will not impact the overall performance of these facilities. First, the applicant currently provides his complex surgeries out of the hospital setting, to provide the patient with a more appropriate venue of care, since none of the ASTCs currently allow for extended stay recovery's, which the applicant proposes to offer. Secondly, the applicant does not currently utilize any of the ASTCs within the GSA. Accordingly, the utilization levels of the ASTCs within the GSA will not be affected.*” (See Application for Permit page 119)

There is existing capacity in the 10-mile GSA and there is a surplus of operating/procedure rooms in this GSA. The Applicant has not met this criterion.

TABLE SIX
Facilities within the 10-GSA ⁽¹⁾

Hospital	City	Operating Rooms	Procedure Rooms	Total Rooms	Total Hours	Number of Rooms Justified	Met Standard of 1,500
Advocate Christ Medical	Oak Lawn	40	10	50	84,353	57	Yes
Palos Community Hospital	Palos Heights	14	4	18	28,659	20	Yes
Little Company of Mary	Evergreen Park	9	7	16	3,930	3	No
Holy Cross Hospital	Chicago	6	4	10	4,153	3	No
MetroSouth Medical Center	Blue Island	10	4	14	12,244	9	No
Adventist La Grange Memorial	LaGrange	11	4	15	14,548	10	No
MacNeil Hospital Ave.	Berwyn	12	6	18	17,512	12	No
Roseland Community Hospital	Chicago	6	2	8	506	1	No
St. Bernard Hospital	Chicago	9	0	9	2,669	2	No
Adventist Hinsdale Hospital	Hinsdale	12	5	17	22,630	16	No
Total				175			
ASTC	City	Operating Rooms	Procedure Rooms	Total Rooms	Total Hours	Number of Rooms Justified	Met Standard of 1,500
Center for Reconstructive	Oak Lawn	4	0	4	1,189	1	No
Palos Hills Surgery Center	Palos Hills	2	0	2	2,832	2	Yes
Magna Surgical Center	Bedford Park	3	0	3	3,330	3	Yes
Palos Surgicenter, LLC	Palos Heights	3	2	5	2,105	2	No
Forest Med-Surg. Center ⁽²⁾	Justice	2	2	4	705	1	No
Ingalls Same Day Surgery	Tinley Park	4	1	5	4,685	4	No
Preferred Surgicenter, LLC	Orland Park	4	1	5	654	1	No
Hinsdale Surgical Center	Hinsdale	4	2	6	6,110	5	No
Palos Health Surgery Center ⁽³⁾	Orland Park	4	0	4			
Total				38			

1. Information from 2017 ASTC and Hospital Profiles
2. Magna Surgical Center and Forest Med-Surg. Center provide pain management services but not orthopedic surgeries.
3. Palos Health Surgery Center approved as Permit #16-059 not yet operational.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS NOT IN CONFORMANCE WITH CRITERION UNNECESSARY DUPLICATION/MALISTRIBUTION (77 1110.235 (c)(7))

F) Criterion 1110.235 (c) (8) - Staffing

A) Staffing Availability

The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that the staffing requirements of licensure and The Joint Commission or other nationally recognized accrediting bodies can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.

B) Medical Director

It is recommended that the procedures to be performed for each ASTC service are under the direction of a physician who is board certified or board eligible by the appropriate professional standards organization or entity that credentials or certifies the health care worker for competency in that category of service.

Surgery Center of Illinois will operate with enough staffing levels as required by applicable licensure. Surgery Center of Illinois will offer the staffing levels as necessary to provide patients with safe and effective care. The services shall be performed by a physician who is board certified or board eligible by the appropriate professional standards organization or entity that credentials or certifies the health care worker for competency in that category of service. Dr Daniel Troy is the medical director.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION STAFFING (77 1110.235 (c)(8))

G) Criterion 1110.235 (c) (9) - Charge Commitment

In order to meet the objectives of the Act, which are to improve the financial ability of the public to obtain necessary health services; and to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public; and cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process [20 ILCS 3960/2], the applicant shall submit the following:

A) a statement of all charges, except for any professional fee (physician charge); and

B) a commitment that these charges will not increase, at a minimum, for the first 2 years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

A list of the proposed procedures to be performed at the Applicant's facility is attached along with the charges for such procedures (pages 124-137 of the Application for Permit). A letter (page 123 of the Application for Permit) attesting that these charges will not increase, at a minimum, for the first 2 years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION CHARGE COMMITMENT (77 1110.235 (c)(9))

H) Criterion 1110.235 (10) Assurances

A) The applicant shall attest that a peer review program exists or will be implemented that evaluates whether patient outcomes are consistent with quality standards established by professional organizations

for the ASTC services, and if outcomes do not meet or exceed those standards, that a quality improvement plan will be initiated.

B) The applicant shall document that, in the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms will meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians) and the provision of new procedures that would increase utilization.

The Applicant provided the necessary information at pages 138 of the Application for Permit.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION ASSURANCES (77 1110.235 (c) (10))

VIII. Financial Viability and Economic Feasibility

A) Criterion 1120.120 – Availability of Funds

The proposed project is being funded with cash in the amount of \$500,000, leases with an FMV of \$2,740,680 and debt financing of \$4,224,784. Resources are available to fund this project. (Application for Permit pages 140-141)

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS (77 ILAC 1120.120)

B) Criterion 1120.130 – Financial Viability

The Applicant does not qualify for the financial waiver.

Financial Viability Waiver

The applicant is NOT required to submit financial viability ratios if:

- 1) *all project capital expenditures, including capital expended through a lease, are completely funded through internal resources (cash, securities or received pledges); or*
HFSRB NOTE: Documentation of internal resources availability shall be available as of the date the application is deemed complete.
- 2) *the applicant's current debt financing or projected debt financing is insured or anticipated to be insured by Municipal Bond Insurance Association Inc. (MBIA) or its equivalent; or*
HFSRB NOTE: MBIA Inc is a holding company whose subsidiaries provide financial guarantee insurance for municipal bonds and structured financial projects. MBIA coverage is used to promote credit enhancement as MBIA would pay the debt (both principal and interest) in case of the bond issuer's default.
- 3) *the applicant provides a third-party surety bond or performance bond letter of credit from an A rated guarantor (insurance company, bank or investing firm) guaranteeing project completion within the approved financial and project criteria.*

Surgery Center of Illinois, LLC is a new entity and no historical data is available. The Applicant provided projected financial data for Years 2020, 2021 and 2022. The projected financial information meets all the State Boards' Standards for an ASTC. (See Application for Permit page 142-145)

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION FINANCIAL VIABILITY (77 ILAC 1120.130)

A) Criterion 1130.140 (a) – Reasonableness of Financing Arrangements

The applicant shall document the reasonableness of financing arrangements by submitting a notarized statement signed by an authorized representative that attests to one of the following:

- 1) *That the total estimated project costs and related costs will be funded in total with cash and equivalents, including investment securities, unrestricted funds, received pledge receipts and funded depreciation; or*
- 2) *That the total estimated project costs and related costs will be funded in total or in part by borrowing because:*
 - A) *A portion or all the cash and equivalents must be retained in the balance sheet asset accounts to maintain a current ratio of at least 2.0 times for hospitals and 1.5 times for all other facilities; or*
 - B) *Borrowing is less costly than the liquidation of existing investments, and the existing investments being retained may be converted to cash or used to retire debt within a 60-day period.*

The Applicant has attested *“I hereby attest that for the Surgery Center of Illinois, LLC project borrowing is less costly than the liquidation of existing investments and that the existing investments being retained may be converted to cash or used to retire debt within a 60-day period. Furthermore, I certify as this project will require debt financing, the selected form of debt financing will be at the lowest net cost available.”* (Application for Permit page 148)

A letter from First Midwest Bank was provided stating that *“Surgery Center of Illinois, LLC and Dr. Daniel Troy have been a good and valuable customer of First Midwest Bank for several years. Should the Illinois Health Facilities and Services Review Board approve the proposed project and based upon the positive business experiences from working with Surgery Center of Illinois, LLC and Dr. Daniel Troy, First Midwest Bank is prepared to extend Surgery Center of Illinois, LLC up to \$4,500,000 in credit exposure to finance the ASTC project.”* (Application for Permit page 140)

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF FINANCING ARRANGEMENTS (77 ILAC 1120.140 (a))

B) Criterion 1120.140 (b) - Terms of Debt Financing

Applicants with projects involving debt financing shall document that the conditions of debt financing are reasonable by submitting a notarized statement signed by an authorized representative that attests to the following, as applicable:

- 1) That the selected form of debt financing for the project will be at the lowest net cost available;*
- 2) That the selected form of debt financing will not be at the lowest net cost available, but is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs and other factors;*
- 3) That the project involves (in total or in part) the leasing of equipment or facilities and that the expenses incurred with leasing a facility or equipment are less costly than constructing a new facility or purchasing new equipment.*

The State Board considers operating leases² debt financing. The Applicant provided a copy of the lease with Oak Lawn 95th Properties LLC. The initial term is for 10 years with four five-year renewal options. The base rent is \$22,839 per month and will increase 10% for each subsequent five-year period.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION TERMS OF DEBT FINANCING (77 ILAC 1120.140 (b))

² The leasing of the building allows the ASTC to retain capital for other needs. The building lease is a triple net (NNN). A triple net lease designates the lessee (the tenant) as being solely responsible for all the costs relating to the facility being leased in addition to the rent schedule applied under the lease. The structure of this type of lease requires the lessee to pay for net real estate taxes on the leased asset, net building insurance and net common area maintenance. The lessee must pay the net amount of three types of costs.

C) Criterion 1120.140 (c) – Reasonableness of Project Costs

The applicant shall document that the estimated project costs are reasonable.

Modernization and Contingency costs are \$2,191,391 and are \$284.82 GSF. This appears reasonable when compared to the State Board Standard of \$289.42 per GSF.

**TABLE SEVEN
State Board Standard Modernization and Contingency ⁽¹⁾**

2015	2016	2017	2018	2019	2020	2021	2022
\$249.66	\$257.15	\$264.86	\$272.81	\$280.99	\$289.42	\$298.11	\$307.05

1. Based year 2015 and inflated by 3% annually

Contingency costs are \$199,217 or 10% of modernization cost. This is reasonable when compared to the State Board Standard of 10-15%.

Architectural and Engineering Fees are \$119,530 or 5.45% of modernization and contingency costs. This appears reasonable when compared to the Board Standard of 6.54-9.82%

Consulting and Other Fees are \$25,827. The State Board does not have a standard for these costs.

Movable or Other Equipment costs not in construction contracts are \$979,450 or \$489,725 per operating room. This appears reasonable when compared to the State Board Standard of \$504,437. Equipment itemization was provided at pages 42-44 of the Application for Permit.

**TABLE EIGHT
Movable or Other Equipment Costs**

2008	2009	2010	2011	2012	2013	2014
\$353,802.00	\$364,416.06	\$375,348.54	\$386,609.00	\$398,207.27	\$410,153.49	\$422,458.09
2015	2016	2017	2018	2019	2020	2021
\$435,131.83	\$448,185.79	\$461,631.36	\$475,480.30	\$489,744.71	\$504,437.05	\$519,570.16

1. Base year CY 2008 and inflated by 3% per year. [Part 1120 Appendix A]

Fair Market Value of Leased Space is \$1,769,620. The State Board does not have a standard for these costs.

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 ILAC 1120.140 (c))

D) Criterion 1120.140 (d) – Direct Operating Costs

The applicant shall provide the projected direct annual operating costs (in current dollars per equivalent patient day or unit of service) for the first full fiscal year at target utilization but no more than two years following project completion. Direct costs mean the fully allocated costs of salaries, benefits and supplies for the service.

The Applicant have provided the incremental direct costs per procedure at the ASTC should this project be approved. An incremental cost is the increase in total costs resulting from an increase in the number of procedures expected to be performed at the Surgery Center. The Applicant has met this criterion.

Total Operating Costs	\$978,046
Workload Units	1,286
<u>Annual Operating Cost Per Procedure</u>	<u>\$760.53</u>

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 ILAC 1120.140 (c))

E) Criterion 1120.140 (e) – Total Effect of the Project on Capital Costs

The applicant shall provide the total projected annual capital costs (in current dollars per equivalent patient day) for the first full fiscal year at target utilization but no more than two years following project completion.

The annual capital cost per procedure is \$451.41. The Applicant has met this criterion.

Amortization Costs	\$400,912
Depreciation Costs	<u>\$179,612</u>
Capital Costs	\$580,524
<u>Capital Cost per Procedure</u>	<u>\$451.41</u>

STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION REASONABLENESS OF PROJECT COSTS (77 ILAC 1120.140 (c))

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