



STATE OF ILLINOIS
HEALTH FACILITIES AND SERVICES REVIEW BOARD

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DOCKET NO: H-09	BOARD MEETING: October 22, 2019	PROJECT NO: 19-039	PROJECT COST: Original: \$6,920,276
FACILITY NAME: Midwest Endoscopy Center		CITY: Naperville	
TYPE OF PROJECT: Non-Substantive			HSA:VII

DESCRIPTION: The Applicants (Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, DJSB, LLC) propose the modernization and expansion of Midwest Endoscopy Center in Naperville, Illinois at a cost of \$6,920,276. The expected completion date is December 31, 2019.

EXECUTIVE SUMMARY

PROJECT DESCRIPTION:

- The Applicants (Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, DJSB, LLC) propose the modernization and expansion of Midwest Endoscopy Center in Naperville, Illinois at a cost of \$6,920,276. The expansion consists of adding 2 procedure rooms to the existing 2 rooms for a total of 4 procedure rooms and increase the 5 recovery rooms to 9 rooms. The expected completion date is December 31, 2019.
- In December of 2006 the State Board approve the establishment of this single specialty ASTC in Naperville at a cost of approximately \$2.75 million (Permit #06-069). At that time the State Board approved the facility for 2 operating rooms and 12 recovery stations in 5,941 GSF of space.
- In December of 2013 the State Board approved a change of ownership of this ASTC. At that time 5 individual physician investors sold 55% of their interest to Edward Health Ventures. Edward Health Ventures is a wholly owned subsidiary of Edward-Elmhurst Healthcare. As of the date of this report Edward Health Ventures has a 51% interest in the ASTC and the physician investors has a 49% interest.
- In November of 2016 an Advisory Opinion (Determination of Reviewability) was requested by the Surgery Center asking if a certificate of need was needed for the modernization of the ASTC at a cost of approximately \$3 million. At that time Midwest Endoscopy planned to add 2 procedure rooms to its existing 2 rooms for a total of 4 procedure rooms. The expansion included both remodeling and new construction. In addition, the procedure rooms basement space was being added for storage and circulation space. Based upon that estimate of approximately \$3 million a certificate of need was not needed because the cost was less than the capital expenditure minimum in effect at that time (\$3,378,498). According to the Applicants construction began in early 2019 and the Applicants realized at that time that the cost was going to exceed the capital expenditure threshold and a certificate of need was needed.
- In October of 2018 the Illinois Department of Public Health Designed Standards Unit completed their review of the architectural drawings for the modernization. To date, the Department has not been notified that the construction contract has been awarded and construction has begun on the modernization.

WHY THE PROJECT IS BEFORE THE STATE BOARD:

- The Applicants propose to modernize and expand a health care facility as defined by the Illinois Health Facilities Planning Act (20 ILCS 3960/3). The cost of the expansion and modernization exceeds the capital expenditure minimum of \$3,585,250
- One of the objectives of the Health Facilities Planning Act is *“to assess the financial burden to patients caused by unnecessary health care construction and modification. Evidence-based assessments, projections and decisions will be applied regarding capacity, quality, value and equity in the delivery of health care services in Illinois. Cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process.”* [20 ILCS 3960/2]

PUBLIC HEARING/COMMENT:

- A public hearing was offered regarding the proposed project, but none was requested. No letters of support or opposition was received by the State Board.

SUMMARY:

- The Applicants are proposing a modernization and expansion of an existing surgery center performing gastro procedures. For the expansion and modernization of an existing facility the State Board considers whether the Applicants have enough historical volume (procedures) to justify the number of rooms being requested. The State Board by rule does not consider the operating capacity of other ASTCs or Hospitals in the 10-mile GSA when determining need for the modernization and expansion of an existing facility.
- The Applicants addressed a total of 22 criteria and have successfully address them all.

STATE BOARD STAFF REPORT
Project 19-039
Midwest Endoscopy Center

APPLICATION/CHRONOLOGY/SUMMARY	
Applicants	Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, DJSB, LLC
Facility Name	Midwest Endoscopy Center, LLC
Location	1234 Rickert Drive, Naperville, Illinois
Permit Holder	Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, DJSB, LLC
Licensee/Operating Entity	Midwest Endoscopy Center, LLC
Owner of Site	DJSB. LLC
Total GSF	10,533 GSF
Application Received	August 27, 2019
Application Deemed Complete	August 30, 2019
Review Period Ends	October 29, 2019
Financial Commitment Date	October 22, 2021
Project Completion Date	December 31, 2019
Review Period Extended by the State Board Staff?	No
Can the Applicants request a deferral?	Yes
Expedited Review?	Yes

I. Project Description

The Applicants (Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, DJSB, LLC) propose the modernization and expansion of Midwest Endoscopy Center in Naperville, Illinois at a cost of \$6,920,276. The expected completion date is December 31, 2019.

II. Summary of Findings

- A.** State Board Staff finds the proposed project appears to be in conformance with the provisions of 77 ILAC 1110 (Part 1110).
- B.** State Board Staff finds the proposed project appears to be in conformance with the provisions of 77 ILAC 1120 (Part 1120).

III. General Information

The Applicants Midwest Endoscopy Center, LLC, Edward Health Ventures, Edward-Elmhurst Healthcare, and DJSB, LLC. Midwest Endoscopy Center, LLC is currently owned 51% by Edward Health Ventures and 49% by physician investors. Edward-Elmhurst Healthcare is a combination of Naperville-based Edward Healthcare and Elmhurst Memorial Healthcare. The State Board approved that affiliation on May 14, 2013 as Exemption (#E-008-13). The healthcare system has approximately \$1 billion in annual revenue and is comprised of three hospitals: 259-bed Elmhurst Memorial, 309-bed Edward Hospital in Naperville and 108-bed Linden Oaks, a behavioral health hospital also in Naperville. Edward Health Ventures is an organization that provides the services of

physician practices, holds real estate investments, and invests in joint venture medical practices and other health care services and is a wholly owned subsidiary of Edward-Elmhurst Healthcare. The licensee and operating entity is Midwest Endoscopy Center, LLC and the owner of the site is DJSB. LLC.

This is a non-substantive project. The project is subject to a Part 1110 and Part 1120 review. Financial commitment will occur after project approval.

IV. Center for Medicare and Medicaid Services

The proposed ASTC will be Medicare and Medicaid certified. The Center for Medicare and Medicaid Services requires that an ASC must be certified and approved (IDPH Licensed) to enter into a written agreement with CMS.

Participation as an ASC is limited to 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. An unanticipated medical circumstance may arise that would require an ASC patient to stay in the ASC longer than 24 hours, but such situations should be rare.

The regulatory definition of an ASC does not allow the ASC and another entity, such as an adjacent physician's office, to mix functions and operations in a common space during concurrent or overlapping hours of operations. CMS does permit two different Medicare-participating ASCs to use the same physical space, so long as they are temporally separated. That is, the two facilities must have entirely separate operations, records, etc., and may not be open at the same time.

ASCs are not permitted to share space, even when temporally separated, with a hospital or Critical Access Hospital outpatient surgery department, or with a Medicare-participating Independent Diagnostic Testing Facility (IDTF). Certain radiology services that are reasonable and necessary and integral to covered surgical procedures may be provided by an ASC; however, it is not necessary for the ASC to also participate in Medicare as an IDTF for these services to be covered. [Source: <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/Certification> and Compliance/ASCs.html]

V. Health Service Area

The proposed ASTC will be in the HSA VII Health Service Area. The HSA VII Health Service Area is comprised of DuPage and Suburban Cook County. There are 49 ASTCs in this Health Service Area.

TABLE ONE
Payor Mix of ASTCs in HSA VII
2017 ⁽¹⁾

	Inpatient	Outpatient	Total	% of Total
Medicaid	1,704	1,758	3,462	2.04%
Medicare	22,933	32,952	55,885	32.98%
Other Public	691	605	1,296	0.76%
Insurance	47,156	55,951	103,107	60.84%
Private Pay	1,714	3,646	5,360	3.16%
Charity Care	144	217	361	0.21%
Total	74,342	95,129	169,471	100.00%

1. Information from 2017 ASTC Profiles

VI. Project Costs and Sources of Funds

The Applicants is funding the project with the fair market value of the lease of \$6,920,276.

TABLE TWO
Project Costs and Sources of Funds

	Reviewable	Non-Reviewable	Total	% of Total
Movable or other Equipment not in construction contracts	\$1,256,209	\$0.00	\$1,256,209	18.2%
FMV of Leased Space	\$4,681,565	\$1,002,502	\$5,664,067	81.8%
Total Uses of Funds	\$5,937,774	\$1,002,502	\$6,920,276	100%
Sources of Funds				
Leases (fair market value)			\$6,902,276	
Total Sources of Funds				

VII. Section 1110.110 - Background of the Applicants, Purpose of Project, Safety Net Impact Statement, and Alternatives

A) Criterion 1110.110 (a) – Background of the Applicants

To demonstrate compliance with this criterion the Applicants must document the qualifications, background, character and financial resources to adequately provide a proper service for the community and demonstrate that the project promotes the orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of facilities or service.

The following entities or individuals have an interest in the Surgery Center.

- Edward Health Ventures - 51% owner
- Dinesh Jain, MD -10.5% owner
- Scott A. Berger, MD-10.5% owner
- Sushama Gundlapalli, MD - 5.334% owner
- Darren Kastin, MD - 5.333% owner
- Shivani Kiriluk, DO - 5.333% owner

Edward Heath Ventures is a wholly subsidiary of the Edward-Elmhurst Healthcare.

The Applicants have provided the necessary attestation that no adverse action has been taken against any health care facility owned or operated by the Applicants and have authorized the Illinois Department of Public Health and the Illinois Health Facilities and Services Review Board (IHFSRB) access to any documents necessary to verify the information submitted, including, but not limited to, official records of the IDPH or other State Agencies; and the licensing and certifications of other organizations. Illinois Certificates of Good Standing of Good Standing ¹were provided for all Applicants (pages 30-33 of the Application).

The site of the ASTC is in compliance with the Illinois Executive Order #2006-5, "*Construction Activities in Special Flood Hazard Area*"² and with the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420).³ [Pages 40-43 of the Application for Permit]

¹ A legal status conferred by a state on a company incorporated within its jurisdiction that allows it to conduct business legitimately. The status is granted based on the company's current standing related to required state filings, fees and tax obligations.

² Illinois Executive Order #2006-5 requires 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 Executive Order #2006-5.

³ Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) requires State Agencies or the recipients of its funds, permits or licenses shall consult with the Illinois Historic Preservation Agency to determine the documentation requirements necessary for identification and treatment of historic resources.

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 stated the current two room ASTC is too small and patients must often wait for months when scheduling a procedure. Adding two procedure rooms will improve the health care of the patients by improving access and providing more timely service. The primary market area includes patients within a 10-mile radius of the ASTC. The Applicants stated that demand for services has increased. When the ASTC open in 2008 there were 6 physicians providing services. There are now 8 physicians and a 9th physician will be joining in September 2019. From 2013 to 2017 the number of cases has increase 3.2% and the hours have increase by 7%.

TABLE THREE
Midwest Endoscopy Center
5-Year Surgeries and Hours
(2017-2013) ⁽¹⁾

Year	Total Surgeries	Total Hours
2017	6,002	5,702
2016	5,906	5,602
2015	5,650	6,458
2014	5,528	5,067
2013	5,818	5,330
5-Year Growth	3.2%	7.0%

1. Information from 2013-2017 ASTC Profiles

The Applicants stated the volume of the center has increased significantly since 2008. In the first full year of operation (2009) 5,847 procedures were performed. In 2018, 8,710 procedures were performed. (Please note that the number of procedures is different than the number of patients. Some patients have more than one procedure at a time. Average wait time for some doctors to schedule procedures is 3 to 6 months. To alleviate some of the burden outpatient procedures are being performed at Edward Hospital and one of the local surgical centers. The Hospital is very expensive. Both facilities also have considerable wait times to schedule patients.

C) Criterion 1110.110 (c) – Safety Net Impact

All health care facilities, except for 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]

This project is a non-substantive project no safety net impact statement is required. The Surgery Center over the past three years (2017-2015) has had a payor mix of 96% Private Insurance, and 4% Medicare.

**TABLE FOUR
Midwest Endoscopy Center
3-Year Payor Mix
(2017-2015) ⁽¹⁾**

	2017	2016	2015	% of 3-Year Total
Medicare	\$548,899	\$535,063	\$464,969	4%
Medicaid	\$0.00	\$0.00	\$0.00	0.00%
Other Public	\$6,223	\$4,711	\$8,758	0.06%
Insurance	\$14,343,368	\$14,126,868	\$4,997,850	95.47%
Private Pay	\$9,500	\$10,900	\$0.00	0.06%
Charity Care	\$0.00	\$0.00	\$0.00	0.00%
Total	\$14,907,990	\$14,677,542	\$5,471,577	100.00%

1. Information from ASTC Profiles self-reported by the Surgery Center

**TABLE FIVE
Charity Care Information**

	2016	2017	2018
Net Patient Revenue	\$5,353,161	\$6,351,311	\$7,148,734
Amount of Charity Care	\$2,878	\$0.00	\$0.00
Cost of Charity Care	\$671	\$0.00	\$0.00

D) Criterion 1110.110(c) – 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 Applicants considered the following alternatives:

1. Do Nothing
2. Build a Smaller Addition
3. Joint Venture with Hospital

1. The first alternative was rejected because the current ASTC is not large enough to meet the needs of its patients. The two existing procedure rooms are full. They are used far more than the 3,000 hours that the Board Rules consider as full. The wait times for treating patients at the ASTC are unacceptable. Many of the physicians have waiting lists of three months or more. The cost of doing nothing is zero.
2. The second addition was rejected because the wait times for treating patients at the ASTC are unacceptable. Many of the physicians have waiting lists of three months or more. Building one additional procedure room would reduce the waiting time but not eliminate it. The cost of building a one procedure room addition is approximately 50% of the cost of a two-room addition.
3. This is a joint venture with a hospital. The majority interest in the ASTC is owned by Edward/Elmhurst Hospitals. Most of the outpatient gastroenterology procedures for Edward Hospital patients are performed at Midwest. There is no current cost to the applicant to maintain this joint venture.

VIII. Project Scope and Size, Utilization and Assurance

A) Criterion 1110.120 (a) - Size of Project

To demonstrate compliance with this criterion the Applicants must document 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;⁴ 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 Applicants are proposing a total of 10,533 GSF⁵ for

- Two operating rooms, for a total of 4 (endoscopy procedure rooms)
- Seven additional recovery areas for a total of 9
- Increased patient waiting room
- Increased staff lounge space
- Increased space for cleaning and storage areas
- Increased size of locker facility for staff members
- Addition of a basement for added storage

According to the Applicants the ASTC construction plans call for one of the new rooms to have more traditional operating room capabilities. Some of the newer endoscopic procedures are "hybrid" procedures. Although considered to be endoscopic they are more

⁴ **Staff Note:** Should the State Board approve this project the entire gross square feet (10,533 GSF) will be licensed by the Illinois Department of Public Health and the certificate of need permit will be for the total gross square feet and total project costs.

⁵ **Board Rules:** Spaces to be included in the Applicants determination of square footage shall include all functional areas minimally required for the applicable service areas by the appropriate rules required for IDPH licensure and/or federal certification and any additional spaces required by the Applicants' operational program. [Source 77 ILAC 1110 - Appendix B]

invasive and require a more traditional operating room process. This may include both sterile areas as well as more prolonged recovery.

Department	Proposed		State Standard		Difference
	Rooms	GSF	GSF per Room	Total GSF	
Procedure Rooms	4	10,533	2,750	11,000	467
Total		10,533			

The licensed gross square footage of the Surgery Center meets the requirements of the State Board. State Board rule allows for four recovery care stations per operating/procedure room and the Applicants are proposing 9 rooms. The Applicants have met the State Board’s standard for the four procedure rooms and 9 recovery stations.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH CRITERION SIZE OF THE PROJECT (77 ILAC 1110.120 (a))

B) Criterion 1110.120 (b) – Projected 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]

The State Board Standard is 1,500 hours per operating/procedures rooms. The Applicants have averaged an annual 1% growth in the number of cases for the period 2013 to 2017 and have averaged an increase in the number of hours annually of 1.74% for this same period. Based upon the average growth in the number of cases and hours the Applicants can justify the 4 procedure rooms and 9 recovery stations being proposed.

Year	Total Surgeries	Total Hours
2017	6,002	5,702
2016	5,906	5,602
2015	5,650	6,458
2014	5,528	5,067
2013	5,818	5,330
Average Growth	1%	1.74%

Year	2018	2019	2020	2021	2022
Cases	6,062	6,123	6,184	6,246	6,308
Hours	6,124	6,511	6,576	6,641	6,708

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

C) Criterion 1110.120 (e) – Assurances

- 1) *The Applicants representative who signs the CON application shall submit a signed and dated statement attesting to the Applicants 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.*
- 2) *For shell space, the Applicants shall submit the following:*
 - A) *Verification that the Applicants will submit to HFSRB a CON application to develop and utilize the shell space, regardless of the capital thresholds in effect at that time or the categories of service involved;*
 - B) *The anticipated date by which the subsequent CON application (to develop and utilize the subject shell space) will be submitted; and*
 - C) *The estimated date when the shell space will be completed and placed into operation.*

The Applicants provided the necessary assurance at page 58 of the Application for Permit as required.

THE BOARD STAFF FINDS THE PROPOSED PROJECT IS IN CONFORMANCE WITH ASSURANCES (77 ILAC 1110.120 (e))

IX. Non-Hospital Based Ambulatory Surgical Treatment Center Services

A) Criterion 1110.235 (b) (2) (A) (B) - Geographic Service Area Need

The Applicants 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.

There is no need formula for ASTCs or the number of surgical/treatment rooms in a GSA.

B) Service to Geographic Service Area Residents

The Applicants 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 Applicants 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 Applicants 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 Applicants provided the historical patient origin for Midwest Endoscopy Center for 2018. Approximately 65% of the patients came from within the 10-mile radius (Application for Permit pages 61-61).

THE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH SERVICE TO GEOGRAPHIC SERVICE AREA RESIDENTS (77 ILAC 1110.235 (b) (2) (B))

B) Criterion 1110.235 (c) (4) (A) through (C) – Service Demand Expansion

The number of surgical/treatment rooms to be added at an existing facility is necessary to reduce the facility's experienced high utilization and to meet a projected demand for service. The applicant shall document the information required by subsections (c)(4)(A)(i) and (ii) and either subsections (c)(4)(B)(i) and (ii) or subsection (c)(4)(C):

The Applicants provided a referral letter signed by Dr. Berger Managing Member 64-71 of the Application for Permit. The 5-year average number of procedure hours will justify the four rooms being requested by the Applicants.

$$\begin{aligned} &5,632 \text{ 5-year average number of hours} \\ &\div \underline{1,500 \text{ hours (State Standard)}} = \\ &\underline{\underline{3.75 \text{ rooms or 4 rooms}}} \end{aligned}$$

TABLE NINE
Midwest Endoscopy Center
5 Year Average Surgeries (Cases) and
Hours

Year	Total Surgeries	Total Hours
2017	6,002	5,702
2016	5,906	5,602
2015	5,650	6,458
2014	5,528	5,067
2013	5,818	5,330
Average	5,781	5,632

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

A) *The Applicants 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 Applicants 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 State Board’s Target Occupancy is 1,500 hours per procedure room for more than one room. The Applicants over a five-year period have average approximately 1 hour per case. As documented above the Applicants have enough utilization to justify the four procedure rooms being requested.

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

F) Criterion 1110.235 (8) - Staffing

A) *Staffing Availability*

The Applicants 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 Applicants 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.

The Applicants stated

“Based upon ten years of operating a surgery center in Naperville Midwest is not anticipating any difficulty in providing additional staff. Midwest routinely receives inquiries for job openings. As an outpatient center, Midwest offers a very attractive environment for many potential staff members who are looking for part or full-time employment without nighttime or weekend call. If that does not result in enough staff recruitment Applicant will advertise or use recruiters to obtain enough staff.”

In 2017 the Surgery Center reported the following staffing pattern:

Administrator	1.00
Physicians	8.00
Director of Nurses	1.00
Registered Nurses	3.00
Certified Aides	
Other Health Profs.	7.00
<u>Other Non-Health Profs</u>	<u>3.00</u>

Note: The Joint Commission and the Accreditation Association for Ambulatory Health Care⁶ does not define the specific qualifications or number of staffs required for an ASTC. The Joint Commission generalizes that the staff be adequate in number with appropriate training and supervision. The Applicants have successfully addressed this criterion.

G) Criterion 1110.235 (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 Applicants 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).*

The Applicants provided the required statement at page 72 of the Application for Permit and a list of charges at page 73 of the Application for Permit.

H) Criterion 1110.235 (10) - Assurances

- A) The Applicants 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*

⁶ Joint Commission on Accreditation of Healthcare Organizations. Standards for Ambulatory Care. Oakbrook Terrace, IL: Joint Commission Resources;

B) The Applicants 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 STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION STAFFING, CHARGE COMMITMENT, ASSURANCES (77 ILAC 1110.235 (9))

FINANCIAL VIABILITY

- A) Criterion 1120.120 – Availability of Funds**
- B) Criterion 1120.130 – Financial Viability**
- C) Criterion 1120.140 (a) -Reasonableness of Financing Arrangements**

The Applicants are funding this project with the FMV of the Lease. All costs will be recovered through the lease agreement. The property owner is responsible for the building's improvements and modernization.

This ASTC is a going business and has been operating since 2008. Edward Health Ventures owns 51% of the Midwest Endoscopy Center. Edward Heath Ventures is a wholly owned subsidiary of the Edward-Elmhurst Healthcare. Edward-Elmhurst Healthcare has an "A" or better bond rating. The Applicants have met the requirements of these criteria.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION AVAILABILITY OF FUNDS, FINANCIAL VIABILITY, REASONABLENESS OF FINANCING ARRANGEMENTS (77 ILAC 1120.120, 77 ILAC 1120.130 and 77 ILAC 1120.140 (a))

ECONOMIC FEASIBILITY

A) Criterion 1120.140 (b) – Terms of the 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.*

DJSB, LLC is the property owner and is a co-applicant on this Application for Permit. The property owner is responsible for the modernization and expansion and will be leasing the property to Midwest Endoscopy Center, LLC. This lease is an operating lease⁷ and a copy

⁷ An operating lease is a contract that allows for the use of an asset but does not convey ownership rights of the asset. Operating leases are counted as off-balance sheet financing—meaning that a leased asset and associated liabilities of future rent payments are not included on a company's balance sheet, to keep the ratio of debt to equity low. To be classified as an operating lease, the lease must meet certain requirements under generally accepted accounting principles (GAAP) that exempt it from being recorded as a capital lease. Companies must test for four criteria—"bright line" tests—that determine whether rental contracts must be booked as operating or capital leases. Current GAAP rules require companies to treat leases as capital leases if:

- There is an ownership transfer to the lessee at the end of the lease;
- The lease contains a bargain purchase option;
- The lease life exceeds 75% of the asset's economic life; or,
- The present value (PV) of the lease payments exceed 90% of the asset's fair market value. If none of these conditions are met, then the lease must be classified as an **operating lease**. The Internal Revenue Service (IRS) may reclassify an operating lease as a capital lease to reject the lease payments as a deduction, thus increasing the company's taxable income and tax liability. (Source: FASB update 02/2016)

of the amendment to the lease has been provided to the Board at page 34-37 of the Application for Permit. The landlord's cost of the remodeling and expansion will be recovered through the lease agreement. The Fair Market Value of the lease is considered a capital cost by the State Board.

The lease states in part:

“The monthly and annual Base Rent amounts set forth in the foregoing schedule are based on a Rent Constant of seven percent (7%) of the estimated Landlord expenditure of \$2,202,134.00 to complete the remodeling and expansion of the Premises (Landlord's Work). Upon Landlord's completion of Landlord's Work, the actual costs incurred by Landlord shall be determined, and the monthly and annual Base Rent amounts shall be subject to final adjustment based upon seven percent (7%) of the actual costs to complete Landlord's Work. The actual costs incurred by Landlord shall not include debt service, building expenses or other similar expenses which are unrelated to the Landlord's Work in the Premises.”

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

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

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

By Statute only clinical costs (reviewable costs) are considered in evaluating the reasonableness of project costs. (20 ILCS 3960/3) Cost standards for the other types of facilities are derived from the third quartile costs of previously approved projects and are to be adjusted to the current year based upon historic inflation rates from RS Means. The Standard for ASTC new construction and contingency costs is calculated by taking the base year of CY 2015 and inflating by 3% to the midpoint of construction. For this project the midpoint is CY 2020. The Standard for ASTC moveable and other equipment not in construction contracts is calculated by taking the base year of CY 2008 cost standard of \$353,802 per room and inflating by 3% to the midpoint of construction

Movable or other Equipment not in construction costs are \$1,256,209.42 or \$314,052 per room. The State Board Standard is \$504,437 per room. (See page 45-46 of the Application for Permit)

The State Board has no standard for the Fair Market Value of the Lease.

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

C) Criterion 1120.140 (d) – Direct Operating Costs

The Applicants 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 Applicants has provided the direct costs per patient of \$294.00 at the ASTC should this project be approved. The Applicants has successfully addressed this criterion.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION DIRECT OPERATING COSTS (77 ILAC 1120.140 (d))

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

The Applicants 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 Applicants has provided the total effect of the project on capital costs per case of \$71.00 should this project be approved. The State Board does not have a standard for this cost.

THE STATE BOARD STAFF FINDS THE PROPOSED PROJECT IN CONFORMANCE WITH CRITERION DIRECT OPERATING COSTS (77 ILAC 1120.140 (e))

19-039 Midwest Endoscopy Center - Naperville

