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 Advocate Condell Medical Center

May 19, 2010

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VIA ELECTRONIC MAIL

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Mr. Dale Galassie
Chairman
Illinois Health Facilities and Services Review Board
525 W. Jefferson, Second Floor
Springfield, IL 62761

Re: Vista Lindenhurst FEC Application (the "Application")
Project No. 10-18 (the "Project")

Dear Chairman Galassie:

I am writing to follow up from our recent public hearing testimony opposing the Vista Lindenhurst Freestanding Emergency Center (FEC) project. As you know, Advocate Condell Medical Center has seriously committed to improving health care in Lake County, particularly in the area of emergency services. We now provide the only Level I Trauma Services in Lake County – a service that was identified as one of the greatest community needs. Trauma service requires a significant investment in ongoing operational costs and capital costs for the expansion of our emergency department. An FEC in Lindenhurst would significantly undermine these investments.

We do not take the opposition of an application before the Review Board lightly. With the one possible exception, I cannot recall Advocate strenuously opposing a project in the ten years I have been part of Advocate. We expect other facilities to compete with us, but we also expect that a health planning process brings a certain degree of predictability. The proposed FEC application appears to violate so many of the Review Board's rules that approval of the Project would run counter to the whole reason for health facilities planning.

As you know, when the original 2007 FEC legislation was enacted, Advocate Health Care considered establishing a FEC in this area. Once the Review Board's FEC rules were proposed, however, we recognized that neither Advocate nor any other new facility in Lake County would be able to satisfy the need criterion under the Board's requirements. For this reason, we did not proceed with our application for that FEC project. Similarly, this proposed Project cannot and does not meet those requirements. By contrast, Lake Forest's Grayslake FEC was able to meet the Review Board's need criteria due to its pre-existing immediate care facility. Vista has no such pre-existing volumes today.

To obtain a thorough analysis of this Project's adherence to Board rules we asked our CON legal counsel to compare the proposed project with the Board's regulations. Our counsel has prepared the attached letter addressing some of the major legal issues associated with this Project. We provide this letter to you in the hope that it will assist the Board and the State Agency in its review of the Project.

Respectfully,

Kathy Lapacek

KL/vv
Attachment
Cc: Mike Constantino

Hills, Bonnie

From: Kathleen Lapacek [KLapacek@condell.org]
Sent: Wednesday, May 19, 2010 5:26 PM
To: Constantino, Mike
Cc: Hills, Bonnie
Subject: Project 10-18 Written comments
Attachments: Vista FEC written comments 5.19.10.docx; Vista FEC legal brief 5.19.10

Importance: High

Mr. Constantino,

Per the public notice for the Vista Lindenhurst FEC application, please find attached a cover letter and a written comment document related to Project 10-018. Thank you for the opportunity to provide this information.

Kathy Lapacek
VP, Business Development
Phone: 847-990-5873
Fax: 847-362-1721

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May 19, 2010

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HEALTH FACILITIES &
SERVICES REVIEW BOARD

Via Email, Fax and UPS Overnight Mail

Michael Constantino
Illinois Facilities and
Services Review Board
525 West Jefferson
Springfield, Illinois 62761

Re: *Public Comments on Project 10-018 (Vista Lindenhurst Emergency Center)*

Dear Mr. Constantino:

We are submitting these public comments on the captioned CON permit application ("Application") for establishment of Vista Lindenhurst Emergency Center ("Emergency Center"). The application is tentatively scheduled to be considered by the Illinois Health Facilities and Services Review Board ("Board") at its June 8-9, 2010 meeting. A public hearing was held regarding the application on May 4, 2010 ("Public Hearing"). At that hearing, 67 individuals testified in support of the Application, and 11 individuals -- all of whom represent or are affiliated with competing hospitals or health care providers -- testified in opposition.

In these public comments, we provide additional information regarding the merits of the Application and the need for the Emergency Center. We also respond to certain arguments made in opposition to the Application by representatives of Advocate Condell Medical Center ("Advocate Condell"), Northwestern Lake Forest Hospital ("Northwestern Lake Forest") and Centegra Hospital McHenry ("Centegra"). Because Centegra is outside the Geographic Service Area for the proposed Emergency Center, we focus on opposition arguments from Advocate Condell and Northwestern Lake Forest.

In our view, and as explained below, Advocate Condell and Northwestern Lake Forest are motivated in their opposition to our Application primarily by an economic interest in preserving their current and future market positions in affluent portions of Lake County. Should this opposition carry the day, their economic interest in market share preservation will prevail over the policy goal of reducing genuine and substantial barriers to timely ED service access experienced by residents in North Central and Northwestern Lake County.

Several Fire Chiefs, Police Chiefs and other leadership of area rescue squads testified in strong support of our application based on need for these ED services, as did the Executive Director of

the Lake County Health Department. No public health or safety government leadership testified in opposition to our application, nor did any such leadership testify that there is a lack of need for our project.

I. Overview of Application.

In the Application, Vista Health System ("Vista"), through its sponsoring organizations, proposes to establish a Freestanding Emergency Center ("FEC") on its 27-acre Lindenhurst campus. Vista operates 2 hospitals in Waukegan: Vista Medical Center-East ("Vista-East") and Vista Medical Center-West ("Vista-West"). For over 10 years, Vista has provided a wide scope of outpatient services on this site, which includes a full-service Ambulatory Surgical Treatment Center, comprehensive diagnostic medical imaging services and an FAA-Approved Helipad.

The purpose of the project is to improve accessibility to emergency medical services, primarily for the residents of North Central and Northwestern Lake County. In particular, we have projected that this Emergency Center will benefit residents in the area immediately surrounding the facility, and to the North and West of the facility. We anticipate that about 78% of our patients will reside in Lindenhurst/Lake Villa (the area immediately surrounding the facility), Round Lake (to the West of the facility), and Antioch (to the North of the facility).

As will be detailed below, our proposed Emergency Center will address a pressing need for quicker access to emergency medical services in North Central and Northwestern Lake County. For these residents drive times (whether by car or ambulance) to any of the other EDs in the Geographic Service Area are excessive. Due to geographic distance, compounded by narrow roads, circuitous routes, numerous lakes, traffic congestion and many railroad crossings, the travel times from these communities to existing ED care frequently exceeds 30 to 35 minutes. In the case of ambulance transport, additional time is required for the ambulance to get from the fire station to the patient.

The proposed Emergency Center also will benefit the medically underserved patient population in the GSA. Vista has a strong and well-demonstrated track record of being the safety net hospital provider in Lake County. It delivers a grossly disproportionate share of the inpatient Medicaid service in the county and its charity case compares favorably with other not for profit hospitals in the county. By allowing Vista to establish an FEC with EMTALA obligations, the Board could be confident that good faith access to ED services would be available at the Emergency Center to uninsured, underinsured and Medicaid beneficiary residents of the GSH.

The proposed Emergency Center meets both the letter and spirit of the FEC licensure program. As the Board knows, this category of licensure was created by the General Assembly in order to allow better access to emergency medical services to residents in and near relatively small communities such as Lindenhurst, Lake Villa, Round Lake and Antioch. The resource hospital for our FEC would be Vista-East, which is a Level II Trauma Center.

An FEC is required by statute to deliver Basic Life Support ("BLS") emergency medical services. BLS services are appropriate for many patients transported by ambulance (as reflected in Public Hearing testimony for Fire Chiefs and others). However, we anticipate that many patients – likely the majority – will arrive at the facility by car.

II. The Proposed Emergency Center Will Improve Access And Partially Alleviate The Substantial Maldistribution Of Emergency Department Services In Lake County.

We are proposing to establish the Emergency Center in order to address a substantial maldistribution of emergency medical services in Lake County that results in excessive drive times, and therefore lack of timely access, to Emergency Department care for residents of North Central and Northwestern Lake County. In Lake County, both Emergency Department and hospital services are heavily concentrated in the East and South portions of Lake county.

In the Geographic Service Area for the proposed Emergency Department ("GSA"), which is defined by the Board to be a 30-minute drive time radius from the site, there are currently only 3 emergency departments ("EDs"). As will be explained below, an ED in Lindenhurst will substantially improve timely access to medical services to the residents of communities in North Central and Northwestern Lake County, especially Lindenhurst/Lake Villa, Antioch and Round Lake.

It is helpful to note the relative locations of the current EDs, the proposed Emergency Center and the target population for the proposed Emergency Center. As you will see on the map attached as Exhibit A, the proposed Emergency Center is located substantially to the Northwest of the NLFH FEC (17.5 minutes) and is located even more substantially to the Northwest of Advocate Condell (about 29 minutes). It also is substantially to the West/Northwest of Vista-West. However, the proposed Emergency Center is located in the center of the Target Population Area for the facility, from which 85% of the patient population for the facility is expected to originate ("TPA"). By being centrally located within this TPA, the proposed Emergency Center provides to TPA residents substantially improved access to emergency medical services.

It is also important to note several specific factors when evaluating current limits on access, maldistribution and inadequacy of current ED services for residents of North Central and Northwestern Lake County:

Of the 3 existing EDs in the GSA, one is located in a hospital that is limited to AMI and Rehabilitation inpatient services, and therefore treats a very limited clinical array of medical emergencies (Vista-West).

The second hospital-based ED in the GSA (Advocate Condell) is about 29 minutes from the proposed Emergency Department, according to the Board's calculations. In North Central and Northwestern Lake County, these travel times are aggravated by heavy road congestion, narrow roads, circuitous routes due to numerous lakes, and delays due to heavy railway traffic. At peak

travel times, the actual drive time from the proposed Emergency Center to Advocate Condell frequently will exceed 30 minutes, and the actual drive times from communities such as Antioch and Round Lake to Advocate Condell could be as much as 35-40 minutes.

The third ED in the GSA, Northwestern Lake Forest Hospital Grayslake Freestanding Emergency Center ("NLFH FEC"), is a 14-station FEC located about 17 minutes to the South/Southeast of the proposed Emergency Center. On an annualized basis, the NLFH FEC had 27,132 visits in 2009. **Based on our understanding of the Board's calculation methods, we believe the NLFH FEC has met Board utilization thresholds within its first several months of operations.** This extremely quick reaching of capacity by an FEC, without any apparent reduction in volume at other ED providers in the GSA, is a strong indication of the continued unmet need for ED services in North Central and Northwestern Lake County. **In fact, from 2008 to 2009, the two other providers in the GSA – Vista-West and Advocate Condell – showed marked increases in ED volume.** In the case of Advocate Condell, ED visits increased by almost 10,000 from 2008 to 2009 (from 45,944 in 2008 to 55,209 in 2009).

The rapid manner in which the NLFH FEC hit the Board's volume threshold also validates that the FEC model is well-tailored to meet the medical service needs of residents in North Central and Northwestern Lake County. **While Advocate Condell has asserted that the establishment of another FEC in Lake County would have a detrimental impact on its ED volumes, the NLFH FEC evidently has had no adverse effect on Advocate Condell's ED volumes and access to ED services has been vastly improved.**

Our proposed Emergency Center is located substantially farther away from Advocate Condell's campus than the NLFH FEC. (See Exhibit A). **Thus, our FEC is even less likely to adversely impact Advocate Condell's ED volume.**

Vista-West and the NLFH FEC each provide Basic Life Support ("BLS") ED services. By law, the proposed Emergency Center also would be limited to providing BLS services. **As a result, Advocate Condell will remain the only provider of Advanced Life Support ("ALS") level ED services in the GSA.**

Advocate Condell repeatedly has indicated that it is focused on the provision of "advanced" tertiary care throughout Lake County, including ALS and Trauma I services. **The facts and common sense dictate that a 7-station BLS facility, located 29 minutes to the Northwest of the Advocate Condell campus, certainly does not threaten Advocate Condell's advanced care program or strategic vision for providing highly intensive and specialized tertiary care.**

While Advocate Condell representatives have justified their opposition by indicated at the Public Hearing that the system's "investments" in Trauma I services must be "subsidized" by guaranteed access to a continued stream of "routine emergency volume". This assertion rings

hollow.¹ Advocate Condell, by its own description, is an advanced tertiary care provider that draws patients from a broad geographic area. It is located substantially to the Southeast of the proposed Emergency Department, and even farther away from many residents of our proposed TPA. As the sole provider of ALS services in the GSA, it will receive a higher percentage of ambulance transports from across the GSA. **The notion that residents of Antioch and Round Lake should be forced to travel long distances to Advocate Condell for emergency medical care, in order to “cross-subsidize” Advocate’s self-described “investment” in trauma care, is nothing short of remarkable. This is especially so, in light of the fact that Advocate’s resources are extraordinary (see discussion below in Section III).**

The hospitals opponents to this Application have made much of the fact that two of the EDs in the GSA do not hit the Board’s threshold of 2000 annual visits per station. Aside from the fact that this argument entirely misses the point in terms of maldistribution of services within Lake County and the GSA, and also ignores the fact that the recently-established FEC in the GSA hit the Board’s volume target in the first several months of operation, we offer the following:

- **Should it be the Board’s desire, we will reduce the ED stations at Vista-West from 11 to 7.** If the Board accepts this overture by Vista, then Vista-West would meet the Board’s annual ED volume threshold. In 2009, the Vista-West ED had 14,155 visits. Such a reduction in stations would have a limited adverse impact on ED access in light of Vista-West’s proximity to Vista-East, and given the fact that Vista-West’s inpatient services are limited to AMI and Rehabilitation.
- **Having said this, the Board’s rules do not condition approval of an FEC permit application on other EDs in the area meeting the Board’s volume threshold for EDs.** Rather, Section 1110.3230(c) indicates that the applicant must demonstrate the proposed FEC will not result in maldistribution of ED services. Historical volume at other EDs in the GSA is simply one factor that is evaluated in determining whether the project would result in an excess supply of ED stations at existing facilities in the GSA. The rule is clear that other factors can be considered by the Board in evaluating maldistribution. See also Section 1130.660(a). Note also that the Board does not calculate ED station need in Planning Areas.
- **In fact, in other FEC applications previously approved by the Board, including the NLFH FEC application, there were EDs in the applicable GSA with volumes below the Board’s threshold.** The Board found need for FEC service in each case, notwithstanding the existence of other ED facilities operating below threshold. This is likely the case because the Board places great emphasis on all Illinois residents having timely access to ED services. This is reflected in the fact that, to our knowledge, the Board has never asked a hospital to reduce ED services regardless of the utilization rate. In fact, hospital ED services can be expanded by a hospital under the capital expenditure

¹ See, e.g. 5/4/10 Public Hearing Testimony of William Malony, MD, Medical Director of the Emergency Department at Advocate Condell.

threshold without Board approval. And finally, the Board has consistently focused on continued ED access when evaluating changes of ownership and proposed hospital closures. In the case of at least one hospital change of ownership application, continued ED operation was a condition to approval.

- **In the case of our proposed Emergency Center, and as detailed above, the totality of circumstances demonstrates a clear maldistribution of ED services in Lake County that would be partially alleviated by the establishment of an FEC in Lindenhurst.** As for the NLFH FEC, note that it has a projected primary service area and market penetration that is compatible with the project market penetration for our proposed Emergency Center (See excerpt from the NLFH FEC CON Permit Application, attached as Exhibit B, and compare with projected Target Patient Area set forth in our application). We propose to draw the vast majority of our ED patients to the North and Northwest of the NLFH FEC. This, of course, makes sense, given that we are located about 17 minutes to the North/Northwest of the NLFH FEC, according to the Board's calculations. These differences in primary market areas are detailed in Section III below.
- Even in its opposition testimony, Northwestern Lake Forest concedes its FEC in Lake county has "[c]ut hours off of EMS and ambulance transport times, and has provided patients ... faster access to the care they need. EMS and local fire departments have been extremely supportive of our center ...".² At the public hearing for our proposed Emergency Center, we too received testimony in support of our application from Fire Chiefs, Police Chiefs or other rescue department leadership from Lindenhurst, Lake Villa, Antioch, Beach Park, Newport, Gurnee and Waukegan. This support testimony emphasized the need for more timely access to emergency medical services through the proposed Emergency Center, and validated that many ambulance runs would be appropriate for service at the proposed Emergency Department. No fire or police department representative testified that the NLFH FEC precludes or diminishes the need for our proposed Emergency Center.

III. Opposition From Advocate Condell Medical Center And Northwestern Lake Forest Hospital Appears Motivated By A Desire To Protect Current And Future Market Share In Affluent Portions Of Lake County.

Advocate. In recent years, Advocate has aggressively pursued expansion into Central Lake County. Its initial strategy was to seek Board approval in 2007 for establishment of a new hospital in Round Lake, which is in relatively close proximity to our Lindenhurst campus. Advocate also filed a Letter of Intent to establish an FEC in Round Lake. Shortly after receiving an Intent to Deny on its Round Lake Hospital application, Advocate proceeded with plans to acquire Condell Medical Center in 2008 for \$180 Million.

² 5/4/10 Public Hearing Testimony of Matthew T. Kotschmann, Vice President, Business Development, Northwestern Lake Forest Hospital.

In the course of pursuing approval of its hospital in Round Lake, Advocate indicated there was a compelling need for additional hospital and ED services in this area, due to factors such as explosive population growth and the "dire" need for access to hospital services. In support testimony, for example, an Advocate representative indicated that: "[h]ealth care access from the perspective of the patient is not an issue of how far apart the hospitals are. It is an issue of how far the patient is from the hospital."³ The same holds true with our Application. From the patient's perspective, health care access is defined not by the distance between EDs, but instead by the patient's distance to the nearest ED. And the residents of North Central and Northwestern Lake County are simply too far away from existing ED services.

Upon abandoning its strategy of establishing new services in Round Lake in favor of acquisition of Condell Medical Center, Advocate's public positions regarding need for hospital and ED services in North Central and Northwestern Lake County shifted dramatically:

- In 2008, Advocate Condell argued vigorously against the establishment of the NLFH FEC in Grayslake.⁴ In fact, the arguments posed by Advocate in 2008 against the FEC in Grayslake are very similar in structure and content to the arguments now being offered by Advocate against our proposed Emergency Center. Despite Advocate's alarmist predictions that an FEC in Grayslake would dramatically reduce the ED volume at Advocate Condell, and despite offering calculations suggesting that a substantial portion of the NLFH FEC patients would come from Advocate Condell's existing ED patient base, the fact is that Advocate Condell's ED volume has not been reduced by the NLFH FEC. And as a tertiary care institution with a Level I Trauma Center and ALS services, Advocate Condell obviously draws from across a wide geographic area.
- We also must question the sincerity of Advocate Condell's need-based and policy arguments against our Application. Advocate Condell representatives evidently approached two Fire Chiefs who testified in support of our Application, at the Public Hearing, requesting the Fire Chiefs' support for a freestanding medical center Advocate purportedly intends to establish in Antioch. (See Exhibit C attached). Such an overture by Advocate, at the very Public Hearing they requested to oppose our application, seems disingenuous at best.

Advocate Health Care Network and its subsidiaries operate as the largest health care provider in Illinois. As of December 31, 2009, Advocate operated 8 short term acute care hospitals with 2 integrated children's hospitals, 1 LTACH, numerous outpatient and other services, and had

³ Scott Powder, Public Hearing Testimony 6/5/2007.

⁴ Public Hearing testimony from an Advocate representative on 5/4/10 details the purported reasons why Advocate did not oppose the proposed NLFH FEC project. 5/4/10 Oral Testimony of Elyse Forkosh Cutler, Vice-President of Strategic Planning and Network Development for Advocate Health Care. However, Advocate Condell did argue against establishing the NLFH FEC in correspondence to the Board dated 10/16/08, from Robin Zacher, Director, Strategic Planning, Condell Medical Center.

about 5,200 physicians on staff. At the end of calendar year 2009, Advocate had total net assets of about \$2.6 billion; net annual revenue of approximately \$660 million; and total revenue of about \$4.13 billion, of which approximately \$3.36 billion was patient service revenue.⁵ Advocate acquired Condell Medical Center in 2008; it also operates Advocate Good Shepherd Hospital in Barrington (Lake County). In 2010, Advocate merged with the Bromenn Health System in Normal, which has added 2 hospitals and numerous physicians into the Advocate system.

Advocate is the largest hospital system in Illinois. It is financially healthy and enjoys a AA bond rating. It has financial resources. When acquiring Condell for a purchase price of \$180 million, it was in a position also to commit that it would complete various pending capital improvement projects totaling approximately \$134.5 million (West expansion, ER buildout, electrophysiology lab). To date, Advocate has targeted affluent areas of Lake County for its growth strategy. We ask the Board to take these factors into consideration when assessing the persuasiveness of Advocate's argument that it must be assured an ongoing stream of routine ED volume, in order to "cross-subsidize" its higher acuity services.

Lake Forest Hospital. Lake Forest Hospital, now Northwestern Lake Forest Hospital and operating under the corporate control of the Northwestern Memorial system, has repeatedly promoted the FEC model as a means to address the compelling need for increased ED services in Lake County. Not only was Lake Forest Hospital a vocal proponent of FEC services in connection with its own FEC application, but it also made an argument in favor of FEC services as an alternative to Vista's proposed hospital in Lindenhurst.⁶ As discussed in Section II above, the NLFH FEC appears to have hit the Board's volume targets within several months of opening.

As a result, Northwestern Lake Forest is now left to argue that its FEC in Grayslake would be adversely affected by a 7-station FEC facility over 17 minutes to the Northwest of its site, despite the markedly different Target Population Areas ("TPA") projected by each facility. Our Application focuses on a TPA to the North and West of our proposed site. As indicated above and as supported by the zip code-based projections of market share made by Vista and Northwestern Lake Forest, there is limited overlap in the projected TPAs for each FEC. Even in zip codes in which some overlap is projected, there is ample ED demand to support both projects. See Exhibit B.

For example, we project our highest concentration of patients to come from the Lindenhurst/Lake Villa area most immediately surrounding the FEC (70%); Lake Forest Hospital projected a low penetration in that same community (10.7%). This is consistent with Lake Forest Hospital's approach to projecting patient origin for its FEC. In its application for

⁵ Source: Advocate Health Care Quarterly Report for the Fourth Quarter and Year Ended December 31, 2009; Audited Consolidated Financial Statements for 2008 and 2009 prepared by Ernst & Young and dated 3/9/10.

⁶ 10/30/08 Opposition Letter from Jacck Franaszek, MD, Medical Director of the Lake Forest Hospital Emergency Department.

the FEC, it projected its highest penetration from Grayslake(26.3 %), and we projected a low penetration in Grayslake (10%). Similarly, we projected relatively high penetration in a far North Central Lake County community such as Antioch (40%), whereas Lake Forest Hospital projected a mere 5% ED penetration in that same zip code.

We ask the Board also to remember that our Application voluntarily took an unusually conservative approach to projecting patient origin and utilization at the proposed Emergency Center. For example, we assumed ED utilization will remain at 2009 levels, despite continued indications of population growth in the area. We also acknowledged the NLFH FEC in Grayslake by projecting for our facility very low utilization from Grayslake.

IV. Vista's FEC Application Should Be Evaluated By the Board For Its Impact On Safety Net Services, In Light Of Vista's Demonstrated Commitment to Charity Care And Medicaid Service Delivery In Lake County

Of the 7 hospitals in Lake County, 4 are operated on a not for profit, tax-exempt basis (Northwestern Lake Forest, Advocate Condell Advocate Good Shepherd and Highland Park Hospital). Vista's 2 hospitals are investor-owned, as is Midwestern Regional Medical Center.

Despite the presence of 4 not for profit, tax-exempt hospitals in Lake County, Vista is clearly the leading safety net hospital provider in the county. As reflected in our Application, in 2007 Vista had more Medicaid inpatient admissions than the other 5 hospitals combined. The percentage in 2008 was comparable. From 2007 to 2009, Vista-East's Medicaid volume on the basis of revenue increased by about 40%.

Similarly, Vista's charity care delivery is substantial, and compares favorably with charity care delivery by not for profit, tax-exempt hospitals in Lake County. In 2009, Vista-East's charity care (calculated on a cost basis) was about \$3.34 million. This is a dramatic increase from 2008, when Vista-East had about \$2.5 million in charity care (about 1.6% of revenue). In short, Vista's Medicaid service delivery and charity care has steadily increased over the past several years. With the impending discontinuation of inpatient AMI services at Advocate Good Shepherd, we expect our Medicaid and charity care AMI volume will continue to increase. In 2009, Vista paid about \$2.8 million in state and local taxes.

Our charity care and Medicaid volume is explained largely by our decision to stay in Waukegan, and to expand health care services to this economically disadvantaged community. While other health systems focus on more affluent portions of Lake County to the exclusion of the Waukegan area, we have strived to serve all in need of health care services within Lake County.

We ask the Board to consider this in valuating our Application, for the following reasons:

- As indicate in our Safety Net Impact Statement, an FEC sponsored by Vista would improve access to ED services not only on a geographic basis, but also on a safety net basis. The Board could be confident based on Vista's past performance that safety net

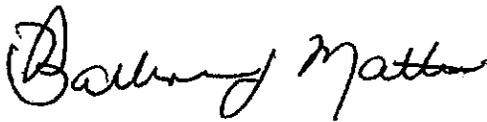
Mr. Mike Constantino
May 18, 2010
Page 10

services would be delivered in good faith to Medicaid, uninsured and underinsured patients at our proposed Emergency Center. This facility would be subject to EMTALA requirements, and also would operate under the same charity care policies as are in place at Vista-East and Vista-West.

- Vista's ability to continue as the leading safety net hospital provider in Lake County would be enhanced by continued expansion of its campus in Lindenhurst. Other hospitals in Lake county benefit financially from locations with a higher commercial payer mix, but have not evidenced an intention to expand into the Waukegan area.

As always, we thank the Board and its staff for consideration of our public comment.

Sincerely yours,



Barbara J. Martin

cc: Anne M. Murphy, Esq.

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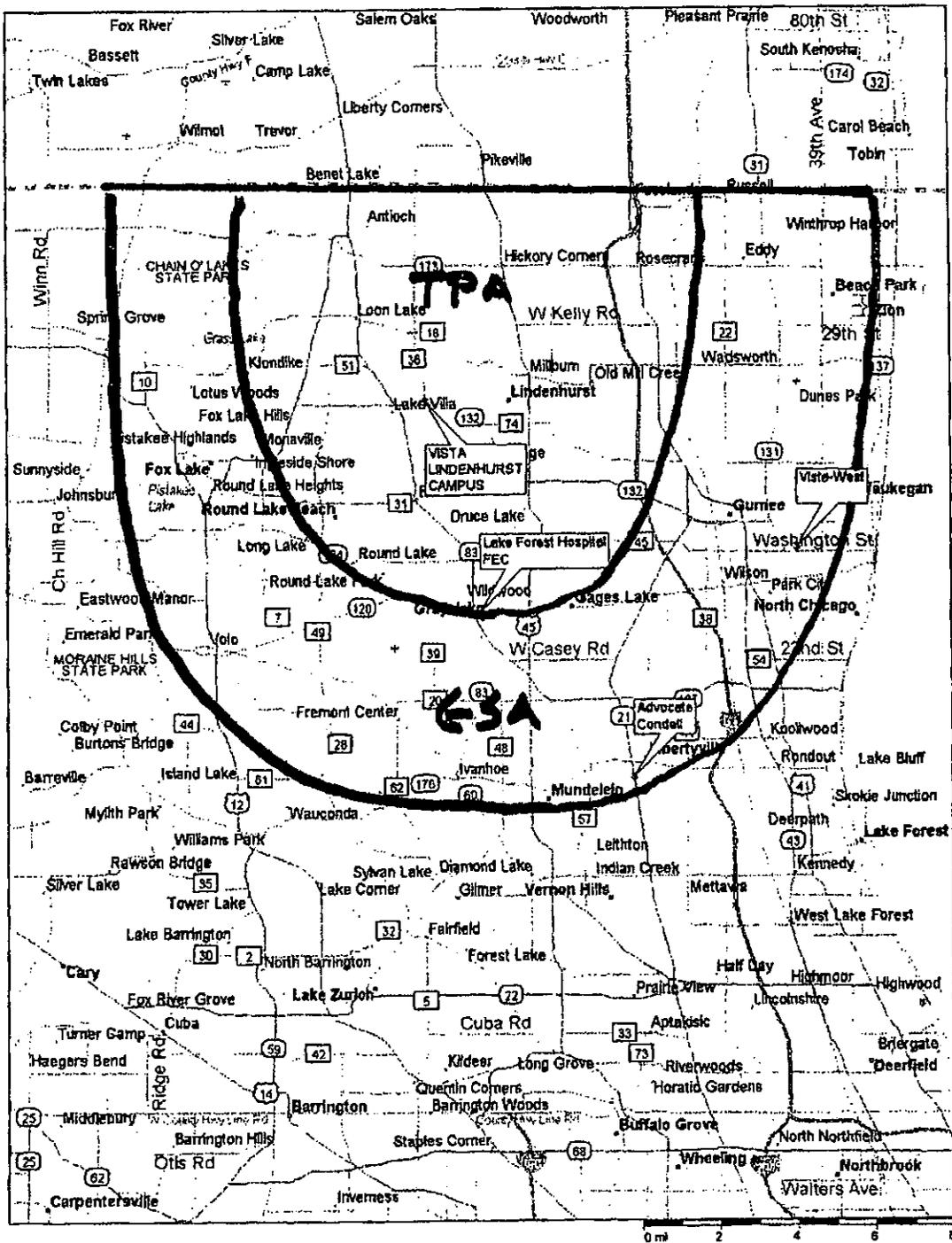


EXHIBIT A

Grayslake Campus Acute Care Center Projected Patient Origin

Zip	Description	Year		
		2009	% of Total	Cumm %
60030	Grayslake, IL	7,788	26.3%	26.3%
60073	Round Lake, IL	5,153	17.4%	43.7%
60046	Lake Villa, IL	3,169	10.7%	54.4%
Subtotal 50%		16,110	54.4%	54.4%
60031	Gurnee, IL	2,902	9.8%	64.2%
60002	Antioch, IL	1,481	5.0%	69.2%
60060	Mundelein, IL	1,096	3.7%	72.9%
60048	Libertyville, IL	888	3.0%	75.9%
Subtotal 75%		6,367	21.5%	75.9%
Subtotal Other		7,137	24.1%	100.0%
Grand Total		29,614	100.0%	100.0%

ATTACHMENT FECMS-6-3

EXHIBIT B



BEACH PARK FIRE DEPARTMENT

3233 Lewis Avenue • Beach Park, IL 60087

Chief Paul N. Tierney

Phone: 1-847-662-2642

Fax: 1-847-662-2779

www.beachparkfd.org

Ms. Barbra Martin
1324 North Sheridan Road
Waukegan, Illinois 60085

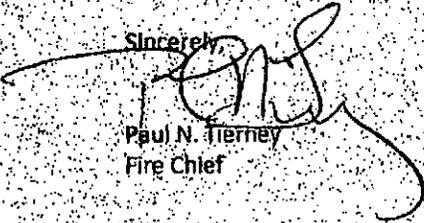
May 19, 2010

Dear Ms. Martin

I would like to inform you of an issue that disturbed me at the Illinois Department of Public Health hearing on May 04, 2010. As Chief Kirschhoffer from Newport Township F.P.D. and I entered the back of the hearing room two individuals approached us. These two individuals identified themselves as being associated with Advocate Health Systems and spoke about building a free standing medical facility on Route 173 at Savage Road in Antioch, IL. These two individuals desired our support for this endeavor. As I stated previously I was disturbed and the reason for this is that Advocate is against building the Vista facility in Lindenhurst and it seems all they are concerned with is their bottom line. I believe that Advocate is speaking out of both sides of their mouth, on one hand they are against Vista's project but on the other hand they are interested in building their own facility. It seems that the real interest is their own financial gain as opposed to the best interest of North Lake County and the communities the Vista facility will serve.

I appreciate your time and just wanted to bring this situation to your attention and my ensuing frustration with the attitude of the other health systems in the area.

Sincerely,



Paul N. Tierney
Fire Chief

EXHIBIT C

Roate, George

From: Elizabeth Jamieson [Elizabeth_Jamieson@chs.net]
Sent: Wednesday, May 19, 2010 4:28 PM
To: Constantino, Mike
Cc: anne.murphy@hklaw.com; Roate, George; Barbara Martin
Subject: On Behalf of Barbara Martin - Public Comments on Project 10-018
Attachments: Project 10-018 Public Comments (Vista FEC).pdf

(See attached file: Project 10-018 Public Comments (Vista FEC).pdf)

Elizabeth Jamieson | Executive Assistant to the CEO | Vista Health
System
1324 N Sheridan Road | Waukegan, IL 60085 | Tel: 847-360-4000 | Fax:
847-360-4109 | elizabeth.jamieson@chs.net

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Mr. Dale Galassie
Chairman
Illinois Health Facilities and Services Review Board
525 W. Jefferson, Second Floor
Springfield, IL 62761

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Re: Vista Lindenhurst FEC Application (the "Application")
Project No. 10-18 (the "Project")

Dear Chairman Galassie:

I am writing to follow up from our recent public hearing testimony opposing the Vista Lindenhurst Freestanding Emergency Center (FEC) project. As you know, Advocate Condell Medical Center has seriously committed to improving health care in Lake County, particularly in the area of emergency services. We now provide the only Level I Trauma Services in Lake County – a service that was identified as one of the greatest community needs. Trauma service requires a significant investment in ongoing operational costs and capital costs for the expansion of our emergency department. An FEC in Lindenhurst would significantly undermine these investments.

We do not take the opposition of an application before the Review Board lightly. With the one possible exception, I cannot recall Advocate strenuously opposing a project in the ten years I have been part of Advocate. We expect other facilities to compete with us, but we also expect that a health planning process brings a certain degree of predictability. The proposed FEC application appears to violate so many of the Review Board's rules that approval of the Project would run counter to the whole reason for health facilities planning.

As you know, when the original 2007 FEC legislation was enacted, Advocate Health Care considered establishing a FEC in this area. Once the Review Board's FEC rules were proposed, however, we recognized that neither Advocate nor any other new facility in Lake County would be able to satisfy the need criterion under the Board's requirements. For this reason, we did not proceed with our application for that FEC project. Similarly, this proposed Project cannot and does not meet those requirements. By contrast, Lake Forest's Grayslake FEC was able to meet the Review Board's need criteria due to its pre-existing immediate care facility. Vista has no such pre-existing volumes today.

To obtain a thorough analysis of this Project's adherence to Board rules we asked our CON legal counsel to compare the proposed project with the Board's regulations. Our counsel has prepared the attached letter addressing some of the major legal issues associated with this Project. We provide this letter to you in the hope that it will assist the Board and the State Agency in its review of the Project.

Respectfully,

Kathy Lapacek

KL/vv

Attachment

Cc: Mike Constantino

May 19, 2010

Ms. Kathy Lapacek
Vice President – Business Development
Advocate Condell Medical Center
801 South Milwaukee Avenue
Libertyville, Illinois 60048

Re: Vista Lindenhurst FEC Application (the “Application”)
Project No. 10-18 (the “Project”)

Dear Ms. Lapacek:

You had asked that we review the Vista FEC Application above in connection with its compliance with the Illinois Health Facilities Planning Act and associated rules. Our review of the application and other materials submitted disclosed a number of areas where the Application fails to meet the review criterion established by Health Facilities and Services Review Board (the “Board”). Most of the areas of non-compliance relate to substantive review criteria. In the course of the review we also note two additional issues relating to whether the Project should be considered in this form and whether the Application is eligible for consideration.

I. PROCEDURE AND PROCESS ISSUES

A. The Applicant Has Made Multiple Attempts to Modify the Application Although the Rules Allow Only Two Modifications

Review Board Rules allow an Applicant to “modify” an Application only two times. The Applicant appears to have attempted to modify the application multiple times. The Board rules provide:

Section 1130.635 Additional Information Provided During the Review Period

- a) ***Requested Information***
As needed to clarify the application, IDPH may request information or data during the review period from the applicant or from other persons in order to conduct its review. Requested information or data furnished to IDPH shall be made part of and included in the project record.

- b) ***Supplemental Information***

CHICAGO HOFFMAN ESTATES SPRINGFIELD MILWAUKEE
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Supplemental information or data may be provided by the applicant only if the information is due to a modification of the project, is in response to an Intent to Deny, or is in response to a request from HFPB. Supplemental information shall be made part of and included in the project record.

- c) *Public Comment Information*
Public comment information from persons other than the applicant that has been submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or supplemental information. The information shall be made part of and included in the project record.
- d) *Ex Parte Information*
Information submitted by the applicant or by any other person that is not requested information, that is not supplemental information, or that is not public comments or public hearing information is ex parte and will not be considered in the review of the project.

Section 1130.650 Modification of an Application

- c) *An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFPB.*
- d) *If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of HFPB, IDPH shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to HFPB at the next regularly scheduled meeting that is at least 10 days following the completion of the IDPH review.*

77 Ill.Admin.Code Section 1130.635, 1130.650 (c) (d) (emphasis added)

According to the Review Board's web site the Applicant added information at least six times in addition to the information added before the application was deemed complete.

1. April 8 Safety Net Impact Statement Added. (In original application the Applicant stated a Safety Net Impact Statement was not applicable and did not include the required Statement)
2. April 16 Supplemental Material – Historic Preservation Agency Letter Added.
3. April 19 Supplemental Material - 66 pages of Supplemental Information added rewriting many substantive sections of the Application
4. April 26 Supplemental Information – 31 pages of Supplemental Information rewriting a number of substantive sections of the Application
5. April 29 Amendment to replace Page 7 of the Application
6. May 5 Amendment to Application relative to the existence of a helipad.

The Board's rule limiting the number of modifications serves to avoid duplicative staff review time. In fact, the rules clearly provide that the State Agency may extend the review period by up to 60 days when an application has been modified. The limitations on amending an Application also serve to allow the public ample opportunity to review and make public comment to amendments to an application.

It is often valuable or the Board to have supplemental information. The Board's rules permit supplemental information, but provide that "supplemental information or data may be provided by the applicant only if the information is due to a modification of the project, in response to an Intent to Deny or is in response to a request by HFPB." Even if some of the information was submitted at the request of staff, the majority of the Applicant's submissions constitute modifications and most should be disallowed. If the Applicant wishes to submit supplemental information beyond the 2 modification limit, it should do so in connection with an Intent to Deny or in response to the Board's request, not at the pleasure of the Applicant.

B. Does the Special Legislation for this Application relating to Letters of Intent Require the Applicant to file the Application within the One year letter of intent period (which it did not)?

The 2007 legislation authorizing new FECs was written to require that licensure must be complete by 2009. Subsequent legislative amendment allowed for three FEC applications pending during that window to be considered. New special legislation contained in PA 96-0883, upon which this application relies, makes a special provision

relative to whether a Letter of Intent had been filed. This new law, effective March 1, 2010, states:

(a-10) Notwithstanding any other provision of this Section, the Department may issue an annual FEC license to a facility if the facility has, by March 31, 2009, filed a letter of intent to establish an FEC and if the facility complies with the requirements set forth in paragraphs (1) through (17) of subsection (a).

The Board's current rules on Letter of Intent provide that "A Letter of Intent shall be valid for a period of one year from the date of receipt by HFPB". Section 1130.620(b)(2). (emphasis added)

Vista's Letter of Intent for the FEC project was received by the Review Board on March 23, 2009. Vista filed its FEC CON application March 25, 2010. As can be seen from the date stamped filings, the new FEC application was filed more than 1 year after the LOI had been received.

SB 1905 effective June 30, 2009, repealed the requirement that a Letter of Intent first be filed before a CON application could be filed and, as you know, LOIs are generally no longer required. The Board's rules on Letter of Intent have not been repealed or amended. PA 96-0883, however, clearly relied upon the Board's rules relative to on the Letter of Intent requirement.

A review of the application suggest Vista rushed the filing of its Application. It may have been that it was trying to beat that date, but did not. We leave to the Board its interpretation of whether the one-year Letter of Intent requirement applies for PA 96-0883, but believe interpretation of this act should be a threshold matter in deciding whether to consider this application.

II. SUBSTANTIVE REVIEW CRITERIA

A. Freestanding Emergency Center Medical Services Review Criterion

A) Criterion 1100.3230(b)(4) - Service Accessibility

The Criterion states:

"4) Service Accessibility

The proposed project to establish or expand an FECMS category of service is necessary to improve access for GSA residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the GSA:

- i) *The absence of ED services within the GSA;*
 - ii) *The area population and existing care system exhibit indicators of medical care problems, such as high infant mortality, or designation by the Secretary of Health and Human Services as a Health Professional Shortage Area, a Medically Underserved Area, or a Medically Underserved Population;*
 - iii) *All existing emergency services within the 30-minute normal travel time meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.*
- B) *Supporting Documentation*
The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:
- i) *The location and utilization of other GSA service providers;*
 - ii) *Patient location information by zip code;*
 - iii) *Travel-time studies;*
 - iv) *A certification of waiting times;*
 - v) *Scheduling or admission restrictions that exist in GSA providers;*
 - vi) *An assessment of GSA population characteristics that documents that access problems exist;*
 - vii) *Most recently published IDPH Hospital Questionnaire*

One of the most important issues for any Certificate of Need application, obviously, is whether the proposed project is "needed" The Board develops detailed rules for evaluating whether a project fulfills a health care "need" or is just a "want". As shown in the rule cited above, there are three test for whether a project is needed.

Two of these tests are quickly and definitively dismissed:

- a. *is there an absence of ED services within the area; and*
- b. *whether all existing ED service within the 30 minute travel time meet or exceed the 2,000 visit per room utilization standard.*

Clearly there are multiple facilities providing emergency services within the area and the Project cannot meet the first test. The second test

is whether all of the facilities meet the Board's utilization standard. The application unequivocally fails this test. None of the facilities achieve the Board's target utilization. The table following shows utilization for the three facilities that are within 30-minute travel times and the facilities that are also within 30 minutes until the Board's 1.15 travel factor is applied (these facilities were included in the Applicant's original application). On occasion the Board will approve a project without it entirely meeting the calculated need, but usually only if the need numbers are close to the stat standard. Here the numbers are not even close.

Both the Northwestern Lake Forest FEC and the Advocate Condell Medical Center reflect projects recently approved by the Board for which utilization will improve over time as the projects become fully implemented and if a new facility is not added. More striking, however, is that the Applicant's own hospitals so dramatically fail to meet the Board's utilization standard.

Area Emergency Department Utilization

Existing ED Facilities in Area	MapQuest Miles	MapQuest Travel Time	Treatment Rooms	Utilization Standards Volume	2008 ED Volumes	2008 % Capacity	Excess Visit Capacity
Northwestern Lake Forest FEC	7.3 miles	14.95 min	14	28,000	0*	0%	28,000
Vista West	12.2 miles	24.15 min	11	22,000	12,018	55%	9,982
Advocate Condell	14.6 miles	28.75 min	32	64,000	45,944	72%	18,056
Subtotal			57	114,000	57,962	50.8%	56,038

Midwestern Regional Medical Center	16.5 miles	32.20 min	5	10,000	5,244	52%	4,756
Vista East	13.3 miles	32.20 min	31	62,000	36,469	59%	25,531
Northwestern Lake Forest	18.3 miles	32.20 min	17	34,000	33,690	99%	310
Centegra Hospital -	16.7 miles	35.65 min	22	44,000	38,883	88%	5,117

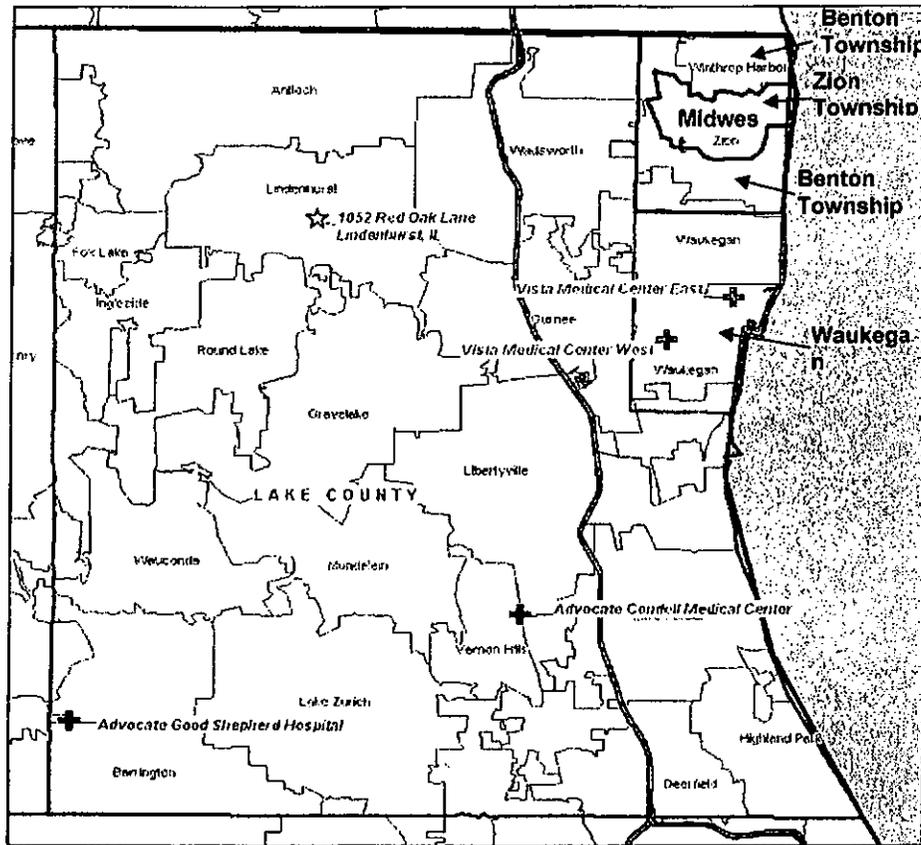
*Began operations in 2009
 Source: IDPH 2008 AHQ

The proposed Project so overwhelmingly fails to meet the two need tests discussed above that the Application does not even try to address those criteria. Instead, the Applicant bases its entire need test on the thinnest of a technical issue—that a very minor area located at the edge of the Geographical Service Area (GSA) shows one of the indicators of medical problem area by being designated as a health professional shortage area (“HPSA”). The attached map shows the location of Zion, Benton and Waukegan Townships, all of which are at the far northeastern or eastern edge of the GSA.

The HPSA argument fails for several reasons. First, the application itself contradicts that these areas are significantly within the GSA. In one of the Applicant’s first amendments, Vista modified its application to remove several hospitals from what it originally considered to be in the GSA, including its Vista East hospital in Waukegan and Midwest Regional hospital in Zion. Vista East hospital falls squarely within Waukegan Township and Midwest Regional hospital squarely within Zion Township. The Applicants now claim that these hospitals are outside the 30-minute GSA. The Applicants cannot have it both ways—if the hospitals within those townships are more than 30 minutes away, than a significant portion of the population in that township is also more than 30 minutes away. A MapQuest analysis was performed to determine the travel time between the proposed facility and the three townships as measured to the Township Hall. MapQuest shows both Waukegan and Zion Township to be in excess of 30-minute travel time. Any portion of northern Benton Township would also appear to be outside the 30-minute travel time.

Secondly, these townships are not even located in what the applicants say is its “targeted” area of service. (Application page 127) Further, even if these townships are fully included in the GSA, the proposed FEC does nothing to address any professional shortage in that area. According to the Application, the stated Purpose of the Project is to “improve accessibility to emergency services for the residents of north-central and northwestern Lake County.” (Application page 105) While these townships may indeed have a shortage of primary care, this shortage and the primary care needs of the people in these communities will not be served by a FEC located in Lindenhurst. To approve a project as “needed” with no expectation that the project would address such a perceived need would be the antithesis of sound health facilities planning.

Health Professional Shortage Areas



Average Distance for Health Professional Shortage Areas

	Lindenhurst FEC		Vista West		Vista East	
	Miles	Minutes	Miles	Minutes	Miles	Minutes
Zion Township Hall	17	33.35	9	19.55	5	12.65
Benton Township Hall	14.5	25.3	6.3	12.65	6.4	16.10
Waukegan Township Hall	13	31.05	2.4	9.2	1	2.30
Average	14.8	29.86	5.9	13.8	4.1	10.35

Source: MapQuest

B. Criterion 1100.3230(c) - Unnecessary Duplication/Maldistribution

The criterion reads as follows:

- "1) *The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information:*
 - A) *A list of all zip code areas (in total or in part) that are located within 30 minutes normal travel time of the project's site;*
 - B) *The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois population); and*
 - C) *The names and locations of all existing or approved health care facilities located within 30 minutes normal travel time from the project site that provide emergency medical services.*
- 2) *The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the identified facilities within the Normal Travel Time have an excess supply of ED treatment stations characterized by such factors as, but not limited to:*
 - A) *Historical utilization (for the latest 12-month period prior to submission of the application) for existing ED within 30 minutes travel time of the applicant's site that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100; or*
 - B) *Insufficient population to provide the volume or caseload necessary to utilize the ED services proposed by the project at or above utilization standards.*

The proposed Project clearly and unequivocally creates a maldistribution of services under the Board's rules. As the Table on page 7 shows, not a single facility in the area meets the historical utilization standard of 2,000 visits per emergency treatment room.

- 3) *The applicant shall document that, within 24 months after project completion, the proposed project:*
 - A) *Will not lower the utilization of other GSA providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and*
 - B) *Will not lower, to a further extent, the utilization of other GSA hospitals or FECs that are currently (during the latest*

12-month period) operating below the utilization standards.

Section 3(A)(B) of the above rule requires that the applicant document that the Project will not lower utilization of existing provider below the utilization standard or further below the utilization standard. Northwestern Lake Forest FEC and Advocate Condell, as well as Centegra, all operate below utilization targets all and filed impact letters showing that the proposed project would further lower utilization. The unnecessary duplication of services is at the core mission of the planning process. The Board's rule on duplication of services is clear and the effect is clear – this project duplicates services and creates a maldistribution. The Application at hand did not even attempt to address this issue or the details of the Board's rules in its application (See Attachment pp. 130-131).

The Board's rule requiring an applicant to document effect on utilization applies not only to competing facilities but to the Applicant's own facilities as well. Although the Application does not disclose this fact, Vista West has 2008 Emergency Department utilization of only 55%. Similarly, Vista East has an Emergency Department utilization of only 59% of what is required by the Board. As part of its application Vista must document the impact the proposed facility would have in exacerbating its own already low utilization.

4) *The applicant shall document that a written request was received by all existing facilities that provide ED service located within 30 minutes travel time of the project site asking the number of treatment stations at each facility, historical ED utilization, and the anticipated impact of the proposed project upon the facility's ED utilization. The request shall include a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility will not experience an adverse impact in utilization from the project. Copies of any correspondence received from the facilities shall be included in the application."*

The Board rules require the Applicant to notify affected area providers and inquire about the impact the proposed project may have on those providers. Area providers have only 15 days to respond and the Applicant must include responses it receives in its application. In a curious move, the Applicant filed its application before even waiting for

the 15 day period to expire (particularly because the rules require the Applicant to document that other facilities received the letter, not that it had been mailed). Three facilities, Centrega, Advocate Condell, and Northwestern Lake Forest all provided data and quantifiable information that should have been addressed in the Application, suggesting that the Applicant was unconcerned about any impact its Project may have on other providers, and indifferent about addressing this information in its Application. The Applicant's analysis of this information is necessary component of the Application intended to benefit the Board in its deliberation. To not wait for the impact letter responses would certainly seem to be a breach of the intent of the planning process.

C. Criterion 1110.230(a) - Background of Applicants

The criterion states:

"The applicant shall demonstrate that it is fit, willing and able, and has the qualifications, background and character to adequately provide a proper standard of health care service for the community. [20 ILCS 3960/6] In evaluating the fitness of the applicant, the State Board shall consider whether adverse action has been taken against the applicant, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application."

Section 1110.230(b)(3)(A)(B) of the criterion further provides

3) The applicant shall submit the following information:

A) A listing of all health care facilities currently owned and/or operated by the applicant, including licensing, certification and accreditation identification numbers, as applicable;

B) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application.

(emphasis added)

According to the SEC Form 10-K statement filed as part of the application, Community Health Systems Inc. ("CHS") states that it is "the largest publicly traded operator of hospitals in the United States in terms of number of facilities and net operating revenues", and that it includes 115 hospitals in 27 states. (See Application page 174). Pages 87-93E of the application contains a

listing of facilities, but does not include the required licensing, certification and accreditation identification numbers.

The Application does contain a listing of adverse actions taken against two of its Illinois hospitals relative to CMS and IDPH compliance matters (Application page 103-103A). The Review Board's rules applicable to the filed application require disclosure of any adverse action by any facility owned, not just ones in Illinois. The certification appears not to address whether there are any adverse actions against CHS facilities in other states. Given that the Applicant has been subject to adverse action at two of its Illinois facilities it is possible that other facilities in the other 26 states in which it operates may also be subject to adverse action. The Application should clarify for the State Agency that it has fully disclosed all adverse action in all states or disclose that adverse action as part of this application.

D. Criterion 1110.230(b) – Purpose of the Project

b) Purpose of the Project – Information Requirements

The applicant shall 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 applicant shall define the planning area or market area, or other, per the applicant's definition.

1) The applicant 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. Examples of such information include:

A) The area's demographics or characteristics (e.g., rapid area growth rate, increased aging population, higher or lower fertility rates) that may affect the need for services in the future;

B) The population's morbidity or mortality rates;

C) The incidence of various diseases in the area;

D) The population's financial ability to access health care (e.g., financial hardship, increased number of charity care patients, changes in the area population's insurance or managed care status);

- E) The physical accessibility to necessary health care (e.g., new highways, other changes in roadways, changes in bus/train routes or changes in housing developments).*
- 2) *The applicant shall cite the source of the information (e.g., local health department Illinois Project for Local Assessment of Need (IPLAN) documents, Public Health Futures, local mental health plans, or other health assessment studies from governmental or academic and/or other independent sources).*
- 3) *The applicant shall detail how the project will address or improve the previously referenced issues, as well as the population's health status and well-being. Further, the applicant shall provide goals with quantified and measurable objectives with specific time frames that relate to achieving the stated goals.*
- 4) *For projects involving modernization, the applicant shall describe the conditions being upgraded. For facility projects, the applicant shall include statements of age and condition and any regulatory citations. For equipment being replaced, the applicant shall also include repair and maintenance records.*

(Emphasis Added)

The "Purpose" section of the application requires the applicant to identify the purpose of the project and to "identify the issues or problems that the project is proposing to address". In its Purpose section the Application does not appear to identify any problems that need to be addressed. This Application section includes no discussion, and certainly no documentation, of any problem to be fixed. This section states that its purpose is to improve accessibility to emergency services for residents in north-central and northwestern Lake County. The application provides no discussion of long wait times, no discussion of rapid growth, and no discussion of access problems for patients. The only factual statement is one that is empirically false "Patients in need of emergency care, as approved to urgent care, are most often transported to an emergency room by rescue squad or ambulance." There is no documentation for this claim, in fact evidence shows the contrary. At the public hearing on this project, Dr. Maloney, Medical Director for the Advocate Condell Medical Center, testified that only 22% of its Emergency Department patients arrive via ambulance. Condell is the sole Level 1 Trauma Center in Lake County and it is likely that far fewer FEC patients would arrive by ambulance -- certainly much less than the "most" asserted in the application.

The "Purpose" criterion also requires the applicant to set out "quantifiable and measurable objections with specific time frames that relate to achieving the stated goals." No problems are identified or quantified and consequently no solutions or measurable outcomes are provided. We believe the Purpose criterion does not meet the review criterion.

E. Criterion 1110.230(c) - Alternatives

The Criterion states:

"The applicant must document that the proposed project is the most effective or least costly alternative. Documentation shall consist of a comparison of the proposed project to alternative options. Such a comparison must address issues of cost, patient access, quality, and financial benefits in both the short and long term. If the alternative selected is based solely or in part on improved quality of care, the applicant shall provide empirical evidence including quantifiable outcome data that verifies improved quality of care. Alternatives must include, but are not limited to: purchase of equipment, leasing or utilization (by contract or agreement) of other facilities, development of freestanding settings for service and alternate settings within the facility."

The best alternatives are also the simplest and lowest cost. The best alternative is that patients continue to use existing facilities that presently have excess capacity. Virtually every facility in the area has excess capacity, particularly Vista's own hospitals. Building a new facility is more expensive, duplicates services, and is not needed. Vista rejected this alternative, in part, arguing that they alone would have an FAA helipad and that this would be important in taking serious codes away from the FEC. This is factually incorrect. Northwestern Lake Forest FEC does have a helipad, which the Applicant subsequently acknowledged. This correction removes much of the argument the Applicant used in refuting this alternative and no additional rationale has been supplied. Even so, a helipad's primary use would be to remove patients in serious condition that arguably should have instead gone to a full service hospital emergency department initially.

The Applicants also omit another important alternative. The Applicant's sole argument for satisfying the need criterion is that a tiny portion of service area has three townships designated as health professional shortage area. These areas are core services of the Vista hospitals. It would seem that if the health professional shortage designation is the true need, the Applicant could best address that need by providing a clinic, and in the area where there is a need for health professionals. This would be another good alternative and one not even

Ms. Kathy Lapacek
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considered by the Applicant. This project cannot satisfy the "Alternatives" review criterion.

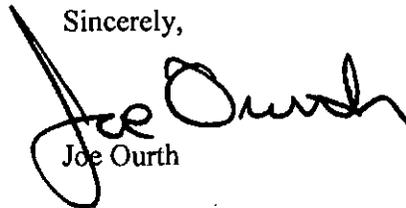
F. Review Criteria - Financial Feasibility

In addition to the Section 1110 review criteria, the Application also fails to meet the review criteria for Section 1120. Several of the financial ratios are not disclosed and many that are disclosed do not meet the state standard. Similarly, not all project cost criteria meet the state standards.

Conclusion

There is no need for this Project under the Board's rules and the Project unnecessarily duplicates existing services. This Application fails to meet the Review Boards requirements.

Sincerely,



Joe Ourth

JRO/eka