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Constantino, Mike

JUN 20 2011

From: Ourth, Joe [JOurth@arnstein.com]
Sent: Sunday, June 19, 2011 11:29 PM
To: Constantino, Mike
Cc: Williams, Don A.
Subject: Response to State Agency Report - Centegra Hospital - Huntley (Project No. 10-090)
Attachments: 110619 221904.PDF

**HEALTH FACILITIES &
SERVICES REVIEW BOARD**

Mike,

Please find attached a Response to State Agency Report for the Centegra Hospital - Huntley Project (No. 10-090) being submitted on behalf of Advocate Good Shepherd Hospital and Sherrman Hospital that we wish to submit to the project file.

Thank you.

Joe Ourth

ARNSTEIN & LEHR LLP
120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606-3910
Phone: 312.876.7815 | Fax: 312.876.6215
JOurth@arnstein.com



Offices in Illinois, Florida, and Wisconsin< P>

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June 19, 2011

Via Electronic Mail and Overnight Carrier

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

Re: Response to State Agency Report ("SAR")
Centegra Hospital - Huntley Application (the "Application")
Project No. 10-090 (the "Project")

Dear Chairman Galassie:

Advocate Good Shepherd Hospital and Sherman Hospital appreciate the staff's work on the State Agency Report and agree with the findings that the application does not meet several important review criteria. We also appreciate the opportunity to respond to the SAR and will limit this letter to our comments on the SAR.

1. Support and Opposition Comments (SAR Pages 6-9)

We appreciate the staff's work in going through a large public record and the difficult task of sifting through and selecting excerpts for inclusion in the SAR as a mechanism for summarizing the public comment. Numerous physicians, citizens, governmental officials, healthcare professionals and other health care providers have contributed significant oral and/or written testimony at the public hearing and throughout the public comment period providing data, research and articulating concerns and other views about this proposed hospital. We would hope that all of this extensive public comment will be carefully considered by the Review Board in its deliberations.

Nevertheless, because of the large amount of material to digest, letters were submitted at the conclusion of the public comment period to assist the Review Board in summarizing key arguments in opposition to both the Mercy and Centegra Projects. We believe the letters dated June 8 by Rick Floyd, President and CEO of Sherman Hospital, and another letter from legal counsel provide a useful summary for the Review Board and

we suggest that the State Agency Report make reference to those summary letters. We also believe the detailed letter of opposition by Provena Saint Joseph Hospital submitted by its President and CEO Eugene McMatton on June 2, 2011 warrants mention in the SAR.

In addition, the results of a study performed by the University of Illinois College of Medicine also merit discussion in the State Agency Reports. This year-long study was unrelated to the new hospital CON applications. The U of I study, based on 1100 household surveys, focus groups and key leader interviews, found that "access to quality health care" was one of the best aspects of living in McHenry County. Notably, this independent study did not report the need for an additional hospital to be among the health care priorities of McHenry County residents.¹

Finally, it is important that the SAR reflect one additional submission. On June 7, 2011 legal counsel submitted a letter discussing the Comprehensive Planning function created by the recent rewrite of the Planning Act and requesting that the Board defer action on new hospital applications until that comprehensive planning function was fulfilled. We believe that letter raises important legislative issues that go to the heart of the Planning process and that request for deferral be referenced in the SAR.

2. Safety Net Impact Statement (SAR Page 11-12)

Pages 8 and 11 of the SAR make reference to a Safety Net Impact Statement. We believe that this section of the SAR should also specifically reference the "Safety Net Impact Statement Response" that was filed by Sherman Hospital, St. Alexius Medical Center and Good Shepherd Hospital and should provide analysis of both submissions. Page 8 should likely reflect the names of the hospitals that submitted the Safety Net Impact response. Similarly, Provena St. Joseph Hospital also addressed the negative impact the Centegra project would have on safety net services as part of its June 2 letter.

In its 2009 rewrite of the Planning Act, the General Assembly implemented a new requirement for permit applications. Each application is now required by law to address the impact its project will have on Safety Net Services, including the impact the proposed project will have on the ability of other providers to cross-subsidize Safety Net Services. Because the General Assembly anticipated that applicants and opponents may have very differing views, it specifically provided that others could respond to an Applicants Safety Net Impact Statement with a formal "Response." We are unaware that any Safety Net Impact Statement Response has previously been formally filed with the Board, and consequently prior SARs may not previously have needed to address this issue. We believe, however, that the filing of a formal, and detailed, Safety Net Impact Statement Response should be brought to the Board's attention in this Section of the SAR.

¹ Letter to Chairman Galassie from Julie Mayer and Tina Link, dated May 17, 2011.

The Safety Net Impact Statement Response contained comprehensive and quantifiable information as to the substantial impact the proposed new hospital would have on existing hospitals and their ability to provide Safety Net Services. The study performed by Krentz Consulting concluded the proposed Centegra Hospital would have significant negative impact to other existing area hospitals, including the loss of 8,068 discharges, \$116.2 million in lost revenue and \$39.0 million in lost contribution margin.² We would ask that the SAR reflect this important information on Page 11.

3. Service Demand Review Criterion – Concern about Population/Need Projections and Failure to Provide Physician Referral Letters (SAR Pages 19-24)

The Board has detailed rules regarding how an applicant must document the need for additional beds. The Board's rules appear quite clear that for an application to establish a new hospital, an applicant must provide to the Review Board physician referral letters showing the number of patients to be referred and the hospital from where that physician would divert patients. This argument is detailed in a Summary of Arguments submitted to the Board on June 8.³ We refer the Review Board to that discussion rather than repeat it here in full.

While we agree with the SAR finding that the Proposed Project does not comply with the "Need for the Project" review criterion, we believe it important that the SAR specifically call attention to the fact that physician referral letters were not provided. To the extent there is legal ambiguity as to whether physician letters are required, we believe it appropriate the Review Board request its legal counsel to advise the Board on this matter. Had actual physician referral letters been provided, they would clearly show either that the proposed Centegra hospital cannot meet target utilization or can do so only through considerable negative impact to existing providers.

As the SAR indicates, Centegra sought to justify the need for the proposed hospital by showing that population would increase by 2018. The Board's bed need projections are a function of various factors, including population projections and average length of stay. A detailed Market Assessment Study submitted to the Board evaluated the Applicant's future bed need projections. This report acknowledged that population in the area will grow, but not by nearly as much as expected. The HFSRB determined demand for hospital beds using 2003-2005 use rate data and based its population projections on 2000 census data. We believe it important to note that if 2010 census data were used, the bed need would decline. Similarly, if more recent data regarding use rates were

² Safety Net Impact Response Statement, Financial Impact Study, Proposed Centegra Hospital-Huntley (Project 10-090) May 25, 2011, Page 4.

³ Arnstein & Lehr LLP letter to Chair Dale Galassie, Project No. 10-090, June 8, 2010, Pages 6-8.

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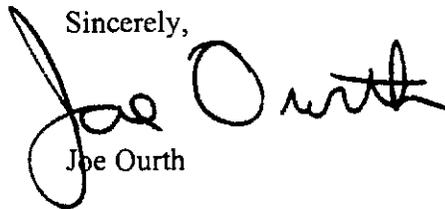
considered, or expected drops in readmissions factored in, the projected bed need would show even less need.

4. Request for Written Decision

We concur with the SAR findings that the proposed project does not meet several of the Board's important review criteria, including "need for the project" and "unnecessary duplication of services". Consequently we would request a written decision on this Project in the event the application was approved.

We appreciate the opportunity to comment upon the State Agency Report.

Sincerely,

A handwritten signature in black ink that reads "Joe Ourth". The signature is written in a cursive style with a large, looped "J" and "O".

Joe Ourth

JRO/eka

cc: Mike Constantino