

**Constantino, Mike**

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**From:** Monica Hon [mhon@murer.com]  
**Sent:** Friday, December 30, 2011 4:30 PM  
**To:** Roate, George; Constantino, Mike  
**Subject:** Response to State Report Project: 11095  
**Attachments:** 11095 Report Response.pdf

Good evening:

As discussed, we've enclosed a response to the state report recently issued for project 11-095. Please let me know if you have any difficulties opening this document or if you have any questions.

Thank you for your assistance.

Monica

*Monica Hon, JD*  
Vice President

Murer Consultants, Inc  
58 N Chicago St. 7th Fl Joliet, IL 60432  
815-727-3355  
815-727-3360Fax

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# Murer Consultants, Inc.



58 North Chicago Street  
7<sup>th</sup> Floor  
Joliet, IL 60432  
815-727-3355 Telephone  
815-727-3360 Telefax

December 30, 2011

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

**RE: Board's Findings for Palos Hills Surgery Center's Certificate of Need Application**

**VIA EMAIL and OVERNIGHT MAIL**

Dear Mr. Galassie:

The following letter written on behalf of Palos Hills Surgery Center (PHSC) regarding the Certificate of Need Project Number: 11-095 is a response to the recent release of the Health Facilities and Services Review Board's report. According to the report, PHSC met all the standards listed, save two: (1) Impact (111.1540(e)) and (2) Establishment of New Facilities (1110.1540(f)).

This letter will show how PHSC does indeed satisfy the regulatory requirements regarding impact on existing facilities and establishment of new ones.

First, to say that there is excess capacity in the GSA is to ignore the fact that not all capacity is created equal. The Palos Hills Surgery Center shall operate in a unique manner with specialized expertise, equipment and staff as well as extended hours that cannot be accomplished with existing capacity.

Second, it is actually quite difficult for patients to access the services similar to these that Palos Hills Surgery Center is prepared to offer. Therefore, the establishment of this surgical center shall improve access to a very specialized and much needed type of care. The proposed center shall be open until 7pm and on Saturdays. It is specializing in hand and upper extremity trauma cases and shall address patients in need of immediate care in a timely manner. Instead of an average treatment of 7-10 days, if directed to the center a patient may be treated within a 7-10 hour time frame.

Other facilities are not able to provide this unique blend of specialized, comprehensive, and accessible care. Therefore, PHSC can show that it will provide services not currently available in the GSA and shall illustrate this accordingly in the following pages.

## **Principal Benefits of Palos Hills Surgery Center**

Approval of PHSC's Certificate of Need Request would be in keeping with goals of the CON process and of health care reform. PHSC would contribute to the effective and efficient utilization of health care resources in the State. This is because it would, unlike the vast majority of ASTCs, practice care coordination - the most promising vehicle for health care reform. In so doing, it would lower costs, provide the best available care, and facilitate access to far more patients.

This ASTC can provide something new to patients without negatively impacting the utilization of other facilities. A closer examination of the facts will show that the applicants already have their own group of patients and that licensing PHSC would have no effect on other facilities. Some of these facilities have claimed the opposite to be true but have offered no supporting documentation.

These other facilities do not meet the applicants' needs. Furthermore, general orthopedic surgical services, so widely available in the GSA, are not an adequate substitute for the services PHSC will provide. Indeed, PHSC will provide a service which can often be difficult to access, despite the supposed overcapacity in the GSA.

### **Criteria of Section 1110.1540(f), Establishment of New Facilities**

The Board's report found that there are underutilized hospitals and ASTCs in the area and that PHSC would not improve access to care. The applicants urge the Board to take a closer look at the utilization statistics. In doing so, it becomes apparent that **it is actually quite difficult for patients to access the services similar to those that PHSC is prepared to offer.** We should also note that the report incorrectly cites the applicants as proposing to offer podiatric and plastic surgical services.<sup>1</sup> Instead, the applicants propose to offer orthopedic and plastic surgical services.

Moreover, **PHSC will further the goals of health care reform.** Specifically, it will practice care coordination. This will increase even further its ability to lower cost, improve quality, and expand access. It will do so by utilizing the lower ASTC reimbursement rate; allowing patients to get specialized and comprehensive care; and addressing logistical problems that often deny patients access to prompt care.

#### *PHSC Will Provide Services Not Currently Available in the GSA*

There are several ways in which PHSC will **provide unique value to patients** by offering services that are not available at other facilities. They are as follows:

- Provide outpatient surgery by *specialists in injuries to the hand and upper extremity*
- *Better coordination for pre- and post-surgical treatment* by virtue of relationship with MidAmerica Hand to Shoulder Clinic. This will improve patient outcomes and eliminate administrative delays common in the hospital outpatient setting. When a surgeon can do patient intake, evaluation, and surgery all in one place, care is faster, less expensive and more effective.
- Unified control of all operations. This will allow *optimal use of resources* by coordinating staffing schedules, equipment purchase, anesthesia, and pre- and post-op care.
- Longer hours of operation (including nights and weekends) allowing *more immediate care.* Other ASTCs are geared more toward elective rather than emergency trauma cases. This is a large portion of the applicants' practice. PHSC's accommodation of emergency cases will allow patients to receive immediate surgical care and reduce the time from injury to definitive care by as much as ten days.
- Immediate service of trauma patients. This reduces the occurrence of complications, shortens recovery time, and ultimately lowers overall health care costs. It also enables patients to return to work more quickly.

Other facilities, be they hospitals or ASTCs, are not able to provide this unique blend of specialized, comprehensive, and accessible care. Therefore, PHSC can show that it will provide services not currently available in the GSA.

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<sup>1</sup> See Report, pg. 19.

*Other Facilities Have De Facto Restrictions on Admissions*

Although the applicants currently perform most of their surgeries at other ASTCs or in hospital outpatient departments, this arrangement has proved less than ideal. Emergency cases are difficult to accommodate at other ASTCs because of operating hours, staffing, and anesthesia. As the applicants explained in their application, it can be equally difficult to schedule even elective procedures in hospital outpatient departments or ASTCs.

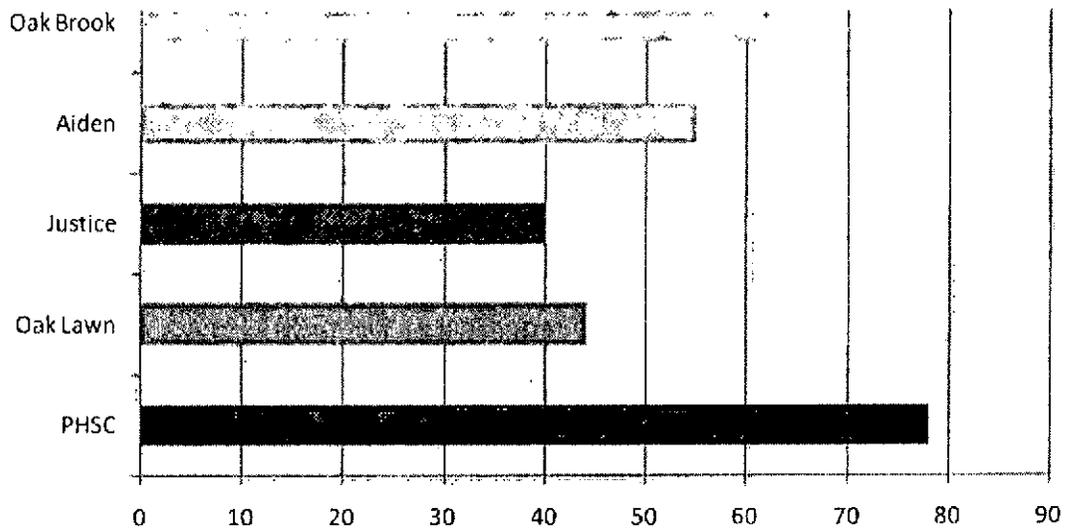
An ASTC's anesthesiology staff is often not full time and the resulting scheduling problems mean that hospitals will restrict a general anesthesia case to one hour and will schedule them no later than 2:30 pm. The system is also prone to scheduling errors which can delay care. These problems contribute to the underutilization of other facilities. So, the opening of PHSC will not simply move the patient from one location to another to get the same service. Instead, it will solve a bottleneck problem at a critical point of care. This would ensure that health care resources in the State of Illinois are used more effectively and is therefore in keeping with the goals of the Certificate of Need process.

*Comparison of Hours of Operation*

To illustrate the benefit of the planned hours of operation for PHSC relative to other ASTCs, the following graph shows the applicants will have significantly more opportunity to treat patients with problems of the hand and upper extremity.

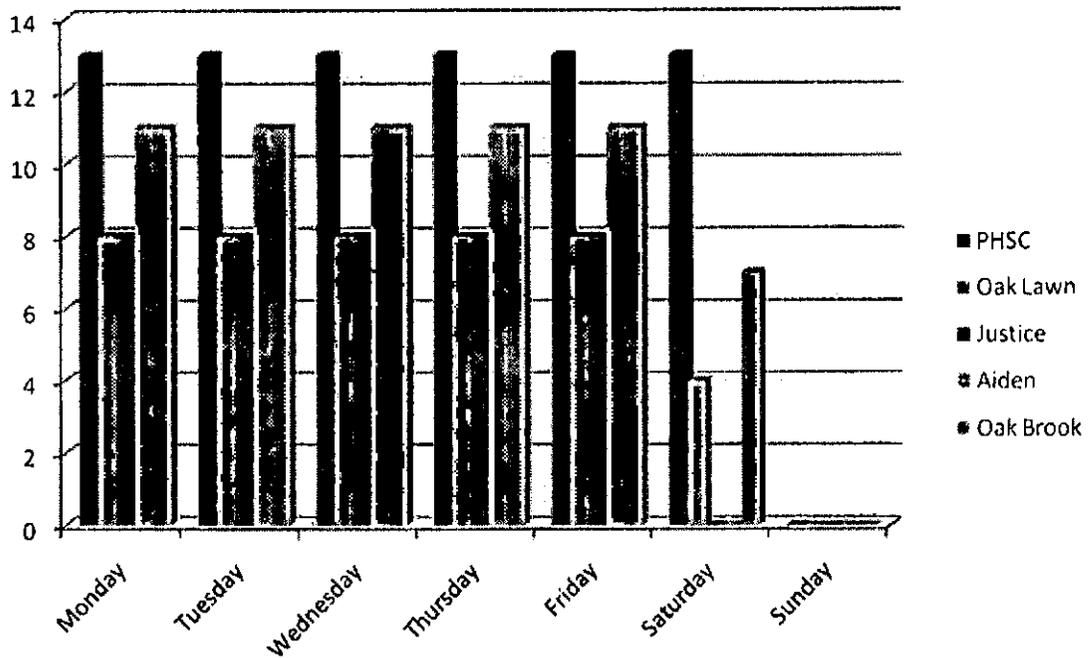
The following charts shall illustrate this fact. The data on hours of operation of other ASTCs are taken from the Ambulatory Surgical Treatment Center Questionnaire for 2010.

**Chart 1: Total Weekly Hours of Operation by Facility**



\*PHSC: Palos Hills Surgical Center

**Chart 2: Daily Hours of Operation by Facility**



As you can see, PHSC will have almost double the hours of operation of Justice and nearly a third more than the Oak Brook ASC. PHSC is able to do this because it has two specialists operating out of one facility who will not have to travel to make appointments. This allows maximum flexibility in scheduling.

*Shortened Treatment Times Compared to Hospital ER Setting*

It should be no surprise that injuries of the hand and upper extremity are given a relatively low priority at an emergency room. However, treatment for these injuries is still very much time-sensitive. This is why the availability of prompt care is critical. Palos Hills Surgery Center will meet this critical need with expanded hours of operation because of the physicians' with MidAmerica Hand to Shoulder Clinic, which is at the same proposed location as PHSC. This will meet not only the immediate needs of patients, but to also prevent further exacerbation of the acute phase of injury or illness with the anticipation of improved outcomes.

To illustrate this point, we provide the "7-10" concept. Palos Hills Surgical Center anticipates providing care in 7-10 hours which currently in other cases can take an average of 7-10 days. This is illustrated in the table on the following page.

Table 1: PHSC Typical Wait Time vs. ER and Treatment Typical Wait Time

<b>PHSC Wait Time</b>	<b>Emergency Room &amp; Treatment Wait Time</b>
<b>7-10 hour average</b>	<b>7-10 day average</b>
<b>7AM:</b> Arrive at ASC, Patient Registration	<b>Day 1:</b> Patient Registration, Triage, Stabilization, Referral
<b>8AM:</b> See Medical Doctor	<b>Day 2-3:</b> Make Appointment with Primary Care Physician
<b>9AM:</b> Pre-Op	<b>Day 4:</b> Primary Care Physician Will Perform Evaluation and Refer to Injury Specialist
<b>9:30-11:00AM:</b> Surgery	<b>Day 5-7:</b> Make Appointment with Injury Specialist
<b>11:30-12:30PM:</b> Recovery	<b>Day 8-10:</b> Specialist will Evaluate and Perform Surgery
<b>1-2PM:</b> Home	

When arriving for treatment following an acute injury, the traditional plan may include a visit to the emergency department of the local hospital. A patient can anticipate this visit taking a better part of a day without having been seen by a hand specialist, or even a primary care physician. Once released from the emergency department, the patient will have to arrange a follow-up visit to either their Primary Care Physician and/or Specialist, which can take several days to arrange depending on surgical schedule and clinic hours. Once seen, arrangements will then have to be made for surgical time at an ASC or Hospital setting. This process may take an average of 7-10 days overall.

PHSC will provide extended hours (up to 7 p.m.) with Saturday coverage as well. This provides a greater opportunity for meeting the urgent needs of patients, as well as accommodating those patients already scheduled for treatment at the ASTC. PHSC has numerous referral sources which already provide direct contact. A direct referral to the proposed facility will enable prompt care for optimum patient care results. The issue currently is having the ability to arrange time in a surgical suite to meet the immediate needs of the patients. Establishing an ASTC where the physician offices, pre-operative testing, and surgical intervention can take place under one roof will allow greater access to patients in need of treatment to the hand and upper extremity.

## Criteria of Section 1110.1540(e), Impact on Other Facilities

The Board received two negative impact letters and three letters of opposition from ASTC within the proposed GSA. The Board also noted in its report that some hospitals and ASTCs are not operating at their target capacity. As we will explain here, the objections from other facilities are ill-founded and the operation of PHSC will have no discernible effect on the utilization of ASTCs or hospitals in the area.

### *PHSC Will Not Siphon off Patients from Underutilized Facilities*

In its application, PHSC included a list of facilities to which Dr. Kronen and Dr. Fakhouri make their referrals. It should be noted that none of the facilities to which Dr. Fakhouri and Dr. Kronen currently refer patients have objected to this application. Indeed, Tinley Woods Surgery Center, to which the doctors refer about half of their cases, has offered its support for the idea. It agreed that **PHSC can fill a niche in the continuum of care** and that Tinley could easily replace any patients lost if PHSC were to open.

If one considers both where PHSC's patients will come from and where they will go if this application is denied, it becomes apparent that the **applicants will not siphon off patients from already underused facilities**. It is necessary to look more deeply into the utilization statistics. The Board's report says that eleven of the twenty ASTCs in the GSA are not operating at their target occupancy. However, of these eleven, three are single specialty and only offer services unrelated to problems of the hand and upper extremity. Most of the remaining facilities appear to perform few surgeries of the kind contemplated in this application. Likewise, the applicants have examined a number of these facilities and found that they simply do not meet their needs.

Seventy-five percent of Dr. Kronen's and Dr. Fakhouri's surgeries are performed at one of three facilities: Tinley Woods Surgery Center, Advocate Christ Hospital, and Orland Park Surgical Center. Tinley Woods, as previously discussed, will not be affected by PHSC's new practice, and Advocate Christ is, according to the Board's report, actually over-utilized.<sup>2</sup> Another fifteen percent of surgeries are performed at physician offices and thus have no effect on facility utilization. For this reason, it is quite apparent that **PHSC will have little to no impact on the utilization of capacity at other ASTCs or hospitals**.

### *Impact and Opposition Letters*

To say that there is excess capacity in the GSA is to ignore the fact that not all capacity is created equal. Much of this supposedly extra capacity is in the hospital outpatient setting. However, as explained in our application, problems with care coordination often render much of this capacity beyond the reach of patients. Likewise, the ASTCs with overcapacity do not, for the most part, service the patient population contemplated here, i.e. patients with problems of the hand and upper extremity. **Capacity for general orthopedic surgery is not an adequate substitute for the services PHSC will offer**. Therefore, the GSA may purport to demonstrate certain level of capacity on paper, but this is actually far lower in reality for the patients to be served at PHSC.

Regarding the impact letters, **it should be noted that none of the other facilities offer any supporting data for their claim**. Silver Cross Hospital merely makes a general assertion that there is sufficient capacity in the area, but offers no specific information to support its assertion that the proposed ASTC will impact its utilization. Justice Med Surg Center (Justice) cites its close geographic proximity and the fact that it operating at only 30% of its capacity. From this it concludes that PHSC would merely duplicate services

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<sup>2</sup> See Report, page 5, Table One.

already offered in the area. However, information regarding the types of surgical services performed at Justice shows that it performs few, if any, surgeries for problems of the hand and upper extremity.<sup>3</sup>

**The opposition letters from other ASTCs are also lacking in specific facts that would support their claims.** Oak Brook Surgical Center claims that the impact could be at least 10% but neither explains its methodology for reaching this figure nor offers any supporting facts. Aiden Center makes the same, unsupported arguments. Furthermore, it does not appear to perform many surgeries of the hand and upper extremity. Ashton Center is not in the proposed GSA and thus should be not merit consideration. If anything, the evidence tends to show how PHSC would have no impact on these ASTCs.

As to the letters from Surgery Partners, dated December 20, 2011, several things should be noted. The ASTC in River Forest focuses exclusively on problems of the eye and would thus not be affected at all by PHSC. Also, the ASTC in Oak Lawn also filed a letter. The applicants considered utilizing this facility but found it did not meet their needs or standards for the level of care required.

The physicians will refer only their own patients to PHSC, and this will have no discernible impact on the facilities where they currently perform their surgeries. Furthermore, objections from other facilities do not survive careful scrutiny. For all of the foregoing reasons, the applicants submit that PHSC would have no impact on the utilization of hospitals or other ASTCs in the GSA.

#### *No Unnecessary Duplication of Services*

**PHSC would not duplicate the services offered at other facilities in the GSA because it is offering something new** – specialized, comprehensive, and accessible care for problems of the hand and upper extremity.

To the best of the applicant's knowledge, there is only one ASTC specializing in problems of the hand and upper extremity, and that facility is out of PHSC's proposed GSA. Furthermore, there are, to the applicant's knowledge, no ASTC's that are able to provide the same continuum of care that PHSC will provide in concert with MidAmerica. Additionally, much of the applicants' practice is geared toward emergency care, which can be difficult for the applicants to provide at other ASTCs or hospital OP departments due to logistical problems.

The applicants have examined the possibility of performing surgeries in other ASTCs or hospital outpatient departments. This was rejected however, because **no other facility is capable of meeting the physicians' needs regarding patient care**, either because they do not have the most appropriate equipment or because they do not allow the applicants to maintain the necessary level of control over staffing, scheduling, anesthesia, and hours of operation to provide patients the proper care in a timely manner.

#### **Summary**

Despite the apparent overcapacity in the GSA, Palos Hills Surgery Center will provide patients with improved access to care without affecting other facilities. Far from adding to the glut of capacity, PHSC will improve health care in the area by offering better services to a pre-existing group of patients and could help to alleviate inefficiencies that negatively impact the use of health care resources in the State.

Specifically, in response to the Board's report PHSC's would like to reiterate the following points:

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<sup>3</sup> See Ambulatory Surgical Treatment Center Questionnaire for 2010, Illinois Department of Public Health, Health Systems Development; and the Illinois Hospital Report Card and Consumer Guide to Health care available at <http://healthcarereportcard.illinois.gov/>.

- It will not add to overcapacity because:
  - it has its own patients that do not and will not go to underutilized facilities; and
  - it adds a new specialized service and places more focus on immediate hand and upper extremity trauma care.
- Objections from other facilities are not supported by documentation and the data we have strongly suggests that they would be unaffected.
- Using other facilities is not optimal for patient care as these facilities do not meet the applicants' needs.
- PHSC will improve the efficient use of health care resources by coordinating care and circumventing bottlenecks in the system.

It is for all these reasons that we urge you to approve the Certificate of Need Application for Palos Hills Surgery Center.