

Constantino, Mike

From: EGreen@foley.com
Sent: Thursday, March 07, 2013 10:16 AM
To: Constantino, Mike
Subject: Silver Cross Frankfort FEC Supplemental Filing (Project No. 12-096)
Attachments: Silver Cross Frankfort FEC Supplemental Filing.pdf

Importance: High

Mike:

Please see the attached supplemental filing for Project 12-096 (Silver Cross Frankfort FEC).

Shoot me a note with any questions.

Best regards,

Ed

Edward J. Green, JD, MBA
National Partner in Charge of Business Development
Regulated Industries Department
Foley & Lardner LLP
321 North Clark Street, Suite 2800
Chicago, Illinois 60654-5313
Direct Dial: (312) 832-4375
Fax: (312) 832-4700
Email: egreen@foley.com

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.



FOLEY & LARDNER LLP

ATTORNEYS AT LAW

321 NORTH CLARK STREET, SUITE 2800
CHICAGO, IL 60610-4764
312.832.4500 TEL
312.832.4700 FAX
www.foley.com

March 6, 2013

WRITER'S DIRECT LINE
312.832.4375
egreen@foley.com EMAIL

CLIENT/MATTER NUMBER
026141-0108

VIA EMAIL & FEDERAL EXPRESS

Ms. Courtney Avery
Administrator
Illinois Health Facilities & Services Review Bd.
525 West Jefferson Street
Springfield, Illinois 62761

Mr. Michael Constantino
Supervisor, Project Review Section
Illinois Health Facilities & Services Review Bd.
525 West Jefferson Street
Springfield, Illinois 62761

Re: Silver Cross Emergicare Center (Frankfort), Project No. 12-096

Dear Ms. Avery and Mr. Constantino:

As you know, we are counsel to Silver Cross Health System and Silver Cross Hospital & Medical Centers (collectively, "Silver Cross"). As you also know, on February 5, 2013, Silver Cross received an initial intent to deny (the "Intent to Deny") from the Illinois Health Facilities & Services Review Board (the "Review Board") on Silver Cross' Application for Permit for the Silver Cross Emergicare Center (Frankfort), Project No. 12-096 (the "Project"). Pursuant to 77 Ill Admin. § 1130.670(b) and (c)(3), please consider the following response and supplemental information in support of the Project (the "Supplemental Filing"). In preparing this Supplemental Filing, we have reviewed the transcript from the February 5, 2013 Review Board meeting (the "Transcript") and the State Agency Report (the "SAR") for the Project. All Transcript references refer to the page number found at the bottom of each Transcript page and all SAR references refer to the page number found at the bottom of each SAR page.

Echoing the statements set forth in the SAR, the Review Board identified the following two primary reasons in issuing its Intent to Deny: (1) a lack of need in the defined service area because the emergency departments of several facilities in the defined service area for the Project are underutilized (Transcript at pp. 151-152; SAR at p. 18); and (2) a likely duplication or maldistribution of services because the emergency departments of several facilities for the Project in the defined service area are underutilized (Transcript at pp. 151-152; SAR at p. 20). One Review Board member was also concerned that the site survey, soil investigation and site preparation costs associated with the Project exceeded the State Norms. (Transcript at p. 151; SAR at p. 29).

Simply put, we agree with the Review Board's conclusion (and the conclusion set forth in the SAR) that the emergency departments of several hospitals in the defined service area for the Project are underutilized. Indeed, the data clearly supports the notion that the emergency departments at Franciscan Alliance - Olympia Fields, Advocate South Suburban Hospital, Ingalls Memorial Hospital, and the Blue Island Hospital Company are underutilized (collectively, the "Underutilized Hospitals"). (SAR at p. 4). However, the patients projected to

BOSTON
BRUSSELS
CHICAGO
DETROIT
JACKSONVILLE

LOS ANGELES
MADISON
MILWAUKEE
NEW YORK
ORLANDO

SACRAMENTO
SAN DIEGO
SAN DIEGO/DEL MAR
SAN FRANCISCO
SILICON VALLEY

TALLAHASSEE
TAMPA
TOKYO
WASHINGTON, D.C.



FOLEY & LARDNER LLP

Ms. Courtney Avery
Mr. Michael Constantino
Silver Cross Emergicare Center (Frankfort), Project No. 12-096
March 6, 2013
Page 2

use Silver Cross' Freestanding Emergency Center ("FEC") at Frankfort will not be coming from the Underutilized Hospitals. Rather, the projected patients for Silver Cross' Frankfort FEC are all projected to come from the Emergency Department at Silver Cross' replacement hospital in New Lenox and Silver Cross's Homer Glen FEC (collectively, the "Enterprise Wide Emergency Department"). Thus, the only hospital that will be affected by the proposed FEC is Silver Cross because all of the projected patients will come from Silver Cross.

While the foregoing statement may seem bold, Silver Cross is one of only five hospitals in the State of Illinois that has direct experience with patient utilization patterns associated with FECs. Indeed, as you may recall, Silver Cross received the first certificate of need ("CON") permit to establish an FEC when the Review Board approved its Homer Glen FEC CON Application for Permit on January 27, 2009. See Silver Cross Emergicare Center (Homer Glen), Project No. 08-079. So, to be clear, Silver Cross has carefully analyzed its own internal patient data and remains convinced that the Homer Glen FEC patient utilization patterns will be repeated at its proposed FEC in Frankfort. Like Homer Glen, Frankfort is in Silver Cross' primary service area. And like the Homer Glen FEC service area, the Frankfort FEC service area contains a sufficient number of residents who are already using the Enterprise Wide Emergency Department at Silver Cross to easily justify this Project.

Since Silver Cross' move to its replacement hospital campus in New Lenox in February of 2012, Silver Cross' Enterprise Wide Emergency Department visits have increased by more than 6.8%. The percentage of the patients coming to Silver Cross' Enterprise Wide Emergency Department from the proposed service area for the FEC has grown even faster. In 2010, patients in the proposed service area represented 17% of the Enterprise Wide Emergency Department volume at Silver Cross; now patients in the proposed service area account for nearly 23% of the Enterprise Wide Emergency Department volume at Silver Cross. Silver Cross' market share of emergency patients from the proposed service among all providers has increased from 22.6% in 2010 to more than 27.4% for the year ending June 2012. And in 2010, Silver Cross' Enterprise Wide Emergency Department was the largest emergency department provider to the residents of Frankfort, with a 25% share. That 25% share jumped to a 31% share for the 12 months ending June 2012.

To put this into even sharper focus, the aforementioned volume increases are actually accelerating. Enterprise Wide Emergency Department volumes at Silver Cross for the past four months (as compared to the same four months last year when Silver Cross' main hospital was still located in Joliet) are up 10.5%. Enterprise Wide Emergency Department visits at Silver Cross from the proposed FEC service area are up 48.5% for the same time period as compared to a year ago. And Enterprise Wide Emergency Department visits at Silver Cross from just Frankfort residents are up 70% from the same time period a year ago. (See Exhibit A (attached) for the most recent patient data.) These increases clearly demonstrate that the residents of



FOLEY & LARDNER LLP

Ms. Courtney Avery

Mr. Michael Constantino

Silver Cross Emergicare Center (Frankfort), Project No. 12-096

March 6, 2013

Page 3

Frankfort (and the surrounding service area) are happy with their Silver Cross experiences and have every intention of choosing a Silver Cross facility (if given the opportunity). Thus, any concern that the proposed Silver Cross Frankfort FEC will somehow redirect patients from the Underutilized Hospitals is misguided.

Based on the above data (which is not debatable), Silver Cross is projecting that by the year 2016, more than 91,340 patients will visit Silver Cross' main hospital Emergency Department (which has 36 emergency treatment stations) and Silver Cross' Homer Glen FEC (which has 6 emergency treatment stations.) The State Norm for emergency treatment rooms is 2,000 patients per treatment room per year. 91,340 divided by 2,000 equals 45.67. So, Silver Cross is projecting that it will need no less than 46 emergency treatment rooms by the year 2016 at its Enterprise Wide Emergency Department. But Silver Cross only has 42 emergency treatment rooms currently available at its Enterprise Wide Emergency Department. Thus, without the establishment of the proposed FEC in Frankfort, Silver Cross will exceed the existing capacity of its Enterprise Wide Emergency Department. That is less than 3 years away.

Based on the historical performance of Silver Cross' Homer Glen FEC, Silver Cross believes that the majority of the patients from the proposed service area that are currently presenting to its Enterprise Wide Emergency Department will choose to use the proposed Frankfort FEC instead. More specifically, Silver Cross is projecting that 6,240 patients will visit the proposed Frankfort FEC in 2016. Applying the State Norm for emergency treatment rooms, 6,240 projected visits translate into a need for 3.12 emergency treatment rooms, which rounds up to 4 emergency treatment rooms – which is the exact number of treatment rooms that Silver Cross has requested. Thus, Silver Cross has conservatively sized the proposed Frankfort FEC to exactly meet the demand from its own patients.

Although it is not clear that the project costs exceeding the State norm for Site Survey, Soil Investigation and Site Preparation really played a factor in the issuance of the Intent to Deny, those costs are all easily explained. The subject property is undeveloped and will require significant infrastructure improvement – such as water and sewer, road construction to the property that does not exist now, improvement of the intersection at Route 30 and certain building aesthetics such as a brick surround for garbage as required by the Village of Frankfort. Also, there will be work associated excavation, grading and water detention. As an example, Silver Cross has estimated that excavation work will cost approximately \$550,000, paving will be nearly \$200,000, and adding a stoplight at the intersection of Route 30 and 93rd Avenue will cost roughly \$150,000. While this doesn't account for all the costs in this category, it is an example of what Silver Cross is anticipating. Silver Cross elected to budget sufficient money to cover these additional costs. While it is likely that all of this money will not be spent, Silver Cross did not want to underestimate the additional costs and thereby cause additional delays during the actual development of the FEC.



FOLEY & LARDNER LLP

Ms. Courtney Avery
Mr. Michael Constantino
Silver Cross Emergicare Center (Frankfort), Project No. 12-096
March 6, 2013
Page 4

Finally, and although this point was not raised by the Review Board on February 5, 2013 in regard to the Silver Cross' proposed FEC, questions were raised by Review Board members regarding the high cost of emergency services at FECs as compared to urgent care and immediate care centers. Silver Cross has analyzed the costs of its Homer Glen FEC as compared to the costs at its main hospital Emergency Department, and the average cost per encounter at Silver Cross' Homer Glen FEC is running about 16% less than the average cost per encounter at Silver Cross' main hospital Emergency Department.

There are several contributing factors that make care in an FEC less expensive. Those factors include: faster throughput, a lower acuity of patients (no trauma), and most importantly, lower overhead costs. Because Silver Cross has had over three years of experience operating its Homer Glen FEC, Silver Cross is confident that they can duplicate those results at its proposed FEC in Frankfort. And as mentioned at the public hearing for the Project, Silver Cross currently partners with its Enterprise Wide Emergency Department physicians and the Hedges Clinic to provide after-hours care in the Frankfort community. But neither urgent care or immediate care can provide 24 hour per day/7 day per week service in a lower cost setting than Silver Cross is currently proposing.

In conclusion, Silver Cross is confident that the proposed FEC is an important part of the continuum of care and a much needed resource in the Frankfort community. Please feel free to contact me if you have any questions and Silver Cross is looking forward to re-appearing before the Review Board on this Project.

Sincerely,

Edward J. Green

EJG:src
cc: Ruth Colby, Silver Cross Hospital & Medical Centers



FOLEY & LARDNER LLP

Ms. Courtney Avery
Mr. Michael Constantino
Silver Cross Emergicare Center (Frankfort), Project No. 12-096
March 6, 2013
Page 5

Exhibit A

REPORTING PERIOD	Main Hospital ED + Homer Glen FEC		
	ED VISITS	ED ADMITS	TOTAL ED
Oct, Nov, Dec, Jan 2012	19135	3125	22260
Oct, Nov, Dec, Jan 2013	20746	3842	24588
Difference	1611	717	2328
Percent Change	8.4%	22.9%	10.5%

Source: Finance Reports

REPORTING PERIOD	Main Hospital ED + Homer Glen FEC from Frankfort FEC FSA (8 zip codes)			
	ED VISITS	ED ADMITS	TOTAL ED	PCT TO TOT ED
Oct, Nov, Dec, Jan 2012	3333	1064	4397	19.8%
Oct, Nov, Dec, Jan 2013	5013	1517	6530	26.6%
Difference	1680	453	2133	
Percent Change	50.4%	42.6%	48.5%	

Source: Meditech

REPORTING PERIOD	Main Hospital ED + Homer Glen FEC from Frankfort Only (zip code 60423)			
	ED VISITS	ED ADMITS	TOTAL ED	PCT TO TOT ED
Oct, Nov, Dec, Jan 2012	447	184	631	2.8%
Oct, Nov, Dec, Jan 2013	790	282	1072	4.4%
Difference	343	98	441	
Percent Change	76.7%	53.3%	69.9%	

Source: Meditech