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APR 11 2014

HEALTH FACILITIES &
SERVICES REVIEW BOARD

April 11, 2014

Via Hand Delivery

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Mr. Michael Constantino
Supervisor, Project Review Section
Illinois Department of Public Health
Health Facilities and Services Review Board
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761

**Re: Holy Cross Hospital (Proj. No. 13-076)
Comments to the State Agency Report**

Dear Mr. Constantino:

In light of the recent disclosure by counsel for Sinai Health System (“SHS”) regarding the source of funds for the proposed Holy Cross Hospital (“HCH”) 50-bed acute mental illness (“AMI”) unit, Polsinelli P.C. submits this comment to the HCH Board Staff Report pursuant to Section 6(c-5) of the Illinois Health Facilities Planning Act (20 ILCS 3960/6(c-5)). We appreciate the staff’s time and effort in preparing the Board Staff Report which was based on the certificate of need (“CON”) application submitted to the Illinois Health Facilities and Services Review Board (“CON Board”). Apparently, however, SHS is now changing its funding methodology. SHS has not appropriately filed a modification to reflect this. In fact, it only very recently disclosed to the CON Board the change in the method of funding. SHS has failed to provide the CON Board with documentation on the State of Illinois capital grant, which it now states will be the primary funding source for the proposed AMI unit. Based on that fact, the proposal is not, as SHS asserts, eligible for the Part 1120 financial viability waiver. We appreciate the opportunity to comment on the HCH Board Staff Report and will limit our comment to this issue and how it relates to the Board Staff Report.

The HCH CON application filed with the CON Board on December 30, 2013 states the project will be funded entirely with cash and securities. It was on that basis that the CON Board staff as well as our safety net hospital clients assessed the financial viability of the project. Polsinelli’s comments submitted in letters dated March 17, 2014 and March 24, 2014 reflect that assessment. In response to our comments regarding whether SHS presently has sufficient cash reserves, SHS counsel, in its letter delivered to the CON Board on March 31, 2014, stated “the

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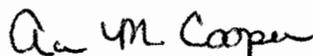
funds for the HCH project primarily come from a capital grant from the State of Illinois that is restricted to HCH." (Attachment – 1). This information constitutes a modification of the CON application as it is a change in the source of funds from cash and securities to grants. Importantly, pursuant to Section 1120.120(f) of the CON Board rules, an applicant utilizing grants as a source to fund a project must provide a letter from the granting agency indicating the amount of funds and time of receipt. (77 Ill. Admin. Code 1120.120(f)). SHS provided no documentation regarding the status of its capital grant. Further, review of HCH's payments on the Illinois Comptroller's website, show no evidence the funds from a capital grant have been paid. The Board Staff Report should reflect negative findings for availability of funds as SHS failed to provide evidence of the State capital grant. Assuming this project remains under consideration, SHS should also be required to provide documentation that the grant it claims will be the basis for funding this project has been appropriated.

If SHS cannot document it has already received this State capital grant, then it is not eligible for the financial viability waiver. Since SHS financial viability ratios deviate so substantially from the standards, in addition to producing three years of ratios, SHS should at least attempt to provide a rationale as to why its financial condition is not relevant to consideration of its proposal. While SHS has not produced historical or projected ratios our belief is that it fails to meet all of the financial viability criteria from 2011 to 2013.

With extremely limited State resources to fund behavioral health services and the recognized need for outpatient community-based services coupled with the excess capacity of inpatient behavioral health services in the SHS and HCH planning areas, we cannot imagine that our State's resources would be utilized to fund a project that the Board Staff Report clearly reflects is not needed.

Thank you for considering our comments to the Holy Cross Hospital Board Staff report.

Sincerely,



Anne M. Cooper

Attachment

McDermott Will & Emery

Boston Brussels Chicago Düsseldorf Frankfurt Houston London Los Angeles Miami
Milan Munich New York Orange County Paris Rome Seoul Silicon Valley Washington, D.C.
Strategic alliance with MWE China Law Offices (Shanghai)

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March 28, 2014

VIA OVERNIGHT DELIVERY

Courtney Avery
Administrator
Illinois Health Facilities and Services Review Board
525 West Jefferson, 2nd Floor
Springfield, IL 62761

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MAR 31 2014

HEALTH FACILITIES &
SERVICES REVIEW BOARD

Re: Project Number 13-076/Response to Opposition Letter

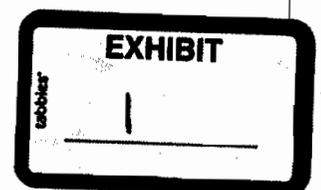
Dear Ms. Avery:

I would like to take this opportunity to respond to two letters dated March 17, 2014 and March 24, 2014 from Polsinelli (the "Polsinelli Letters"), a law firm representing four hospitals, opposing the Holy Cross Hospital project referenced above which requests approval to establish an acute mental illness unit to address access issues within its community. There are statements within the Polsinelli Letters that are inaccurate, and Sinai Health System ("SHS") wishes to clarify a few of those points.

1) **Roseland Hospital Will Not Be Impacted.** Roseland Hospital is listed as one of the hospitals that will be negatively impacted by the Holy Cross Hospital ("HCH") unit. Roseland offers solely adolescent inpatient behavioral health services, and the HCH unit will provide services to adults only. Roseland will not be impacted by this project.

2) **The Physician Referral Letters Meet HFSRB Rules.** On page 3 of the letter, there is a claim that the referral letters did not meet the Board's rules because they were not all from psychiatrists. The rule at issue references referrals, for logical reasons, and not admissions. Any physician, whether a board certified emergency physician or an internal medicine physician, may refer an acutely ill behavioral health patient for inpatient admission. Many such patients are referred directly from the emergency department. The letters have been accepted by Planning Board staff, and meet the HFSRB rules.

3) **MSH Will Not Be Negatively Impacted by HCH Project.** For some reason, the hospitals, through the Polsinelli Letters, claim that MSH will be negatively impacted by the establishment of the AMI unit at HCH. MSH is in the best position to determine the impact such a unit would



have on it, and MSH welcomes the proposed establishment. As of the twelve month period ending June, 2013 MSH referred 416 patients from its emergency department to other hospitals because it did not have capacity. It has difficulty placing patients seen in its emergency department because its own unit is frequently full.

4) ***MSH Is Not The Only Hospital At Close to HFSRB Target Utilization.*** The letter states MSH is the "only" hospital operating at close to the Board's target rate of 85% utilization for AMI beds. In fact St. Bernard Hospital is operating at 82%, which from any vantage point is close to 85%. In other words, if St. Bernard's had 1.2 more patients (ADC) it would reach 85%.

6) ***Hospitals With Alleged Capacity Do Not Oppose The HCH Project.*** Many of the hospitals referenced as having capacity are not opposing the establishment of the HCH unit. Thus, one can infer no negative impact on these hospitals.

7) ***SHS's Financial Viability.*** There is much ado in the original letter and the second letter about SHS's financial viability, and the availability of funds for the HCH acute mental illness project. In fact, the funds for the HCH project primarily come from a capital grant from the State of Illinois that is restricted to HCH. Therefore the overreaching request in the Polsinelli Letters (the March 24, 2014 letter) that HFSRB ask HCH to provide letters from its banks is unnecessary.

Putting aside the fact the funds are coming from a source requiring dedicated use at HCH, SHS is in the best position to decide how it should use its capital resources to serve its communities. As the letter states, SHS is operating with limited funds. It is doing so because it serves a patient population with a payer mix that is challenging, yet it never shies away from serving those patients and improving accessibility to care. SHS has been commended for its ability to serve the community in an excellent manner with little resources, and the proposed HCH project will continue this service.

Sincerely,

Clare Connor Ranalli
(pp lv)

Clare Connor Ranalli

cc: Mike Constantino, Supervisor, Project Review, HFSRB
Chuck Weis, CFO, Sinai Health System