



August 3, 2022

By E-Mail

Shannon Magro
Physicians Surgery Center of Frederick
81 Thomas Johnson Court, Suite B
Frederick, MD 21702

Christopher P. Dean, Esq.
Miles & Stockbridge, PC
100 Light Street
Baltimore, MD 21202-1036

Re: In the Matter of Andochick Surgical Center, LLC d/b/a Physicians Surgery
Center of Frederick Certificate of Need Application
Matter No. 21-10-2451
Reviewer's Second and Final Request for Information

Dear Ms. Magro and Mr. Dean:

I have reviewed the response of the applicant, Andochick Surgical Center, LLC d/b/a Physicians Surgery Center of Frederick (PSCF), to my June 9, 2022 letter, as well as the interested party's comments in response. Unfortunately, PSCF's responses to my questions were incomplete in several respects. I, therefore, request that the applicant provide full and complete responses to the matters identified below. **This will be the applicant's final opportunity to supplement the record before I issue my recommended decision.**

Budget

1. There is a difference of \$21,000 between the Use of Funds (\$2,805,300) and the Source of Funds (\$2,784,300) in applicant's revised Project Budget, Tab 1, Table E, submitted on June 23, 2022. Please review the numbers and explain the differences in the budget statement between the Use of Funds and the Source of Funds.

2. Identify the source of information and assumptions that were used to project the budget increase in the revised Project Budget in Tab 1, Table E. Please be specific, citing the sources used, if any.
3. Given the updated construction timeline reported in Tab 2, please revise Tables 1 and 2 – Statistical Projections -Entire Facility and Proposed Project and Tables 3 and 4 – Revenues and Expenses – Entire Facility and Proposed Project for the timeline 2020 through 2026.
4. The letters under Tab 5 and 6 in both responses are not on letterhead and not signed by C. Melton. Additionally, the letters do not explain in detail his relationship as either an independent Certified Public Accountant or an employee of PSCF. Please resubmit these letters with the appropriate documentation and information for Mr. Melton.
5. Explain the basis for the assumption that “the forecast....assumes a 20% increase in revenue” as stated in Tab 6, Ex. 22—Financial Feasibility. What circumstances or facts support a 20% increase in revenue?

Utilization and Volume Projections

6. Please resubmit the surgical cases and surgical minutes consistent with Addendum B for each physician performing surgery at PSCF based on the applicant’s updated timeline:
 - a. The historical utilization (2020 and 2021);
 - b. The utilization during the construction period of the project (2022 through 2023); and
 - c. The projected volumes upon completion of the new addition (2024 through 2026, which is the projected second full year of operation after project completion).

The projections in Addendum B should be consistent with the Table 1 and 2 responses for the revised utilization projections in previous Question #3.

Charity Care

7. The State Health Plan Chapter for General Surgical Services provides the following definition for Charity Care at COMAR 10.24.11.07B(4):

“Charity care” means:



- (a) Free or discounted health and health-related services provided to persons who cannot afford to pay;
- (b) Care to uninsured, underinsured, or low-income patients who are not expected to pay all or part of a bill, or who are able to pay only a portion using an income-related sliding fee schedule; or
- (c) The unreimbursed cost to a health care facility for providing free or discounted care to persons who cannot afford to pay and who are not eligible for public programs.

Charity care results from a facility's policy to provide health care services free of charge or discounted to individuals who meet certain financial criteria. Generally, the patient must demonstrate an inability to pay. **Charity care does not include bad debt.**

Regarding compliance with the Charity Care standard, the applicant provides in Tab 3, Ex. 5 a chart that shows the amount of charity care provided at PSCF from 2013 through 2021.

Table 1: Physicians Surgery Center of Frederick - Historical Charity Care (2013 - 2021)

	2013	2014	2015	2016	2017	2018	2019	2020	2021
Charity Care	\$963.87	\$0.00	\$930.11	\$4,128.00	\$1,620.00	\$0.00	\$8,314.00	\$1,663.00	\$78,385.00
Expenses	\$2,991,611	\$3,329,291	\$2,509,949	\$3,192,182	\$3,299,538	\$3,783,992	\$3,805,414	\$4,068,407	\$5,687,630
Percent	0.03%	0.00%	0.04%	0.13%	0.05%	0.00%	0.22%	0.04%	1.38%

Source: June 23 2022 PSCF response, Tab 3, Ex. 5.

The applicant needs to provide a written response that:

- (a) Demonstrates why PSCF's historic level of charity care was appropriate to the needs of PSCF's service area; and
- (b) Document how PSCF will provide charitable surgical services to indigent patients that are equivalent to at least the average amount of charity care provided by ambulatory surgical facilities annually (which was reported by MHCC in 2019 as 0.63%).

PSCF's June 23 correspondence at Tab 3, Ex. 5 through 13 does not address the Commission's need to evaluate and assess either PSCF's historical level or how the applicant will meet the future level of charity care for the proposed four operating room ambulatory surgical facility upon project completion. These exhibits do not provide an adequate explanation of how the applicant has met the needs either historically, or will meet the need for charity care upon project completion. Please submit a written



response that supports how the historical and projected charity care levels are appropriate to the needs of the population in PSCF's service area.

Impact

Table 2: Impact Surgical Cases by PSCF Surgeons at Hospitals, 2020-2021

Physician Name	2020						2021					
	FHH		Holy Cross		Meritus		FHH		Holy Cross		Meritus	
	Cases	Minutes	Cases	Minutes	Cases	Minutes	Cases	Minutes	Cases	Minutes	Cases	Minutes
Scott Andochick	24	3,792		0		0	24	3,792		0		0
James Steinberg	213	14,484		0		0	154	10,472		0		0
Kristin Nesbitt Silon	40	1,800		0		0	26	1,170		0		0
Matthew Levine	144	15,120		0		0	94	9,870		0		0
Adam Mecinski	69	3,312		0	26	1,248	80	3,840		0	27	1,296
Sunil Thadani	0	0		0		0		0		0		0
Steven Horton	12	876		0		0	45	3,285		0		0
Rishi Gupta	271	19,512		0		0	267	19,224		0		0
Christopher Henry	10	530		0		0	8	424		0		0
Samuel Sanders	0	0	30	2,970		0		0	15	1,485		0
Gabriel Petruccelli	0	0	6	498		0		0	5	415		0
Korboi Evans	0	0	260	35,880		0		0	260	35,880		0
Cory Walsh	219	13,688		0		0	200	12,500		0		0
Laura Copaken	0	0		0		0	32	800		0		0
Total	1,002	73,114	296	39,348	26	1,248	930	65,377	280	37,780	27	1,296
Total Surgical minutes + TAT ^(a)		98,164		46,748		1,898		88,627		44,780		1,971
Total No. ORs ^(b)		11		5		11		11		5		11
Optimal Capacity - Mixed Use General Purpose ORs ^(c)		114,000		114,000		114,000		114,000		114,000		114,000
Total Optimal Capacity at Hospital ^(d)		1,254,000		570,000		1,254,000		1,254,000		570,000		1,254,000
% Impact^(e)		7.8%		8.2%		0.2%		7.1%		7.9%		0.2%

Source: June 23, 2022, Tab 4, Ex. 14

Notes:

(a) Surgical minutes plus (TAT = Number of cases times 25 minutes)

(b) Annual Report on Selected Maryland Acute Care and Special Hospital Services, Fiscal Year 2018, Table 18, p. 27 available at: https://mhcc.maryland.gov/mhcc/pages/hcfs/hcfs_hospital/documents/acute_care/chcf_Annual_Rpt_Hosp_Services_FY2018.pdf.

(c) COMAR 10.24.11.06A(1)(a)(ii) Mixed use general purpose operating room optimal capacity is "1,900 hours per year and includes the time during which surgical procedures are being performed and room turnaround time (TAT) between surgical cases."

(d) Total No. ORs times 114,000 minutes

(e) (Total Surgical Minutes + TAT) / Total Optimal Capacity at Hospital



8. Table 2 above was created using information provided by the applicant in Tab 4, Exhibit 14 on the number of surgical cases performed by PSCF surgeons at Frederick Health Hospital, Holy Cross – Germantown, and Meritus Health System in 2020 and 2021. Although Exhibit 14 is not labeled, I assume that it only reports outpatient cases that could be performed at PSCF. Table 2 calculates the impact of shifting these cases to PSCF on each hospital's overall surgical capacity. The estimated surgical minutes for each surgeon are based on each surgeon's reported average operating room time in Exhibit 16.

Given the projected increase in surgical cases to be performed by each physician at PSCF, please discuss the impact of the proposed project on each of these three hospitals.

The applicant should submit four copies of its responses to the information requested in this letter within ten business days of receipt. In addition, please submit all responses electronically, in both Word and PDF format, to Ruby Potter (ruby.potter@maryland.gov) and all parties copied in this letter. The Interested Party, Frederick Health Hospital, may file a response within seven business days after receiving the applicant's filing. No reply filings are permitted unless I specifically agree that a reply may be filed. If you require additional time to submit a response, you can request an extension for a reasonable period of time in accordance with COMAR 10.24.01.10A(2).

All information supplementing the applicant must be signed by person(s) available for cross-examination on the facts set forth in the supplementary information, who shall sign a statement as follows: "I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief."

I remind all parties that this is a contested case and that the *ex parte* prohibitions in the Administrative Procedure Act, Md. Code Ann., State Gov't §10-219, apply to this proceeding until the Commission issues a final decision. Any communication to me or the Commission must therefore also be sent to all other parties.

Sincerely,



Trupti Brahmhatt, Ph.D.
Commissioner/Reviewer



Shannon Magro
Christopher P. Dean, Esq.
August 3, 2022
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