Comments in Opposition from Novant Health, Inc.
Regarding Rex Hospital, Inc. d/b/a Rex Healthcare for Two Outpatient Surgical Operating Rooms in a Hospital-Based ASC at Rex Healthcare of Holly Springs (Project I.D. #J-8468-10) and Rex Hospital for One Additional Operating Room (Project I.D. #J-8469-10)
Submitted February 15, 2010 for March 1, 2010 Review

In accordance with N.C.G.S. Section 131E-185(a1)(1), Novant Health, Inc. submits the following comments regarding the CON Application of Rex Hospital, Inc. d/b/a Rex Healthcare for Two Outpatient Surgical Operating Rooms in a Hospital-Based Ambulatory Surgery Center at Rex Healthcare of Holly Springs (Project I.D. #J-8468-10).

I. Introduction

The following CON applications were submitted in response to the need determination identified in the *2010 State Medical Facilities Plan* (*2010 SMFP*) for three surgical operating rooms in Wake County:

- J-8463-10: WakeMed for Three Additional Shared Use Inpatient/Outpatient Surgical Operating Rooms at WakeMed Cary Hospital
- J-8468-10: Rex Hospital, Inc. d/b/a Rex Healthcare for Two Outpatient Surgical Operating Rooms in a Hospital-Based Ambulatory Surgery Center at Rex Healthcare of Holly Springs
- J-8469-10: Rex Hospital, Inc. d/b/a Rex Healthcare for One Additional Shared Surgical Operating Room at Rex Hospital
- J-8467-10: Duke University Health System d/b/a Raleigh Hospital for Two Additional Shared Use Inpatient/Outpatient Surgical Operating Rooms
- J-8471-10: Novant Health's Holly Springs Surgery Center for a Freestanding Ambulatory Surgery Center with Three Outpatient Surgical Operating Rooms and One New Procedure Room

II. Rex's Proposal

Rex submitted two CON Applications seeking approval to develop a total of three new surgical operating rooms, one on the Rex Hospital campus in Raleigh and two in a hospital-based ASC in Holly Springs.

The first Application (Project I.D. #J-8468-10) filed on February 15, 2010 seeks approval to develop a new ambulatory surgery center with two ambulatory surgical operating rooms at Rex Healthcare of Holly Springs (Rex Holly Springs ASC), for a total project cost of $7,586,384. Rex projects no increase in Rex's existing share of the Holly Springs' market. It proposes to serve patients Rex already serves, but in a location closer to their homes.[1]

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[1] CON Application J-8468-10, page 80

Rex Healthcare of Holly Springs is an approved 9,263 square foot, hospital-based outpatient imaging and urgent care center in Holly Springs at intersection of NC Highway 55 and Avent Ferry Road in Holly Springs (Rex Holly Springs Imaging and Urgent Care).[2] Total CON approved project cost for Rex Holly Springs Imaging and Urgent Care is $5,460,737.[3]

The second Rex Application (Project I.D. #J-8469-10) filed on February 15, 2010 seeks to add one shared surgical operating room at Rex Hospital, for a total project cost of $1,143,785. The proposed shared surgical operating room "will be located in the space now occupied by Rex [Hospital]'s [four minor] procedure rooms that will close [...]."[4] The stated impetus behind Rex Hospital's proposed expansion of its shared operating room inventory by one is Rex's "determin[ation] that it will no longer utilize its existing minor procedure rooms (the four used for surgery cases)"[5] for surgery cases. Rex also has determined that the procedure rooms previously CON-approved by the Agency at the Macon Pond location, Project I.D. #J-8468-10, are no longer needed as discussed on page 22 of the Application. The Agency approved this change for Rex by Material Compliance decision letter dated March 22, 2010.

Rex's combined total project cost is $8,730,169 to implement the three operating rooms identified as needed in Wake County according to the *2010 SMFP*. At pages 74-75 of Rex's ASC CON application, Rex states that "...Rex's concurrently filed applications are not mutually exclusive...and as proposed are complementary. The cost for Rex to implement the three new Wake County operating rooms is more than one-half million dollars greater[6] than the capital cost for Novant Health to implement all three new operating rooms in a freestanding ASC (Holly Springs Surgery Center, LLC) in southern Wake County.

Both of Rex's OR Applications use the same methodology to project future OR case volume at Rex Hospital and Rex's Holly Springs hospital-based ASC.

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[2]Project I.D. #J-8007-07

[3]Findings for Project I.D. #J-8007-07, page 12

[4]CON Application J-8469-10, page 23

[5]CON Application J-8469-10, page 22

[6]Calculation: Rex's 3-OR total capital cost of $8,730,169 minus Novant's Holly Springs Surgery Center 3-OR total capital cost of $8,204,090= $526,079 lower capital cost for HSSC

III. Rex's Existing, Approved, and Proposed Surgical Operating Room Inventory

Existing, CON-approved, and proposed surgical operating room inventory for Rex Healthcare and related entities is shown in the following table.

Rex Healthcare System
Existing, Approved, and Proposed Operating Room Inventory by Facility

Type of Operating Room (Current licensed and CON-approved operating rooms)	**Rex Hospital** (Includes 4 ORs added back to Rex from Macon Pond[7])	**Rex Cary Surgery Center**	**Rex Wakefield**	**Macon Pond Rd Outpatient Center** (Includes only 4 ORs[8])	**Orthopaedic Surgery Center of Raleigh** (Related entity)		**Total**
Dedicated C-Section	3						3
Other Dedicated Inpatient Surgery							
Dedicated Ambulatory Surgery		4	3	4	4		15
Shared-Inpatient/Ambulatory Surgery	20						20
Total of Surgical Operating Rooms	**23**	**4**	**3**	**4**	**4**		**38**
Type of Operating Room (Proposed operating rooms)	**Rex Hospital** (Includes one additional shared OR per CON Project I.D# J-8469-10)	**Rex Cary Surgery Center**	**Rex Wakefield**	**Macon Pond Rd Outpatient Center**	**Orthopaedic Surgery Center of Raleigh**	**Rex Holly Springs ASC**	**Total**
Dedicated C-Section	3						3
Other Dedicated Inpatient Surgery							
Dedicated Ambulatory Surgery		4	3	4	4	2	17
Shared-Inpatient/Ambulatory Surgery	21						21
Total of Surgical Operating Rooms	**24**	**4**	**3**	**4**	**4**	**2**	**41**

Source: Rex Hospital 2010 LRA; Project I.D. #J-8469-10; Project I.D. # J-8170-08

In July 2008, Rex Hospital was approved to relocate 8 of its existing 27 shared surgical operating rooms to the Macon Pond Outpatient Center to become ambulatory surgical operating rooms[9]. The previous table shows 4 rather than the 8 approved ambulatory surgical operating rooms at the Macon Pond Road Outpatient Center as a result of the January 2010, Material Compliance Determination submitted to the Agency requesting that it may proceed to re-size the Macon Pond Road Outpatient Center from 8 to 4 surgical operating rooms, and retain the other 4 surgical operating rooms at Rex Hospital. The Agency response, dated March 22, 2010, approved Rex's

[7] According to Declaratory Ruling Request discussed on page 22 of Feb 2010 CON Application Project I.D.# J-8468-10

[8] Ibid.

[9] Project ID #J-8053-08

request to re-size the Macon Pond ASC from 8 to 4 ORs, with the other four ORs to remaining at Rex Hospital in Raleigh.

The previous table also shows four approved orthopedic ambulatory surgical operating rooms at Orthopaedic Surgery Center of Raleigh (OSCR), which is a joint venture "related entity" between Rex and Raleigh Orthopaedic Clinic, PA, ("ROC") to be located at intersection of Macon Pond Road and Edwards Mill Road in Raleigh, NC 27607 (2951 Edwards Mill Road, Raleigh, NC 27607)[10] OSCR is projected to be operational in January 2011. Rex did not include these four new ORs, still under development, in its CON Application Section III discussion of the Wake County surgical providers (CON Application pages 76-77).

Both the Macon Pond Road Outpatient Center and OSCR involve Rex Hospital's shifting of ambulatory surgery volume to each of those facilities. In the case of OSCR, the shift will be only orthopedic ambulatory OR case volume. The Rex Holly Springs ASC Application also involves a shift of ambulatory surgical volume from Rex Hospital to the proposed new surgery center and includes orthopedic ambulatory surgical volume, as well as ENT, gynecology, urology, and general surgery[11] ambulatory surgery cases.

According to page 21 of the Rex Holly Springs ASC Application, on April 27, 2009, Rex Hospital's three C-Section rooms became operational. On that same day, three ambulatory surgical operating rooms at the Rex Wakefield ASC became operational. Rex is still in the process of shifting cases to its Rex Wakefield 3-OR Ambulatory Surgery Center.

IV. CON Statutory Review Criteria

The following comments are submitted based upon the CON Review Criteria found at G.S.131E-183. While some issues impact multiple Criteria, they are discussed under the most relevant review Criteria and referenced in others to which they apply.

G.S. 131E-183 (1)

The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.

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[10]Project ID #J-8170-08

[11]See Rex's Holly Springs ASC CON application at pages 34 and 43, as well as the surgeon letters in Exhibit 6 of Rex's Holly Springs ASC Application, which include letters from 14 Rex Surgical Specialists surgeons employed by Rex Healthcare. These letters fail to mention what type of surgeon is signing the letter and also state that each surgeon will shift a few dozen surgical cases each by the third year to Rex's Holly Springs ASC from Rex Hospital or in the case of five surgeons (Drs. Ng, Dragelin, Podnos, Sharp & Powell) that they will shift "all" of their cases from Duke Health Raleigh to Rex including Rex's Holly Springs ASC. See CON Application Exhibit pages 275-280 However, the number of OR cases projected to be performed by these five surgeons at Rex's Holly Springs ASC is not mentioned in each surgeon's letter. The President of the Raleigh Orthopaedic Clinic also estimated that certain ROC surgeons would shift 320 cases to the Rex Holly Springs ASC. See Exhibit 6 for the ROC letters.

A. *SMFP* Policy GEN-3 – Basic Principles

The plain language of "SMFP Policy GEN-3: Basic Principles" requires that:

"A certificate of need applicant applying to develop or offer a new institutional health service for with there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan, as well as addressing the needs of all the residents in the service area. (Emphasis added)

As discussed in detail in the context of Criterion (3) below, Rex failed to adequately demonstrate a need for the Rex Holly Springs hospital-based ASC, and therefore failed to document how its projected volumes incorporate the Basic Principles in meeting the need identified in the *2010 SMFP*. Consequently, the Rex Holly Springs Application is not conforming to SMFP Policy GEN-3, and does not conform to Criterion (1).

B. Operating Room Need Methodology – Results in Overstated Surgical Volume

As discussed in detail in the context of Criterion (3) below, Rex includes surgical volume currently performed in a non-surgical procedure rooms as the base year data for Rex's future OR case projections to achieve projected utilization. As a result, projected utilization in the Rex Holly Springs ASC CON Application is overstated and cannot be used to justify Rex's total operating room need in Wake County. Therefore, the Rex Holly Springs ASC CON Application is non-conforming to Criterion (1).

For these reasons, the proposed project is non-conforming to *SMFP* Policy GEN-3: Basic Principles and Basic Assumptions included in the Operating Room Need Methodology.

G.S. 131E-183 (3)

The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

Rex plans to shift existing Rex Hospital outpatient cases, excluding obstetrics and ophthalmology cases, from a 13-zip code service area to the proposed Rex Holly Springs ASC. Rex states that it applied "its historical outpatient surgical growth of 4.24 percent to the FFY 2009 Rex Hospital outpatient volume by [each of the 13 designated] zip code[s]," to project

future volume at Rex Holly Springs ASC.[12] In fact, Rex has projected the need for additional operating rooms at Rex Holly Springs and Rex Hospital based upon a shift in volume from four existing procedure rooms to operating rooms and increased volume based upon the recent acquisition and employment of two large surgical physician groups[13], now called Rex Surgical Specialists.

As will be discussed in detail below, the proposed project is non-conforming to Criterion (3) because it overstates projected volume at Rex Hospital, a portion of which overstated volume will be shifted from Rex Hospital to Rex Holly Springs ASC. As such, Rex fails to justify a need for the proposed Rex Holly Springs hospital-based ASC with two new surgical operating rooms.

A. Surgical Cases Performed in Procedure Rooms Do Not Meet the Definition of "Surgical Case" in 10A NCAC 14C. 2101(14)

The term "Surgical Case" is defined in the Criteria and Standards for Surgical Services and Operating Rooms at 10A NCAC 14C. 2100 et. seq. These CON Regulations are applicable to Rex's CON application proposing a 2-OR hospital-based ASC in Holly Springs, NC.

> (14) "Surgical Case" means an individual who receives one or more surgical procedures **in an operating room** during a single operative encounter. **[Emphasis added.]**

The term "Operating Room" is defined in the Criteria and Standards for Surgical Services and Operating Rooms at 10A NCAC 14C. 2101 et. seq.

> (2) "Operating room" means a room as defined in G.S. 131E-176(18c), which includes an inpatient operating room, an outpatient or ambulatory surgical operating room, or a **shared operating room**. **[Emphasis added.]**

It follows logically that an applicant proposing to establish a new ambulatory surgical facility and to increase the number of operating rooms in a service area pursuant to 10A NCAC 14C.2102(b), is required to:

- Report only those surgical procedures that **were performed in an operating room.**
- Project only those surgical procedures that **will be performed in an operating room.**

[12] CON Application J-8468-10, pages 111-114
[13] The two surgeon groups merged to form Rex's new surgery group are Wake Surgical Specialists (historically practicing primarily at Duke Health Raleigh) and Raleigh Surgical Group (practicing at Rex Healthcare facilities). See Rex's Holly Springs ASC CON application at pages 90-91.

An applicant then must reasonably demonstrate need for proposed operating rooms based on surgical procedures to be **performed in an operating room**, in compliance with the performance standards set forth in 10A NCAC 14C.2103(b)(1)(A) and (c)(1).

Rex includes on pages 37-38 of its Holly Springs ASC CON application, all Rex's FFY 2009 surgical case volumes "regardless of the location [where the surgery was] performed," pursuant to the direction of the CON Section staff on February 2, 2010. Rex indicates that this OR case volume is provided for "information only." This suggests that the Rex OR cases performed in the four Rex Hospital procedure rooms are clinically appropriate to be performed in a procedure room and should not be included in the base year for the future Rex Healthcare OR case volume projections.

It should be noted that the procedures currently performed in the four procedures rooms at Rex are clinically appropriate to be performed in a procedure room and are not "surgical cases" as defined in 10A NCAC 14C .2101(14). Rex would not be performing these cases in this procedure room setting if it were not clinically appropriate and safe for patients and surgeons. Rex does not provide any description or discussion regarding the types of procedures currently performed in the four existing procedure rooms, and does not provide any compelling argument that these procedures, whatever they may be, must be done in a sterile field in a licensed surgical operating room. Rex is proposing to relocate these procedures to an operating room to justify the need for additional operating rooms at Rex. Without this substantial volume (of surgical" procedures performed in procedure rooms), Rex cannot justify the need for three new operating rooms. Rex does not provide a quality of care argument, a licensure argument or an accreditation argument to justify why the procedures performed in the four procedure rooms must be done in a in a sterile setting in a licensed surgical operating room. There is no requirement that these cases must be shifted to a licensed surgical operating room.

Further review of the Rex 2007, 2008 and 2009 Annual Licensure Renewal Applications indicates that the majority of the cases currently completed in the four procedure rooms are ophthalmological cases as shown in the following table.

Outpatient Surgical Volumes – Annual LRAs

Licensure Renewal Year Outpatient Data Year	2008 LRA 2007	2009 LRA 2008	2010 LRA 2009
General Surgery	4,477	4,686	5,399
OBGYN	2,630	2,464	2,547
Ophthalmology	403	4,948	4,993
Orthopedics	2,902	3,528	3,808
Otolaryngology	1,927	971	1,680
Plastic	1,008	684	655
Urology	415	1,060	1,252
All Other	905	2,138	942
Total	14,667	20,479	21,276

Source: Annual Rex Healthcare LRAs

As stated multiple times in the Rex Application, including on pages 86 and 89, "Rex failed to include all of the surgical cases performed outside of operating rooms on its 2008 Hospital Licensure Renewal application." As shown in the previous table, the most significant increase in reported outpatient surgical procedures from 2007 to 2008 and 2009 was in ophthalmology, representing over 4,500 cases from 2007 to 2008. Urology cases increased around 600 cases, and orthopedic cases increased around 600 cases. Therefore, it is reasonable to assume that the large majority of cases currently being performed in the four procedure rooms which Rex intends to shift to an operating room are ophthalmological procedures. Most cataract outpatient surgical procedures, which typically comprise 70% of the ophthalmologic outpatient procedures, do not require full anesthesia and instead use local anesthetic or conscious sedation and the microscopic equipment for these procedures is appropriate for procedure rooms. In fact, many of these types of ophthalmologic procedures are shifting toward performance in procedure rooms rather than from procedure rooms to operating rooms.

Rex has not provided any substantial argument regarding the benefits of shifting this volume from a procedure room to an operating room. In fact, the impact of shifting this volume to an operating room will increase the cost of the surgical procedure since OR time charges as part of the facility fee are more expensive than procedure room time charges as part of the facility fee. In contrast, Duke Raleigh Hospital states in its February 15, 2010 CON application that it is in the process of shifting more patients to procedure rooms to better utilize existing surgical operating rooms. This is stated on page 21 of the Duke Health Raleigh CON Project, I.D. J-8467-10 to add two additional operating rooms.

B. Surgical Cases Performed in Procedure Rooms at Rex Do Not Meet the Definition of "Surgical Case" in 10A NCAC 14C.2101(14)

The following table illustrates the difference between Rex's "Surgical Cases," as that term is defined in 10A NCAC 14C .2101(14), and non-surgical procedures performed in four minor procedure rooms at Rex Hospital and Rex Wakefield, which Rex reported in its 2010 Hospital License Renewal Application.

Comparison of Rex "Surgical Cases" and "Non-Surgical Procedures" Performed in Minor Procedure Rooms October 2008 – September 2009 (FFY 2009)

"Surgical Cases" defined in 10A NCAC 14C .2101(14)	Rex Hospital	Rex Cary Surgery Center	Rex Wakefield	Total
C-Section	1,406			
Non-C-Section Inpatient	6,867			
Outpatient	14,678	2,945	339	
Total	**22,951**	**2,945**	**339**	**26,235**
"Surgical Cases" defined in 10A NCAC 14C .2101(14) + "Non-Surgical Procedures" performed in Four Minor Procedure Rooms	**Rex Hospital**	**Rex Cary Surgery Center**	**Rex Wakefield**	**Total**
C-Section	1,406			
Non-C-Section Inpatient	7,393			
Outpatient	21,276	2,945	348	
Total	**31,125**	**2,945**	**348**	**34,418**
"Non-Surgical Procedures" performed in Four Minor Procedure Rooms	**Rex Hospital**	**Rex Cary Surgery Center**	**Rex Wakefield**	**Total**
C-Section	0			0
Non-C-Section Inpatient	526			526
Outpatient	6,598	0	9	6,607
Total	**7,124**	**0**	**9**	**7,133**

Source: CON Application J-8468-10, pages 37-38

The previous table (in the yellow highlighted portion of the table) shows that **7,133 "non-surgery" cases were performed in minor procedure rooms** at Rex surgical facilities in the most recent fiscal year (FFY 2009, 10/1/2010-9/30/2009). Of these 7,124 procedures were at performed in the four procedure rooms at Rex Hospital. None of those 7,133 cases are "surgical cases," as that term is defined in 10A NCAC 14C .2101(14).

In order for those 7,133 "non-surgery" cases to be considered "surgical cases," they would have each had to be performed in a surgical operating room. On page 37 of the Rex Holly Springs ASC CON application, Rex states that "Rex has provided below surgical cases *regardless of location performed* .....for information purposes only." (Emphasis added). There are two reasons these 7,133 additional cases should not be included in Rex's calculation of need for the three new ORs identified in the 2010 SMFP for Wake County: (1) per the narrative response in Section II of Rex's Holly Springs ASC CON application, these 7,133 additional cases are provided "for information only"; and (2) these 7,133 additional cases to not meet the definition of "surgical cases" as set forth in the Surgical Services and OR Criteria and Standards which are applicable to this application. Consequently, none of those 7,133 "non-surgery" cases should be included in:

- Historical volume at existing Rex surgical facilities provided in response to 10A NCAC 14C.2102(b)(3) at CON Application Question II.10.

- Base year OR case volume from which to project future Rex OR case volume at existing and proposed Rex surgical facilities provided in response to 10A NCAC 14C.2102(b)(4) at CON Application Question II.10.
- Projected OR case volume at any existing and proposed Rex surgical facilities, which volume is used to determine compliance with performance standards applicable to the Rex Holly Springs ASC Application.

Nevertheless, on pages 88 and 89, Rex provided tables showing its historical outpatient and inpatient cases (to which Rex incorrectly refers in its entirety as "surgical case volume") performed in all operating rooms and minor procedure rooms at Rex Hospital in the last three fiscal years. Those two tables are reproduced below.

Rex Historical Outpatient Volume

FFY 10/1 – 9/30, 20XX	All ORs at Rex Hospital and Other Locations plus Main Campus Minor Procedure Rooms
2007	21,663
2008	23,214
2009	23,529
CAGR	4.24%

Source: CON Application J-8468-10, pages 86-87

Rex Historical Inpatient Volume

FFY 10/1 – 9/30, 20XX	All ORs at Rex Hospital and Other Locations plus Main Campus Minor Procedure Rooms
2007	6,638
2008	7,031
2009	6,878
CAGR	1.79%

Source: CON Application J-8468-10, page 89

Rex then projects future operating room outpatient and inpatient volume, respectively, by applying its:

- "historical growth rate of 4.24 percent annually for surgical cases performed in operating rooms and minor procedure rooms to its FFY 2009 outpatient surgical cases performed in operating rooms and minor procedure rooms."[14]
- "historical growth rate of 1.79 percent annually for inpatient surgical cases performed in operating rooms and minor procedure rooms to its FFY 2009 inpatient cases performed in operating rooms and minor procedure rooms."[15]

[14] CON Application J-8468-10, page 87

[15] CON Application J-8468-10, page 89

Rex's inclusion of "non-surgery" procedures performed in one of four minor procedure rooms at Rex Hospital, and reliance on a growth rate that includes "non-surgery" cases performed in those minor procedure rooms is a significant flaw in both Rex Applications, which flaw results in overstated OR case projections in both Rex Applications. Rex has failed to demonstrate the quantitative need for the two new ORs at the Rex's Holly Springs ASC and has also failed to demonstrate the need for one new OR at Rex Hospital in Raleigh.

C. Historical Inpatient Surgical Volume that Meets the Definition of "Surgical Case" in 10A NCAC 14C. 2101(14)

Rex provided, on page 37 of the Rex Holly Springs Application, the total non-C-Section inpatient cases in FFY 2009 at Rex Hospital that conform to the definition of "Surgical Case" in 10A NCAC 14C.2101(14). In addition, as stated multiple times in the Rex ASC Application, including on pages 86 and 89, "Rex failed to include all of the surgical cases performed outside of operating rooms on its 2008 Hospital Licensure Renewal application." Therefore, reported inpatient cases on the 2008 Hospital Licensure Renewal application reflect the total number of "surgical cases" performed in operating rooms as defined in 10A NCAC 14C.2101(14).

There is, however, no publicly available data from which to determine independently the number of non-C-Section inpatient "non-surgery" cases performed in procedure rooms at Rex Healthcare for FFY 2008 data (2009 Hospital Licensure Renewal application).

As shown in the following table, non-C-Section inpatient "non-surgery" cases performed in minor procedure rooms accounted for 7.1% of the total non-C-Section inpatient cases in FFY 2009. In 2007 non-C-Section inpatient "non-surgery" cases performed in minor procedure rooms accounted for 6.6% of the total non-C-Section inpatient cases. Using these calculations, the estimated FFY 2008 inpatient "non-surgery" cases performed in minor procedure rooms accounted for 6.9% of the total non-C-Section inpatient cases in FFY 2009 as shown in the following table.

Rex Healthcare
Historical Non-C-Section Inpatient "Surgical Cases" and Inpatient Cases in Procedure Rooms
October 2006 – September 2009

	Methodology	FFY 2007	FFY 2008	FFY 2009
Non-C-Section Inpt **"Surgical Cases" In Operating Rooms** – LRA	A	6,826	NA	NA
Non-C-Section Inpt **Cases Regardless of Location** – Page 89	B	7,311	7,278	7,393
Non-C-Section Inpt "**Surgical Cases**" Performed in Shared ORs – 2008 LRA and pg 37 of Rex ACS Application	C	6,826	6,776	6,867
Difference – FFY 2008 Estimated Based upon %Difference Calculated Below	D = B - C	485	502	526
% Difference – FFY 2008 Estimated = Average of 2007 and 2009	E = D / B	6.6%	6.9%	7.1%

Source: 2008 LRAs; Rex ASC Application page 37, 89
Note: All references to "Surgical Cases" in the previous table are cases in conformity to 10A NCAC 14C.2101 (14)

The following table compares the inpatient growth rate for "surgical cases" as defined in 10A NCAC 14C.2101(14) and the growth rate for "surgical cases" plus inpatient cases in minor procedure rooms utilized by Rex to project future inpatient growth in the Rex ASC Application and the Rex Hospital Application inpatient projections.

Rex Historical Inpatient "Surgical Case" Volume Compared to "Total Operating Rooms Plus Minor Procedure Rooms" Inpatient Volume - Excluding C-Sections

FFY	Inpatient Surgical Cases (without C-Sections) - All Rex Healthcare ORs Without Minor Procedure Room Volumes	Inpatient Surgical Volume (without C-Sections) - All ORs at Rex Healthcare plus Minor Procedure Rooms on Rex Main Campus – Page 89 of Rex ASC Application
2007	6,826*	6,638
2008	6,776**	7,031
2009	6,867***	6,878
CAGR	0.3%	1.79%

** LRA 2008 LRA- Does not include other procedure room volumes from Rex Main Campus in 2007as stated on page 89 of Rex ASC Application*
*** Estimated in previous table*
****Rex ASC Application page 37*
Note: All references to "Surgical Cases" in the previous table are cases in conformity to 10A NCAC 14C.2101 (14)
Source: 2008 LRA; Rex CON Application pages 37, 89

As reflected in the previous table, actual "surgical case" growth rates from FFY 2007 to FFY 2009 are significantly less than the "surgical case" plus procedure growth rates utilized by Rex in its projections. Therefore, "surgical cases" are overstated in the projections and Rex Healthcare has not demonstrated a need for three additional operating rooms.

As stated multiple times in the Rex ASC Application including on pages 86 and 89, "Rex failed to include all of the surgical cases performed outside of operating rooms on its 2008 Hospital Licensure Renewal application." However, the total surgical volume without C-Section total for FFY 2007 of 6,826 as reflected on the 2008 LRA and reported in the above table, is significantly greater than the total inpatient without C-Section volume of 6,638 reported on page 89 of the Rex ASC Application. Therefore the inpatient surgical volume reflected on page 89 for 2007 is understated by at nearly 3%. Using the inpatient surgical volume less C-Section total of 6,826, from the 2008 LRA which does not include all of the surgical cases performed outside of operating rooms, in the table on page 89 results in a very different CAGR as shown in the following table.

"Total Inpatient Surgical Cases Plus Minor Procedure Room Inpatient Cases" Volume - Excluding C-Sections Growth Rate Comparison

FFY	**Inpatient Cases in All ORs at Rex Healthcare plus Minor Procedure Rooms on Rex Main Campus -** 2008 LRA and Page 89 of Rex ASC Application	**Inpatient Cases in All ORs at Rex Healthcare plus Rex Main Campus Minor Procedure Rooms Only -** Page 89 of Rex ASC Application	**Inpatient Cases in All ORs at Rex Healthcare plus All Minor Procedure Rooms -** Page 89 of Rex ASC Application
2007	6,826*	6,638	7,311
2008	7,031	7,031	7,278
2009	6,878	6,878	7,393
CAGR	0.4%	1.79%	0.6%

** LRA 2008 LRA is understated as it does not include other procedure room inpatient volumes from Rex Main Campus in 2007as stated on page 89 of Rex ASC Application*
Source: 2008 LRA; Rex CON Application pages 37, 89

As shown in the previous table, the CAGR for Rex's historical inpatient case volume without C-Sections (at less than 1.0%, or 0.4%) is significantly less than the 1.8% utilized in the CON Application when 2007 data from the 2008 Rex LRA is used. As stated multiple times in the Rex ASC Application including on pages 86 and 89, "Rex failed to include all of the surgical cases performed outside of operating rooms on its 2008 Hospital Licensure Renewal application." Therefore, actual inpatient surgical volume for FFY 2007 the first year of the CAGR 3-year period) should be even greater than the volume reported in the previous table resulting in an even lower CAGR.

D. Historical Outpatient Surgical Volume that Meets the Definition of "Surgical Case" in 10A NCAC 14C. 2101(14)

Rex provided, on page 37 of the Rex Holly Springs Application, the total outpatient cases in FFY 2009 at Rex Hospital that conform to the definition of "Surgical Case" in 10A NCAC

14C.2101(14). In addition, as stated multiple times in the Rex ASC Application, including on pages 86 and 89, "Rex failed to include all of the surgical cases performed outside of operating rooms on its 2008 Hospital Licensure Renewal application." Therefore, reported outpatient cases on the 2008 Hospital Licensure Renewal application reflect the total number of "surgical cases" performed in operating rooms as defined in 10A NCAC 14C.2101(14).

There is, however, no publicly available data from which to determine independently the number of outpatient "non-surgery" cases performed in procedure rooms at Rex Healthcare for FFY 2008 data (2009 Hospital Licensure Renewal application).

As shown in the following table, outpatient "non-surgery" cases performed in minor procedure rooms accounted for 26.9% of the total outpatient cases in FFY 2009. In 2007 outpatient "non-surgery" cases performed in minor procedure rooms accounted for 21.5% of the total outpatient cases. Using these calculations, the estimated FFY 2008 outpatient "non-surgery" cases performed in minor procedure rooms accounted for 24.2% of the total outpatient cases in FFY 2009 as shown in the following table.

Rex Healthcare
Historical Outpatient "Surgical Cases" and
Outpatient Cases in Procedure Rooms
October 2006 – September 2009

	Methodology	FFY 2007	FFY 2008	FFY 2009
Outpatient **"Surgical Cases" In Operating Rooms** –LRA	A	17,767	NA	NA
Outpatient **Cases Regardless of Location** – Page 86-87	B	22,643	23,672	24,567
Outpatient **"Surgical Cases"** Performed in Shared ORs – 2008 LRA and pg 37 of Rex ACS Application	C	17,767	17,943	17,962
Difference – FFY 2008 Estimated Based upon %Difference Calculated Below	D = B - C	4,876	5,729	6,605
% Difference – FFY 2008 Estimated = Average of 2007 and 2009	E = D / B	21.5%	24.2%	26.9%

Source: 2008 LRAs; Rex ASC Application page 37, 86-87
Note: All references to "Surgical Cases" in the previous table are cases in conformity to 10A NCAC 14C.2101 (14)

The following table compares the outpatient growth rate for "surgical cases" as defined in 10A NCAC 14C.2101(14) and the outpatient growth rate for "surgical cases" plus outpatient cases in minor procedure rooms utilized by Rex to project future outpatient growth in the Rex ASC Application and the Rex Hospital Application outpatient projections.

Rex Historical Outpatient "Surgical Case" Volume Compared to "Total Operating Rooms Plus Minor Procedure Rooms" Outpatient Volume

FFY	Outpatient Surgical Cases - All Rex Healthcare ORs Without Minor Procedure Room Volumes	Outpatient Surgical Volume - All ORs at Rex Healthcare plus Minor Procedure Rooms on Rex Main Campus – Page 86-87 of Rex ASC Application
2007	17,767*	21,663
2008	17,943**	23,214
2009	17,962***	23,539
CAGR	0.5%	4.24%

** LRA 2008 LRA- Does not include other procedure room volumes from Rex Main Campus in 2007as stated on page 86 of Rex ASC Application*
*** Estimated in previous table*
****Rex ASC Application page 37*
Note: All references to "Surgical Cases" in the previous table are cases in conformity to 10A NCAC 14C.2101 (14)
Source: 2008 LRA; Rex CON Application pages 37, 86-87

As reflected in the previous table, actual "surgical case" growth rates from FFY 2007 to FFY 2009 are significantly less than the "surgical case" plus procedure growth rates utilized by Rex in its projections. Therefore, "surgical cases" are overstated in the projections and Rex Healthcare has not demonstrated a need for three additional operating rooms.

E. Increase in Surgeons Does Not Necessarily Equal Need for More Operating Rooms

Rex recruited and hired the 17 additional surgeons knowing that there was no guarantee they would receive CON approval for three additional operating rooms. The surgeons also agreed to employment by Rex Healthcare knowing that there was no guarantee they would have more than the current complement of operating rooms and procedure rooms. In 2009, total operating room capacity at Rex increased by three operating rooms with the simultaneous opening of Rex Wakefield and the three C-Section operating rooms. Rex also has CON approval for four new operating rooms as a result of the joint venture with the ROC orthopedic surgery group. These four new ORs are not open yet and will also involve the shift of ambulatory orthopedic surgical cases from Rex to new joint venture orthopedic ASC.

In addition, Rex has routinely used the four procedure rooms to perform minor surgery and there is no apparent reason to convert these rooms to operating rooms. Therefore, if Rex proposes to include this volume in its projections, then the capacity of these rooms also should be included in the inventory. Therefore, the surgeons at Rex currently have sufficient capacity to meet the surgical volumes projected in the Rex Application as reflected in the following table.

Combined All Rex Locations - CON Application Projections - Fiscal Years Converted to Calendar Years (Project Years for Rex Holly Springs Outpatient Surgery)

Total All Locations	10/07-9/08	10/08-9/09	10/09-9/10	10/10-9/11	10/11-9/12	10/12-9/13	10/13-9/14	10/14-9/15	CAGR
Total Inpt Cases	7,031	6,878	7,327	7,459	7,592	7,728	7,867	8,008	2.6%
		CY 2009	**CY 2010**	**CY 2011**	**PY 1 CY 2012**	**PY 2 CY 2013**	**PY3 CY 2014**		
Convert to CYs		6,990	7,360	7,492	7,626	7,763	7,902		
Total All Locations	**10/07-9/08**	**10/08-9/09**	**10/09-9/10**	**10/10-9/11**	**10/11-9/12**	**10/12-9/13**	**10/13-9/14**	**10/14-9/15**	**CAGR**
Outpt Cases – Including ROC	23,214	23,539	26,233	26,934	26,010	27,057	28,205	29,400	3.4%
		CY 2009	**CY 2010**	**CY 2011**	**PY 1 CY 2012**	**PY 2 CY 2013**	**PY3 CY 2014**		
Convert to CYs		24,213	26,408	26,703	26,272	27,344	28,504		
Projected OR Hours		57,290	61,692	62,531	62,286	64,304	66,462		
OR Need @ 1872 Hours		30.6	33.0	33.4	33.3	34.4	35.5		
OR Inventory (Includes Four Procedure Rooms)		35	35	35	35	35	35		
OR Capacity = 2340 Hours per Room Per SMFP*		81,900	81,900	81,900	81,900	81,900	81,900		
OR Utilization		70.0%	75.3%	76.4%	76.1%	78.5%	81.2%		

Source: Rex Application pages 147-151
Includes procedures performed in non-operating room locations
**100% Annual OR Capacity in hours as defined in the SMFP OR Need Method, Chapter 6: 9 hours per day per OR X 260 days per year.*

As shown in the previous table, with the existing 31 operating rooms and four procedure rooms, Rex has sufficient capacity to meet the need of its physicians through 2014. As previously noted, this analysis includes surgical cases from all locations which results in overstated inpatient and outpatient projections as previously discussed. Rex has sufficient surgical operating room and procedure room capacity to perform the procedures historically performed at Rex without the addition of operating rooms at Rex. Therefore, Rex has not demonstrated the need for three new operating rooms.

F. Holly Spring Needs More Than Two Operating Rooms

The Rex Application supports more than two operating rooms to serve the residents of Holly Springs and surrounding communities. On page 68 of the Rex Application, Rex reports the 2014 population of the Holly Springs Submarket as 99,585, almost 100,000 persons with no ambulatory operating rooms. The following table utilizes the projected population growth rate from the Rex Application and the outpatient surgical use rate calculated by Novant in the Holly Springs Surgery Center Application, Project I.D. J-8471-10, to determine outpatient operating rooms needed for the Holly Springs Submarket.

Holly Spring Submarket Outpatient OR Need

	Volume
Population	99585
2009 Outpatient OR Use Rate - Wake Cty	58.63
Projected Outpt Surgical Cases	5839
Weighted Outpt Surgical Hours	8758
ORs Needed at 1872	4.7

Source: Rex Application page 68; HSSC Application Exhibit 3, Table 11

As shown in the previous table, based upon Novant's conservative Wake County outpatient surgical use rate five operating rooms are needed by the population of the Holly Springs Submarket. Rex's proposed 2-OR ASC for Holly Springs meets less than half the need for Rex's defined Holly Springs Submarket. Furthermore, Rex fails to explain why it chose to propose only two ASC ORs in Holly Springs, in a region of Wake County that is home to 11% of Wake County's total population and 0% of the current operating room inventory in Wake County.

On page 111 of the Rex Application, Rex identifies 4,826 outpatient cases provided to residents of the Holly Springs Submarket. This volume alone justifies four operating rooms [4,826 x 1.5 = 7,239 Surgical Hours; 7,239 Hours / 1872 Hours per room = 3.9 operating rooms]. Again, Rex's proposed 2-OR Holly Springs ASC meets barely half the need in Rex's Holly Springs submarket. In contrast, Novant's Holly Springs ASC proposed to deploy all of the three new operating rooms that are identified for Wake County in the 2010 SMFP to Holly Springs and the southern Wake County market.

Beginning on page 97 of the Rex Application, Rex utilizes Thomson Reuters inpatient and outpatient surgical data to justify its aggressive projections earlier in the application. The Thomson Reuters outpatient database reflects all outpatient procedures regardless of the location

where the outpatient procedure is performed (OR, procedure room, ED, etc) and it is difficult to accurately identify only "surgical cases" performed in surgical operating rooms. Rex fails to mention this weakness in the Thomson data for outpatient surgical cases. This results in significantly overstated volumes and overstated surgical use rates when the Thomson Reuters outpatient database is used for future volume projects of surgical OR cases. The following table compares the outpatient surgical volumes reported for Wake County in Annual LRAs to the Thomson Reuters data included in the Rex Application for the last three fiscal years.

Comparison LRA Outpatient Surgical Data to Thomson Reuters Outpatient Surgical Data

Wake County	2006	2007	2008	2009
LRA (FY)	43,325	46,799	51,202	52,772
Thomson Reuters (CY)	47,214	51,585	54,198	
Difference	-3,889	-4,786	-2,996	

Source: Rex Application page 100; HSSC Exhibit 3, Table11

As shown in the previous table, use of the Thomson data results in more aggressive and unreasonable projections. In addition, Rex annually inflated OR use rates without explanation for the increase in the use rates. This leads to even more unreasonable projections of future OR cases volumes. Thus, the projected Rex OR cases on page 105 of the Rex Holly Springs ASC CON application and the resulting OR need on page 107 of the Rex Holly Springs ASC CON application is exaggerated and unreasonable.

G. The Need for Two New ORs at Rex's Proposed Holly Springs ORs is Entirely Dependent on the Historically Underutilized Four ORs at Rex's Cary ASC Becoming Fully Utilized by the Shift of Unreasonably Large Volumes of Ambulatory Cases from Newly Identified Physician "Investors"

Rex Cary Outpatient Surgery Center opened in 2003 with four operating rooms and has averaged less than 50% utilization of these four operating rooms during the last four fiscal years as reflected in the following table.

Rex Cary Historical Utilization

Fiscal Year	10/06-9/07	10/07-9/08	10/08-9/09	CAGR 2007-2009
Outpatient Cases	3,100	3,193	2,945	-0.025
Annual Growth		3.0%	-7.8%	
Weighted Outpatient OR Case Hours	4 ,650	4,790	4,418	
Capacity 4 ORs @ 2340 Hrs Per SMFP	9,360	9,360	9,360	
Utilization	49.7%	51.2%	47.2%	

As shown in the previous table, the CAGR for the Rex Cary Outpatient Surgery Center is negative as a result of decreasing ambulatory surgical case utilization. Even though Rex Cary experienced a positive growth rate from 2008 to 2009, one year's worth of data does not demonstrate a trend from a statistical or quantitative perspective. Thus, projecting future utilization at 4.2% annually as reflected in the Rex Holly Springs ASC Application and the Rex Hospital OR Application on page 150 is extremely unreasonable.

In 2007, Rex received approval of CON Application Project I.D. # J-7878-07 which proposed to convert the Rex Cary Outpatient Surgery Center to a freestanding ambulatory surgery center to expand options and to help address the poor utilization of the facility. As of the February 15, 2010, the date the two Rex OR CON Applications were submitted for three new ORs, Rex had not yet converted the facility to freestanding. Therefore, any expansion associated with new surgeon investors cannot occur until CON Application Project I.D. # J-7878-07 has been fully implemented, as it is very complicated and risky to undertake a surgeon joint venture with the Cary ASC that remains licensed under the acute care hospital license of Rex Hospital.

Rex's Holly Springs Application includes letters from a wide variety of surgeons[16] (included in Exhibit 6) who project that collectively they will shift over 4,300 outpatient surgical cases "from non-Rex facilities" to Rex's 4-OR Ambulatory Surgery Center in Cary, NC. In contrast, Rex's surgeon letters of support for its proposed Holly Springs ASC are much more modest. It is not clear whether the Cary ASC has the necessary equipment and surgical tools, as well as the specialty trained staff to accommodate, in the near term, this influx of new surgical specialists in bariatric surgery, colorectal surgery, and reproductive and gynecological surgery, as well as ENT and urology. Rex's Cary ASC[17] is also located only 12.6 miles and sixteen minutes from the proposed Rex Holly Springs 2-OR ASC. (Source: MapQuest)

As reflected in the previous table, the 2010 Licensure Renewal Application for Rex's Cary ASC, Rex reported 2,945 ambulatory surgical cases performed during FFY 2009 (10/1/2008-9/30/2009). Applying the weighing factor for outpatient surgical cases (=1.5 hours/case) specified in the 2010 SMPF OR Need Method to Rex's 2,945 outpatient surgical cases shows that Rex's Cary ASC is utilizing only 2.3 of the 4.0 ORs.[18]

In an effort to diffuse the argument that Rex and its patients would be better served by relocating existing ORs from Rex's Cary ASC to the proposed Holly Springs ASC, Rex has quickly rounded up these surgeons and persuaded them to sign letters of support for Rex's Cary ASC that involves a dramatic market share shift of thousands of outpatient surgical cases currently served at other existing, and unidentified Wake County outpatient surgical programs. Rex is only able to justify the need for two new ORs at the Holly Springs ASC, if Rex's Cary ASC is projected to be fully utilized based on large shifts in market share of ambulatory surgery cases shifted from

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[16]The surgeon investors who project to shift hundreds of cases per surgeon include: bariatric surgeons, ENT, colorectal surgeons, urologists, obstetrician/gynecologists (including reproductive medicine). See the Rex Holly Springs ASC CON application at pages 77, and 82-83.

[17] The address for Rex's Cary ASC is: 1505 South Cary Parkway, Cary, NC 27511

[18]Calculation: (4,295 outpatient OR cases X 1.5 hours/case = 4,417.5 outpatient OR case hours)/1,872 hours per OR per year = 2.3 ORs

"non-Rex" facilities to Rex's Cary ASC. At page 92 of the Rex Holly Springs ASC CON application, Rex identifies these "non-Rex" facilities as including WakeMed, WakeMed Cary, and Blue Ridge Day Surgery Center. Rex, however, fails to discuss in its application, the impact on the "non-Rex facilities" in Wake County from which these outpatient surgical cases will be shifted (Duke Raleigh Hospital, WakeMed, WakeMed Cary, Blue Ridge Day Surgery Center, etc). It is unclear whether Rex will be fully successful in shifting those OR cases from non-Rex facilities given WakeMed's March 24, 2010 announcement that WakeMed had purchased an interest in Blue Ridge Day Surgery Center from its Surgical Care Affiliates and that WakeMed had contracted with Surgical Care Affiliates to manage the surgical program at WakeMed Cary. In the Rex ASC CON application, both Blue Ridge Day Surgery Center and WakeMed Cary are cited as the source of OR cases to be shifted. It is likely that the new management partners at WakeMed Cary and BRDSC will undertake efforts to maintain some of that surgical volume that Rex proposes to shift.

In addition, these surgeon letters do not specify the projected timeframe when the outpatient surgical cases will begin to be shifted to Rex's Cary ASC and whether that will have occurred before or after the proposed Rex Holly Springs ASC has opened (in either January or October 2012).[19] These surgeon letters do not specify if the proposed investment in Rex Cary is predicated on the approval of the Rex Holly Springs Application. No details regarding the agreements between these physicians and Rex are provided. At the time Rex's Holly Springs ASC was filed, it remains entirely hypothetical as to whether any, some, or all of these surgical cases will, in fact, be shifted and indeed, are clinically appropriate to be shifted to Rex's multi-specialty outpatient surgery center in Cary.

If, for example, the projected 4,320 cases were shifted in addition to the 2,945 ambulatory surgery cases that are already performed at Rex's Cary ASC, then the four ORs at Rex's Cary ASC would be almost overwhelmed with variety and volume that can't be accommodated (7,265 cases in total). The weighted OR hours associated with these cases is 10,897.5 annual OR hours (= 7,265 outpatient OR cases X 1.5 hours per case). The 10,897.5 annual OR hours would require almost six ORs[20], in order to be adequately accommodated; however, Rex's Cary ASC is licensed for only four ORs. Furthermore, these surgeon "investor" letters are very specific that they are shifting these volumes only to Rex's Cary ASC (where they will have an ownership interest) and not to the proposed 2-OR hospital-based Holly Springs ASC.

In stark contrast to the estimates of case volumes projected by the Cary ASC surgeon investors (Exhibit 6, Rex ASC CON Application), the letters of surgeon support for Rex's proposed 2-OR Holly Springs ASC project only slightly more than 600 outpatient OR cases annually[21]. Six

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[19]Rex's Holly Springs ASC CON application contains references to two different and inconsistent opening dates throughout the CON Application. In CON Application Sections II, III, and XII, Rex refers to the opening date for the Holly Springs ASC as CY 2010 or January 1, 2012. In CON Application Sections IV, VII, and the CON ProForma financial projections, Rex refers to the opening date for its Holly Springs ASC as FFY 2012 or October 1, 2012.

[20]Calculation: 10,897.5 annual OR hours/1,872 hours per OR per year = 5.8 ORs.

[21]See the Rex ASC CON application Exhibit 6 at pages 264-265 where ROC projects 320 cases to Rex's Holly Springs ASC and Rex ASC CON application Exhibit 6 at pages 266-274 where Rex's employed surgeons (Rex Surgical Specialists), formerly practicing primarily at Rex, collectively project to shift 244 cases to Rex's Holly Springs ASC <u>by the end of the third year of operation of the proposed ASC</u>. The letters from the employed Rex

hundred cases does not support the need for two new ORs at Rex's Holly Springs Surgery Center. See the Holly Springs ASC Surgeon letters in Exhibit 6 of the Rex ASC CON application. The Rex ASC CON application Exhibit 6 at pages 264-265 include a ROC surgeon support letter projects 320 cases to Rex's Holly Springs ASC. The Rex ASC CON application Exhibit 6 at pages 266-274 includes letters from Rex's employed surgeons (Rex Surgical Specialists), formerly practicing primarily at Rex, who collectively project to shift 244 cases to Rex's Holly Springs ASC by the end of the third year of operation of the proposed ASC. The letters from the employed Rex Surgical Specialists formerly practicing at Duke Raleigh Hospital (as Wake Surgical Specialists) are found at Rex ASC CON application Exhibit 6 at pages 275 to 280. These surgeon letters state that these surgeons will shift "ALL" their cases to Rex's Holly Springs ASC, without quantifying in their signed surgeon letters, the number of cases included in "ALL." On page 91 of the Rex ASC CON application, Rex suggests that these surgeons will shift 1,400 to 2,000 surgical cases from Duke Hospital Raleigh to Rex's Holly Springs ASC without any discussion of whether patients would chose to shift their surgical care to southern Wake County and without any assessment of whether all these cases would be clinically appropriate to shift from a hospital setting to an ASC setting. Thus, it is not reasonable for Rex to assume that 100% of those cases would shift to the Holly Springs ASC.

H. Rex Holly Springs ASC has an Expanded Service Area, which Includes Two Zip Codes Closer to Rex Hospital than Rex Holly Springs ASC

The approved service area for Rex Holly Springs Imaging Center and Urgent Care (Project I.D. #J-8008-07) are as follows:

- 27501 Angier
- 27526 Fuquay-Varina
- 27540 Holly Springs
- 27592 Willow Springs
- 27502 Apex
- 27505 Broadway
- 27521 Coates
- 27539 Apex
- 27546 Lillington
- 27562 New Hill[22]

Surgical Specialists formerly practicing at Duke Raleigh Hospital (as Wake Surgical Specialists) are found at Rex ASC CON application Exhibit 6 at pages 275 to 280 and state that these surgeons will shift "ALL" their cases to Rex's Holly Springs ASC, without quantifying in their signed surgeon letters, the number of cases included in "ALL." On page 91 of the Rex ASC CON application, Rex suggests that these surgeons will shift 1,400 to 2,000 surgical cases from Duke Hospital Raleigh to Rex's Holly Springs ASC without any discussion of whether patients would chose to shift their surgical care to southern Wake County and without any assessment of whether all these cases would be clinically appropriate to shift from a hospital setting to an ASC setting.

[22] Findings on Project I.D. #8007-07, page 5

On page 108 of the Rex Holly Springs Application, Rex states that it "determined 13 zip codes in Chatham, Harnett, Johnston, Lee, and Wake counties where current Rex Hospital – Main Campus surgical patients reside that could be served closer to home by a Holly Springs facility." [Emphasis added.] Rex proposes the following zip code service area for its Holly Springs ASC. Zip codes **in bold** have been **added** to the approved service area for Rex Holly Springs Imaging Center and Urgent Care (Project I.D. #J-8008-07).

- 27501 Angier
- 27526 Fuquay-Varina
- 27540 Holly Springs
- 27592 Willow Springs
- 27502 Apex
- 27505 Broadway
- 27521 Coates
- 27539 Apex
- 27546 Lillington
- 27562 New Hill
- **27506 PO Box located in zip code 27546**
- **27529 Garner**
- **27603 Raleigh**[23]

Garner zip code 27529 is 27.5 miles/33 minutes one-way travel[24] from the proposed Rex Holly Springs ASC. Rex Hospital is 19.8 miles/26 minutes one-way travel[25] from Garner zip code 27529. Thus, surgery patients living in 27529/Garner are 7.7 miles closer to the surgical program at Rex Hospital than at Rex's Holly Springs ASC. Raleigh zip code 27603 is 15.9 miles/23 minutes[26] from the proposed Rex Holly Springs ASC, which is approximately the same distance[27] from Rex Hospital to Raleigh zip code 27603. The proposed Rex Holly Springs ASC is **not** closer to residents of Garner (zip code 27529) and Raleigh (zip code 27603) than Rex Hospital.

In FFY 2009, Rex reported 591 outpatient cases (excluding obstetrics and ophthalmology) from zip code 27529, and 522 outpatient cases (excluding obstetrics and ophthalmology) from zip code 27603, a total of 1,113 cases at Rex Hospital. Those zip codes had the two highest outpatient case volumes in the proposed service area for the Rex Holly Springs ASC.[28] Had Rex not included those two zip codes in its base volume, Rex would not have sufficient volume to support two proposed operating rooms at Rex Holly Springs ASC. It is not reasonable for Rex to assume that 25% of these ambulatory surgical cases from these two zip codes will shift to Rex's proposed Holly Springs ASC, due to the fact that serving these cases at the proposed Holly Springs ASC would not be "closer to home" than serving these cases at Rex Hospital in Raleigh.

[23] CON Application J-8468-10, page 108
[24] www.mapquest.com
[25] www.mapquest.com
[26] www.mapquest.com
[27] www.mapquest.com
[28] CON Application J-8468-10, page 112.

G.S. 131E-183 (4)

Where alternative methods of meeting the needs for the proposed project exist, the applicant shall demonstrate that the least costly or most effective alternative has been proposed.

As discussed in detail below, there are at least three alternatives that would be more effective than the proposed project.

A. Relocate 1 Underutilized Ambulatory Surgical Operating Room at Rex Wakefield and 1 Ambulatory Surgical Operating Room Approved for OSCR to the Rex Holly Springs ASC

As discussed in the context of Criterion (3) above and Criterion (6) below, there are underutilized ambulatory surgical operating rooms at Rex Wakefield. There are three ambulatory ORs at Rex Wakefield currently. In view of those circumstances, it seems logical for Rex to have considered an opportunity to develop the Rex Holly Springs ASC by relocating one underutilized ambulatory surgical operating room at Rex Wakefield.

Rex represents in the Rex Holly Springs Application that the surgeons at Raleigh Orthopaedic Clinic (ROC) served 320 patients in a twelve month period that could be performed at the Rex Holly Springs ASC. See the ROC letter of support in Exhibit 6 of Rex's February 2010 Holly Springs ASC CON Application. It only makes sense for Rex to have considered an opportunity to develop the Rex Holly Springs ASC by relocating an approved, but not yet operational orthopedic ambulatory surgery operating room from OSCR to the Rex Holly Springs ASC.[29]

Benefits to downsizing by one operating room at Rex Wakefield and one approved operating room for OSCR and relocating them to the Rex Holly Springs ASC include:

- No additional project cost than the total project cost of $7,586,384 proposed in the Rex Holly Springs Application.
- More efficiently and effectively using existing and approved surgical operating room inventory.
- Re-balancing the mal-distribution of ORs in Wake County by moving existing ORs located in northern and central Wake County to southern Wake County, where there are zero ORs today, even though there is a population of 100,000 residents in Wake County today, which represents more than 11% of the Wake County total population.

[29] CON Application J-8468-10, page 121

B. Relocate 1 Underutilized Ambulatory Surgical Operating Room at Rex Cary ASC and 1 Approved Ambulatory Surgical Operating Room at OSCR to the Rex Holly Springs ASC

As discussed in the context of Criterion (3) above and Criterion (6) below, there are underutilized ambulatory surgical operating rooms at Rex's 4-OR hospital-based ASC in Cary. In view of those circumstances, it seems logical for Rex to have considered an opportunity to develop the Rex Holly Springs ASC by relocating at least one underutilized ambulatory surgical operating room at Rex Cary.

Rex represents in the Rex Holly Springs Application that ROC served 320 patients in a twelve month period that could be performed at the Rex Holly Springs ASC; those cases are over and above the 285 ROC FFY 2009 cases that will be shifted to the Rex Holly Springs ASC. It only makes sense for Rex to have considered an opportunity to develop the Rex Holly Springs ASC by relocating an approved, but not yet operational orthopedic ambulatory surgery operating room from OSCR to the Rex Holly Springs ASC.[30]

Benefits to downsizing by one operating room at Rex's Cary ASC and one operating room approved for OSCR, and relocating those operating rooms to the Rex Holly Springs ASC include:

- No additional project cost than the total project cost of $7,586,384 proposed in the Rex Holly Springs Application.
- More efficiently and effectively using existing surgical operating room inventory.
- Re-balancing the mal-distribution of ORs in Wake County by moving existing ORs located in northern and central Wake County to southern Wake County, where there are zero ORs today, even though there is a population of 100,000 residents in Wake County today, which represents more than 11% of the Wake County total population.

C. Relocate 1 Underutilized Ambulatory Surgical Operating Room at Rex Wakefield and 1 Ambulatory Surgical Operating Room at Rex Cary to the Rex Holly Springs ASC

As discussed in the context of Criterion (3) above and Criterion (6) below, there are underutilized ambulatory surgical operating rooms at Rex Wakefield and Rex Cary, respectively. In view of those circumstances, it seems logical for Rex to have considered an opportunity to develop the Rex Holly Springs ASC by relocating one underutilized ambulatory surgical operating room from Rex Wakefield and one from Rex Cary.

Benefits to downsizing by one operating room at Rex Wakefield and one operating room at Rex Cary, and relocating those operating rooms to the Rex Holly Springs ASC include:

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[30] CON Application J-8468-10, page 121

- No additional project cost than the total project cost of $7,586,384 proposed in the Rex Holly Springs Application.
- More efficiently and effectively using existing surgical operating room inventory.
- Re-balancing the mal-distribution of ORs in Wake County by moving existing ORs located in northern and central Wake County to southern Wake County, where there are zero ORs today, even though there is a population of 100,000 residents in Wake County today, which represents more than 11% of the Wake County total population

Each alternative discussed above was not considered by Rex and is more effective than the project proposed in the Rex Holly Springs Application. As such, Rex does not conform to Criterion (4).

G.S. 131E-183 (5)

Financial and operational projections for the project shall demonstrate the availability of funds for capital and operating needs as well as the immediate and long-term financial feasibility of the proposal, based upon reasonable projections of the costs of and charges for providing health services by the person proposing the service.

Rex's Holly Springs ASC CON application contains references to two different and inconsistent opening dates (or Project Year 1 start dates) for the Holly Springs ASC throughout the CON Application. In CON Application Sections II, III, and XII, Rex refers to the opening date for the Holly Springs ASC as CY 2012 or January 1, 2012. See the following references to a January 1, 2012 start date and the first three project years defined as CY 2012-CY 2013-CY 2014 for the Rex Holly Springs ASC:

- CON Application Section II, page 27; pages 38-41 (OR CON Regulation responses to performance standards); page 48 (Project Year 3 = Calendar Year 2014);
- CON Application Section III, pages 88-89 & 94-95 ("start of the project, CY12...")
- CON Application Section III, pages 96,113 ("The proposed project will begin operation on January 1, 2012 and thus the first project year is CY 2012, CY13 is the second project year, and the third project year is 2014.")
- CON Application Section III at pages 105-106-107 (Rex Projected Surgical Cases CY12-CY13-CY14; conversion to CYs of Rex outpatient OR volumes shifted to OSCR; and Rex OR Need table)
- CON Application Section III, pages 115 & 118 (CY12-CY13-CY14 Zip Code Percentage Shift of Outpatient OR cases to Rex's Holly Springs ASC & Projected Holly Springs Surgical Cases by Year)
- CON Application Section III, pages124-125-126-127-128-129
- CON Application Section XII page 220 ("Offering of Service date is 1/1/2012)

In CON Application Sections II, IV, VII, and the CON ProForma financial projections, Rex refers to the opening date for its Holly Springs ASC as FFY 2012 or October 1, 2012. See the following references to an October 1, 2012 start date and defining the first three project years as

FFY 2013-FFY 2014-FFY 2015 for the Rex Holly Springs ASC:

- CON Application Section II, page 43 (Reimbursement for Top 20 Procedures Project Years 1-2-3: FFY 2013-FFY 1014–FFY 2015)
- CON Application Section IV page147: "For the proposed project, Rex has utilized Federal Fiscal Years for its utilization table and financial projections." PYs 1-2-3 are defined in the table as FFY 2013-FFY 2014-FFY 2015
- CON Application Section VII, page 189—Staffing Table for second project year, defined as FFY 2014

In addition, in some places in Rex's Holly Springs ASC CON application, the dates associated with the terms "Project Year X" cannot be discerned:

- CON Application Section II page 50 refers to "Project Year 3" with no associated "CY" for Calendar Year (Jan – Dec Year) or "FFY" for Federal Fiscal Year (Oct – Sept Year)

The Rex ProForma financial projections also contain two different definitions for the interim period and first three project years. The Form B Rex Statement of Revenues and Expenses uses a July to June fiscal year. Nowhere else in the Rex Holly Springs ASC CON application is the July to June fiscal year mentioned. The Form C "Component" Statement of Revenues and Expenses for Rex's Holly Springs Surgery Center is based on an October – September Federal Fiscal Year (i.e., 10/1/2012 – 9/30/2013). The Form B "Entire Facility" Income Statement projections and the Form C "Component" Income Statement projections should be based on the same project year definitions, since the Form C/Component Income Statement Projections are a component or subset of the Form B/Entire Facility Income Statement projections. Likewise the Forms D & E Gross & Net Revenue Worksheets are also based on Federal Fiscal Years, even though the CON Application Section III Rex OR case volume projections are based on Calendar Years (Jan – Dec).

Given that three project years for Rex's Holly Springs ASC OR case volume projections (Calendar Years, Jan – Dec) and the three project years for Rex's Holly Springs ASC financial projections (Federal Fiscal Years, Oct – Sept) are not based on the same 36-month time period, it is not possible for the Agency to determine whether the project is financially feasible. Rex does not explain in either CON Application Section III or IV or in the CON ProForma assumptions why the Calendar Year utilization projections for Rex's Holly Springs ASC CON Application (in Section IIII) are converted to Federal Fiscal Years in CON Application Section IV. The multiple definitions used for Rex's Holly Springs Surgery Center utilization projections and for Rex's Holly Springs Surgery Center CON Pro Forma financial projections are unnecessarily complex and make it very difficult for the Agency to determine whether Rex has demonstrated the "immediate and long-term financial feasibility of the project." The Agency should find Rex to be non-conforming with Criterion (5).

G.S. 131E-183 (6)

The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

As will be discussed in detail below, Rex has not demonstrated that the proposed Rex Holly Springs ASC will not result in unnecessary duplication of existing or approved health service capabilities and facilities. Rex has existing underutilized surgical operating room capacity within its system-wide inventory. In fact, Rex's Cary ASC, licensed for 4 ORs, has two surplus ambulatory surgical operating rooms located 12.6 miles/16 minutes one-way driving distance[31] to the proposed Rex Holly Springs ASC. It is a surplus that Rex acknowledges on page 51 of the Rex Holly Springs Application in stating: "Rex Surgery Center of Cary shows a surplus of operating rooms under the conservative and reasonable methodology provided in Section III.1(b)." There are other potential surplus ORs located in the Rex Healthcare system at Rex's Cary ASC, Rex Wakefield, and Rex's joint venture ASC, Orthopaedic Surgery Center of Raleigh ("OSCR").

A. Rex Hospital

The following table shows a **surplus of one** shared surgical operating room at Rex Hospital, when "Surgical Cases" performed in shared surgical operating rooms are used as the basis for analysis. That is consistent with the CON OR Regulation performance standards applicable to the Rex Holly Springs Application.

Rex Hospital
October 2008 – September 2009

	Oct 2008 – Sept 2009 Cases Including Cases Performed in Shared ORs and "Non-Surgery" Cases Performed in Minor Procedure Rooms	Oct 2008 – Sept 2009 "Surgical Cases" Performed in Shared ORs
Inpatient Cases*	8,799	6,867
Inpatient Hours (x 3.0)	26,397	20,601
Outpatient Cases	21,276	14,678
Outpatient Hours (x 1.5)	31,914	22,017
Total Hours	53,190	42,618
Total Operating Rooms Needed at 1,872 Hours/Year	**28.4**	**22.8**
Total Operating Rooms	24	24
OR Surplus/Deficit	**4.4**	**-1.2**

Source: CON Application J-8468-10, page 37
**Cases do not including C-Section Cases performed in 3 dedicated C-Section*
Deficits appear as positive number; surpluses as negative numbers

As shown in the previous table, there is a deficit of 4 shared surgical operating rooms at Rex Hospital only if Rex is permitted to include all surgery cases performed in surgical operating rooms and minor procedure rooms, as the basis for analysis. As previously discussed, procedures currently performed in the four procedure rooms are clinically appropriate for that location. Therefore, if the volume is included the capacity of the four procedure rooms should also be included. As a result there is no need for additional operating rooms at Rex.

[31] www.mapquest.com

B. Rex Healthcare Wakefield

The following table shows the number of "Surgical Cases," as that term is defined in 10A NCAC 14C.2101(14), performed in the three ambulatory surgical operating rooms at Rex Healthcare Wakefield.

Rex Healthcare Wakefield
Surgical Operating Room Utilization
April 27, 2009 – September 30, 2009

	April 27, 2009 – Sept 30, 2009	April 27, 2009 – Sept 30, 2009 Annualized
Outpatient Cases	339*	814
Outpatient Hours (x 1.5)	509	1,221
Total Operating Rooms Needed at 1,872 Hours/Year	**0.3**	**0.7**
Total Operating Rooms	3	3
OR Surplus/Deficit	**-2.7**	**-2.3**

Source: CON Application J-8468-10, page 37
Deficits appear as positive number; surpluses as negative numbers
**Rex reported an additional 9 surgery cases were performed in a minor procedure room at Wakefield, which was insignificant for purposes of this analysis*

The previous table shows a **surplus of three** surgical operating rooms at Rex Wakefield when based on April – December 2009 volume, which surplus is reduced when based on annualized volume.

For comparison purposes, the following table shows operating room volume as projected by Rex in its 2006 CON Application that proposed to relocate three existing shared surgical operating rooms from Rex Hospital and construct a procedure room at a new facility in Wakefield to be operated under Rex's Hospital's license.

Rex Healthcare Wakefield
Projected Surgical Operating Room Volume
October 2008 – September 2011

	October 2008 – September 2009	October 2009 – September 2010	October 2010 – September 2011
Outpatient Cases	3,190	3,567	3,977

Source: Findings dated January 26, 2007 at page 9 for Project ID J-7657-06

Rex Wakefield's three ambulatory surgical operating rooms are lagging far behind Rex's projected volume. There is no means by which to confirm whether Rex's projected volume included only "Surgical Cases," as that term is defined in 10A NCAC 14C .2101(14). It is clear that at least one OR at Rex Wakefield could simply be relocated to Rex's Holly Springs ASC.

C. Rex Surgery Center of Cary

The following table shows the number of "Surgical Cases," as that term is defined in 10A NCAC 14C.2101(14), performed in the four ambulatory surgical operating rooms at Rex Surgery Center of Cary.

Rex Surgery Center of Cary
Surgical Operating Room Utilization
October 2008 – September 2009

	Oct 2008 – Sept 2009
Outpatient Cases	2,945
Outpatient Hours (x 1.5)	4,418
Total Operating Rooms Needed at 1,872 Hours/Year	**2.4**
Total Operating Rooms*	4
OR Surplus/Deficit	**-1.6**

Source: CON Application J-8468-10, page 37
Deficits appear as positive number; surpluses as negative numbers

The previous table shows a **surplus of two** surgical operating rooms at Rex Cary.

For comparison purposes, the following table shows operating room volume as projected by Rex in its 2007 CON Application that proposed to reorganize the hospital-based ambulatory surgery facility into a separately licensed free-standing ambulatory surgery facility.

Rex Surgery Center of Cary
Projected Surgical Operating Room Volume
October 2006 – September 2012

	Oct 2006 – Sept 2007	Oct 2007 – Sept 2008	Oct 2008 – Sept 2009	Oct 2009 – Sept 2010	Oct 2010 – Sept 2011	Oct 2011 – Sept 2012
Projected Outpatient Cases	3,140	3,530	3,968	4,460	5,013	5,634
Projected Annual Increase		12.4%	12.4%	12.4%	12.4%	12.4%

Source: Findings dated November 9, 2007 at page 5 for Project ID J-7878-07

The previous table shows Rex Cary's four ambulatory surgical operating rooms lagging far behind Rex's projected volume. "Surgical Cases" performed in FFY 2009 in the four surgical operating rooms at Rex Cary have failed to reach the volume projected for October 2008 – September 2009 by over 1,000 outpatient surgical cases (3,968 – 2,945 = 1,023).

In several locations in the Rex Holly Springs Application, Rex represents that letters of support are included in Exhibit 6 in which physicians are "committing to shift 4,320 cases from non-Rex facilities to Rex's Cary facility." Rex further states that "[w]ith the addition of those volumes, Rex Surgery Center of Cary would have a 2.4 deficit of operating rooms." Yet, Rex "has

excluded these volumes from its methodology in order to remain conservative, but has provided them for informational purposes."[32]

Why did Rex exclude those cases from projected volume, particularly when that volume would improve utilization at Rex Cary, at a time when Rex has proposed to develop a new ambulatory surgery facility a mere 12.6 miles/16 minutes one-way driving distance[33] to the proposed Rex Holly Springs ASC?

A simple answer is that Rex does not reasonably expect all of these 4,320 outpatient surgery cases to be performed at Rex Cary ASC. Rex also fails to account for the impact on the "non-Rex facilities," if the cases are shifted to the Rex Cary ASC. Rex does not discuss or provide qualitative reasons why the Agency can assume that the 4,000+ outpatient OR cases will be relocated, through a large market share shift, to the Rex Cary ASC.

In addition, in several locations in the Rex Holly Springs Application, Rex announces that there has been a change in its medical staff bylaws, which change "recognizes UNC Hospitals as a local or nearby hospital for Rex Healthcare of Cary. This change in the bylaws allows credentialed physicians whose primary office is located in Chapel Hill to perform surgery at Rex Surgery Center in Cary."[34] Rex further states that "during the period July 1, 2008 and June 30, 2009, 2,224 Wake County patients had their outpatient surgeries performed at UNC Hospitals in Chapel Hill. It is reasonable to expect a portion of these patients to elect to have their procedures [at Rex Cary]." Yet, Rex also has excluded these "incremental patients" from its methodology "in order to remain conservative."[35] In addition, the distance between UNC-CH and the Rex Cary ASC is signficant (25 miles and 34 minutes), so it is not possible to know as a practical matter, how many, if any, of the UNC surgeons will perform cases at the Rex Cary ASC.

A decision to exclude those "incremental patients" may be based in part on the following:

- It is unlikely that surgeons from UNC Hospitals in Chapel Hill will drive 25 miles/34 minutes each way[36] to perform surgery at Rex Cary.
- Outpatient cases performed at UNC Hospitals may be more complex than can be appropriately performed at Rex Cary, and medically appropriate for operating rooms at UNC Hospitals.
- UNC Hospitals' surgical operating room inventory is not near capacity[37], and there is no compelling incentive to shift cases from UNC Hospitals to Rex Cary.

After all is said and done, Rex has not altered the fact that Rex Cary is an underutilized ambulatory surgery center, located just 12.6 miles/16 minutes one-way driving distance[38] to the proposed Rex Holly Springs ASC.

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[32] CON Application J-8468-10, pages 50-51
[33] www.mapquest.com
[34] CON Application J-8468-10, pages 51-52
[35] CON Application J-8468-10, page 52
[36] www.mapquest.com
[37] UNC Hospitals 2010 LRA

D. Rex Healthcare System

The following table shows **a surplus of six surgical operating rooms** within the Rex system, when "Surgical Cases" performed in surgical operating rooms are used as the basis for analysis. That is consistent with the CON OR/Surgical Services Regulation performance standards applicable to the Rex Holly Springs Application.

Rex System
October 2008 – September 2009

	Oct 2008 – Sept 2009 Cases Including Cases Performed in ORs and "Non-Surgery" Cases Performed in Minor Procedure Rooms	Oct 2008 – Sept 2009 "Surgical Cases" Excluding C-Section Cases Performed in ORs
Inpatient Cases*	8,799	6,867
Inpatient Hours (x 3.0)	26,397	20,601
Outpatient Cases**	24,560	17,962
Outpatient Hours (x 1.5)	36,840	26,943
Total Hours	63,237	47,544
Total Operating Rooms Needed at 1,872 Hours/Year	**33.8**	**25.4**
Total Operating Rooms	31	31
OR Surplus/Deficit	**2.8**	**-5.6**

Source: CON Application J-8468-10, page 37
**Cases do not including C-Section Cases performed in 3 dedicated C-Section*
Deficits appear as positive number; surpluses as negative numbers
***Rex reported an additional 9 surgery cases were performed in a minor procedure room at Wakefield, which was insignificant for purposes of this analysis*

As shown in the previous table, there is a deficit of 3 surgical operating rooms within the Rex system only when all surgery cases performed in surgical operating rooms and minor procedure rooms, is used as the basis for analysis.

E. Wake County Surgical Providers

When the table ("Wake County Surgical Providers") included on page 76, Section III of Rex's Holly Springs ASC CON Application is updated to include a comparison of Wake County surgical provider using FFY 2009 data from the 2010 Licensure Renewal Applications rather than FFY 2008 data used in the Rex CON application, is shows that Rex Hospital's surgical cases (excluding those performed in dedicated C-Section ORs) have dropped by 3,359 cases from FFY 2008 to FFY 2009. Based on the FFY 2008 data in this table, Rex asserts that Rex is the largest provider of surgical services in Wake County. Below is a comparative and updated version of the "Wake County Surgical Providers" table, from the Rex ASC CON application which includes both FFY 2008 and FFY 2009 surgical case data:

[38] www.mapquest.com

Wake County Surgical Providers: FFY 2008 – FFY 2009

Name of Facility	Total Surgical Cases FFY 2008	% of Total Surgical Cases FFY 2008	Total Surgical Cases FFY 2009	% of Total Surgical Cases FFY 2008	Change: Surgical Cases FFY 08-09	Percent Change
Rex Hospital	27,758		28,669		911	3.28%
Rex Cary ASC	3,193		2,945		-248	-7.77%
Rex Wakefield ASC	0		346		346	
Total Rex	**30,951**	**38.2%**	**31,960**	**37.6%**	**1,009**	**3.26%**
WakeMed Raleigh	21,380	26.4%	21,016	24.8%	-364	-1.70%
Duke Health Raleigh	11,484	14.2%	13,821	16.3%	2,337	20.35%
WakeMed Cary Hospital	8,648	10.7%	9,220	10.9%	572	6.61%
Southern Eye Assoc Ophthal Surgery Cntr	509	0.6%	515	0.6%	6	1.18%
HealthSouth Blue Ridge Surgery Center	5,474	6.8%	5,904	7.0%	430	7.86%
Raleigh Women's Health Org	2,268	2.8%	2,170	2.6%	-98	-4.32%
Raleigh Plastic Surgery Center	352	0.4%	300	0.4%	-52	-14.77%
Total Wake County	81,066		84,906		3,840	4.74%

Total surgical cases performed in Wake County increased from FFY 2008 to FFY 2009, and while surgical procedures at Rex Hospital increased it was at a rate less than all other Wake County providers. In addition, utilization at Rex Cary ASC decreased. In addition, the Rex Healthcare system total surgical cases declined as a percent of total Wake County OR cases from FFY 2008 to FFY 2009 as shown in the previous table.

In the CON Criteria and Standards for Operating Room (10A NCAC 14C .2100), there is no explicit prohibition disqualifying an applicant with underutilized surgical operating rooms from applying for new operating rooms, even if to do so would further exacerbate that applicant's existing surplus of surgical operating rooms. However, CON Review Criterion (6) requires the Agency to consider "unnecessary duplication" which would exist when an applicant is seeking to add new operating rooms when its existing ORs are underutilized.

Rex proposes to increase its existing and approved surgical operating room inventory from 35 to 39 in the Rex Hospital Application and the Rex Holly Springs Application. The proposed addition any surgical operating rooms in the Rex system is an unnecessary duplication of existing and approved surgical capacity, which does not conform to Criterion (6).

G.S. 131E-183 (12)

Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

A comparison of the construction capital costs for the Rex Holly Springs ASC and Novant Health's Holly Springs ASC shows that Rex's project is not the most cost effective.

	Rex Holly Springs ASC (2 ORs)	**Novant's Holly Springs Surgery Center (3 ORs)**
Construction/Upfit Costs	$4,506,217 for 2 ASC ORs	$3,472,654 for 3 ASC ORs
Construction Cost per OR	$2,253,109	$1,157,513
Construction Cost Per Square Foot	$338.73	$245.96
Total ASC Capital Cost	$7,586,384 (with no land cost)	$8,204,090 (with ~$2M land cost)
Total Capital Cost Per OR	$3,753,109	$2,734,697

Based on Total Capital Cost per Operating Room, the Rex ASC will spend $1,000,000 more per OR than Novant's Holly Springs Surgery Center. The Holly Springs Surgery Center construction cost proposed by Novant Health is also $1.2 Million lower than the Rex Holly Springs ASC construction cost and Novant's Construction Cost per Square Foot is $92.77 per square foot less that that proposed for Rex's Holly Springs Surgery Center. Based on this comparison to the surgical OR project that most directly competes with the Rex Holly Springs ASC, the cost and means of construction proposed by Rex are not the "most reasonable alternative."

In addition, since Rex is proposing that their Holly Springs ASC will be a hospital-based surgery center operating under the acute care hospital license of Rex Hospital, charges for outpatient surgery and co-payments and co-insurance amounts owed by patients will be higher than those proposed by Novant's Holly Springs Surgery Center (HSSC). The HSSC will be a freestanding, separately licensed ambulatory surgery center and as such the outpatient surgery charges per case will be lower and the co-payments and co-insurance amounts owed by patients will be lower. See the comparisons in the table below, based on each applicants surgical case volume projections and Gross and Net Revenue information provided by each applicant in the surgery center CON ProForma financial projections:

	Rex Holly Springs ASC (2 ORs)	**Novant's Holly Springs Surgery Center (3 ORs)**
Gross Revenue Per Surgical Case	Year 1: $11,362 Year 2: $11,547 Year 3: $11,780	Year 1: $2,652 Year 2: $2,732 Year 3: $2,813
Net Revenue Per Surgical Case	Year 1: $4,241 Year 2: $4,324 Year 3: $4,411	Year 1: $1,337 Year 2: $1,377 Year 3: $1,418
Cost Per Case	Year 1: $3,274 Year 2: $2,803 Year 3: $2,738	Year 1: $1,368 Year 2: $1,274 Year 3: $1,178
Projected Reimbursement for Laparoscopic Cholecystectomy	Years 1-2-3: $4,996-$5,096-$5,198	Years 1-2-3: $2070-$2132-$2196

When the Rex ASC and the Novant ASC in Holly Springs are compared, the Rex ASC Gross and Net Revenue Per Surgical Case and the Cost Per Surgical Case are significantly higher than that proposed by Novant. This demonstrates that Rex's Holly Springs ASC will "unduly increase the costs of providing health services" and will "unduly increase the costs and charges to the public of providing health services" in Holly Springs. Rex's Holly Springs ASC project is non-conforming with Criterion (12). Novant's Holly Springs Surgery Center is clearly the proposal that presents the superior and more charge and cost effective surgery center for Holly Springs. The provision of outpatient surgical services in Holly Springs will be much more costly for patients and their families and for payors if Rex's Holly Springs ASC is implemented

G.S. 131E-183 (13)

The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and members of the medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those identified in the State Health Plan as deserving of priority.

Again a comparison of the two competing Holly Springs ambulatory surgery center project is instructive. As the factors of comparison below demonstrate, Novant's Holly Springs Surgery Center is comparatively superior to that of Rex Healthcare.

	Rex Holly Springs ASC (2 ORs)	Novant's Holly Springs Surgery Center (3 ORs)
Charity Care Policy	250% of Federal Poverty Level	300% of Federal Poverty Level
Family of 4 Household Annual Income Qualifying for Full Charity Care ($0 Owed)	$55,125	$66,150
PY2: ASC Medicare Percent of Payor Mix	24.01%	31.08%
PY2: ASC Medicaid Percent of Payor Mix	3.16%	9.12%
PY 2: ASC Self-Pay Percent of Payor Mix	1.2%	6.97%
PY 2: ASC Charity Care as % of Net Revenue	3.1%	12.8%
PY2: ASC Bad Debt as % of Net Revenue	1.9%	2.8%
Access: ASC Hours of Operation Per Week	Year 1: 45 hours Year 2: 45 hours Year 3: 45 hours	Year 1: 50 hours Year 2: 50 hours Year 3: 55 hours

AS set form in the above table, Novant's Holly Springs Surgery Center proposes to provide significantly better access for medically underserved populations based on a comparison of Charity Care policies; Medicare, Medicaid, and Self-Pay patient mix; the ASC Charity Care and Bad Debt dollars as a percent of the ASC's Gross Revenue. And the ASC (Holly Springs Surgery Center) with the greater hours of operation will be more accessible to the patients served. Novant's Holly Springs Surgery Center will over 1,040 more hours of access to outpatient surgical services in Holly Springs during its first three years of operation than will Rex's Holly Springs ASC.

In addition, a recent third party independent report[39] has confirmed the following regarding the Novant Charity Care Policy, based on a comparative review of North Carolina Health System Charity Care policies:

- Several hospitals and health systems deserve special recognition for providing charity care levels that exceed the cost of living for their region, including ***Novant Health,*** UNC Health Care, University Systems of Eastern NC, Iredell Memorial Hospital, The Outer Banks Hospital, High Point Regional Health System, and Margaret Pardee Memorial Hospital.
- ...Winston-Salem and Charlotte-based Novant Health has the most sound and clear policy of any hospital system in North Carolina. At Novant any uninsured patients with an income

[39]NC Justice Center, NC Health Access Coalition (Vol 2, No 2—February 2010), *"How Charitable are North Carolina Hospitals" A Look at Financial Assistance Policies for the Uninsured."*

less than 300% of federal poverty level, or $66,150 for a family of four, qualifies for a 100% discount on hospital bills. This recognizes the realities of modern family finances.

- „,Novant sets its 100 percent discount rate at 300 percent of federal poverty guidelines. Novant's policy also does well when compared to the LIS [Living Income Standard produced by the NC Justice Center's Budget & Tax Center]. In Mecklenburg County, where Novant runs the well-regarded Presbyterian Hospital, the LIS for a two adult and two child family is 220.7 percent of federal poverty level.
- A few hospitals are more generous and provide discounts that match the LIS for a two adult and two child family for the county in which the hospital is located. Novant's policy exceeds the LIS in every county where the system operates.
- We applaud those hospitals that post comprehensive policies on line for their openness and accountability. ***Novant Health***, UNC Health Care, University Health Systems of Eastern NC, Iredell Memorial Hospital, The Outer Banks Hospital, High Point Regional Health System, and Margaret Pardee Memorial Hospital stand out as providing excellent charity care policies.

IV. CON Criteria and Standards for Operating Room – 10A NCAC 14C .2100

The proposed project is non-conforming to the Criteria and Standards for Operating Rooms as follows:

10A NCAC 14C .2103 Performance Standards

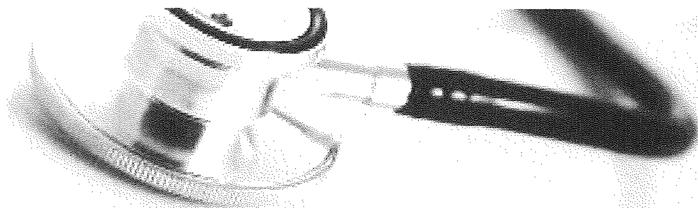
10A NCAC 14C .2103(b)(1)(A) and (c)(1)

As discussed in detail in the context of Criterion (3), Rex based its projections on unreasonable assumptions, which result in overstated projections. Overstated projections have been used to demonstrate a need for the proposed additional shared surgical operating room at Rex Hospital. As a result, Rex has not reasonably demonstrated need for proposed operating room based on surgical procedures to be **performed in an operating room**, in compliance with the performance standards set forth in 10A NCAC 14C .2103(b)(1)(A) and (c)(1). Consequently, the Rex Holly Springs Application should be denied for failure to conform to the Criteria and Standards for Operating Rooms.

Conclusion

The CON Applications submitted by Rex fails to conform to key Criterion reflected in G.S. 131E-183. Rex has not demonstrated a need for the proposed Rex Holly Springs ASC with two surgical operating rooms.

For all of the above reasons, the Application is non-conforming to the Review Criteria for a New Institutional Health Service, and the Application must be denied.



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How Charitable are North Carolina Hospitals?

A Look at Financial Assistance Policies for the Uninsured

BY ADAM LINKER, HEALTH POLICY ANALYST

EXECUTIVE SUMMARY

- Hospitals serve as critical safety-net providers for people seeking medical care. In fiscal year 2008, North Carolina hospitals provided $694 million in free care.
- All 112 hospitals in North Carolina maintain websites, and 72 hospitals, or 63 percent, currently post some information about financial assistance policies online.
- Out of 112 hospitals 39, or 35 percent, post comprehensive charity care policies online.
- Several hospitals and hospital systems deserve special recognition for providing charity care levels that exceed the cost of living for their region, including Novant Health, UNC Health Care, University Health Systems of Eastern North Carolina, Iredell Memorial Hospital, The Outer Banks Hospital, High Point Regional Health System and Margaret R. Pardee Memorial Hospital.
- Every hospital in the state should post a comprehensive charity care policy online, including income eligibility levels, asset limits, and catastrophic discounts.
- Hospitals should strive to provide free care to families earning less than 200 percent of federal poverty level and provide some discount to families earning less than 300 percent of federal poverty level. Hospitals should consider benchmarking charity care policies to a reasonable cost-of-living index like the Living Income Standard.

Background on hospital charity care

MEDICAL DEBT BURDENS many low- and middle-income families in North Carolina. Most families in the state and around the country receive health insurance benefits through work, which leaves them especially vulnerable during a recession, when unemployment is high. Although some economic indicators show that the economy is creeping toward recovery, North Carolina's unemployment rate still exceeds 10 percent. Because the state has shed thousands of jobs, North Carolina had the nation's largest jump in the percentage of the population without insurance from 2007 to 2009. According to one estimate the recession has increased the number of uninsured in North Carolina to nearly 1.8 million.[1]

When people lose health insurance or purchase inadequate coverage with high deductibles, they are more likely to struggle with medical debt. There is some evidence that trouble paying medical bills is a widespread problem. One of the most comprehensive studies of medical debt nationwide found that

more than 62 percent of all bankruptcies in 2007 were related to medical debt and that 92 percent of medical debtors had bills in excess of $5,000.[2]

Hospitals stand at the center of the state's health care system. Especially during times of economic distress, many uninsured and underinsured patients seek medical treatment in hospital emergency rooms. Hospitals, especially nonprofit hospitals, provide an enormous amount of free care in North Carolina. Many hospitals in the state operate as critical safety-net providers to families in economic free fall.

There are some obligations on hospitals to provide free care to all North Carolinians. Federal law – specifically the Emergency Medical Treatment and Active Labor Act – requires that hospital emergency rooms provide at least some care regardless of a patient's ability to pay. Many hospitals also are granted nonprofit status; most North Carolina hospitals are nonprofit. Nonprofit status allows hospitals to issue tax-exempt bonds and reap millions in sales tax and property tax exemptions.

Although hospitals do not gain nonprofit status based solely on providing charity care, community benefit is one overarching consideration when deciding whether a hospital deserves a nonprofit designation. The most direct community benefit that hospitals provide is charity care. Charity care is free care given to patients without any expectation of payment. It is distinct from other community benefits such as grants to community health clinics.

Nonprofit hospitals in North Carolina are at the forefront of providing, publicizing, and reporting community benefit programs and services. The North Carolina Hospital Association (NCHA) maintains a website where all major hospitals in the state are beginning to post their charity care policies.[3] In addition, the NCHA is gathering and posting standardized reports on what community benefits North Carolina hospitals are providing to the state.

The NCHA reports that hospitals provided $694 million in free care to indigent patients in fiscal year 2008. That is a critical benefit to struggling families. And just as hospitals provide an important benefit to the state, the state provides tax benefits to nonprofit hospitals. In fiscal year 2006-2007, for example, hospitals received more than $213 million in sales tax breaks alone.[4]

Again, there is not a direct trade-off between tax benefits and community benefits. But along with tax exemptions and nonprofit status come certain expectations of transparency and accountability. Every hospital in North Carolina maintains a website, and every hospital has adopted a charity care policy. The NCHA recommends that every hospital post its charity care policy online.

While the NCHA asks that every hospital post a charity care policy it does not provide guidance on what specific information should appear online. As consumer advocates, the NC Health Access Coalition believes that every hospital should note the existence of a charity care policy along with specific contact information where patients can seek financial counseling. In this report we recognize all of the hospitals that provide some charity care information online.

Furthermore, we believe that hospitals should at least provide income guidelines for determining whether or not a patient qualifies for charity care. Many factors are included in financial assistance determinations, but income is the first step in screening patients for charity care. If a hospital provides free care to all uninsured patients under 100 percent of the federal poverty level, for example, that policy should appear on the hospital's website.

The more information a hospital provides online the better. We hope that every hospital in the state will post financial counseling contact numbers, income guidelines, asset tests, and catastrophic discounts to keep patients, physicians, and advocates fully informed.

Transparency of hospital charity care policies in North Carolina

Out of 112 hospitals in the state, the websites of 72 list some charity care information online as requested by the North Carolina Hospital Association. Several of the hospitals that list information online only note the existence of a charity care policy along with a phone number for financial assistance. Other hospitals include more details but do not list specific income ranges and charity care discounts.

Out of 112 hospitals, 39 provide what we call a "comprehensive" policy online. These hospitals post qualifying income guidelines for financial assistance. This helps patients understand their potential financial obligations before seeking hospital care. Some of these hospitals also include catastrophic discounts and interest-free payment policies on their websites. **(See attached chart for complete list of charity care policies.)**

Several large hospitals still include only rudimentary information online. These organizations should work to provide as much financial assistance information as possible to patients.

Nonprofit hospitals have a clear obligation to provide information to taxpayers on financial assistance policies because North Carolina residents provide tax benefits to these health care providers. But for-profit hospitals should also post charity care policies online. Tenet Healthcare Corporation, for example, operates two hospitals in North Carolina. Tenet settled a lawsuit in 2005 where the company agreed to provide certain benefits to uninsured patients. Those provisions should appear on the websites of Tenet hospitals.

Because hospitals can post charity care policies at any time patients should check regularly for changes. We will reissue this report in six months to track any updates to hospital charity care policies.

Adequacy of hospital charity care policies in North Carolina

An examination of posted charity care policies shows that financial assistance programs vary widely across the state. We can see that Winston-Salem- and Charlotte-based Novant Health has the most sound and clear policy of any hospital system in North Carolina. At Novant any uninsured patient with an income less than 300 percent of the federal poverty level, or $66,150 for a family of four, qualifies for a 100 percent discount on hospital bills. This policy recognizes the realities of modern family finances.

It is important that charity care policies not bankrupt a hospital. Hospital administrators often note that without a margin there is no mission. In other words, a hospital that is forced to close its doors can no longer deliver any community benefits. But it is also crucial that these policies account for the cost of living in different communities. In general, 200 percent of the federal poverty level, or $44,100 per year for a family of four, is required to maintain a minimally comfortable life without saving or paying hefty medical bills.

All hospitals in the state should strive to set the free care minimum at 200 percent of the federal poverty level. We recognize that 200 percent of federal poverty level is an unobtainable target for some rural hospitals that operate on thin margins. And for large, wealthy hospital systems in expensive parts of the state a goal of 200 percent of federal poverty level is not ambitious enough. But this number provides a good guide for how much it costs for a family to subsist in most regions of the state.

While providing a 100 percent discount for uninsured families making less than 200 percent of the federal poverty level is important, it is also critical that financial assistance policies provide some help for those making higher incomes – at least up to 300 percent of the federal poverty level. Well-insured patients get a discount on hospital bills because insurance companies negotiate payment rates for particular services. Uninsured and underinsured patients should get a similar advantage.

Designing a charitable charity care policy

Hospitals should consider benchmarking charity care policies to how much it costs for an average family to live in the region where the hospital is

located. Federal poverty level has major shortcomings for understanding how much a family must spend to survive. The federal poverty level for a family of four, for example, is $22,050 per year. That amount is insufficient to cover the costs of transportation, day care, housing, and food in North Carolina. It's not even close.

A more sophisticated – although still conservative– measure of family expenses is the Living Income Standard (LIS) produced by the North Carolina Justice Center's Budget & Tax Center.[5] This calculation constructs county-level budgets for four representative family types. The budgets are built from seven essential expenses – housing, food, childcare, health care, transportation, taxes, and other necessities. Excluded from the budget are savings, cell phones, restaurant meals, entertainment, cable television, and gifts.

The LIS budget leaves no room for large medical bills. Families making a living income are still only living on the edge. One trip to the emergency room could tip these families into financial ruin. Mitigating the number of families facing foreclosure or bankruptcy due to bills for inpatient care is one of the most important community benefits hospitals can provide.

Consulting the LIS shows that families in most counties require a minimum income level of 200 percent of federal poverty level to pay for necessities. There are, however, numerous counties of the state that require a higher income level to live – those near Charlotte; in the Triangle area of Raleigh, Durham, and Chapel Hill; in the Triad area near Greensboro, High Point, and Winston-Salem; and in the coastal plains surrounding Wilmington. There are also lower cost areas in the state where families can live on less than 200 percent of federal poverty level.

It is not our recommendation that North Carolina hospitals peg charity care policies to the LIS. But the LIS provides a reasonable guide for how much it costs to live in different regions of the state. And hospitals should consider using a cost-of-living index to establish financial assistance policies.

Many hospitals in North Carolina clearly recognize the shortcomings of the federal poverty guidelines and set financial assistance policies much higher than 100 percent of the federal poverty rate.

As noted previously, Novant sets its 100 percent discount rate at 300 percent of federal poverty guidelines. Novant's policy also does well when compared to the LIS. In Mecklenburg County, where Novant runs the well-regarded Presbyterian Hospital, the LIS for a two adult and two child family is 220.7 percent of the federal poverty level.

Currently, of the 39 hospitals that list comprehensive charity care policies online, 22 provide a 100 percent discount to uninsured families earning 200 percent of federal poverty level or more. Most of those hospitals are owned by a few nonprofit systems, including Novant, Duke University, and WakeMed Health & Hospitals.

A few hospitals are even more generous and provide discounts that match the LIS for a two adult and two child family for the county in which the hospital is located. Novant's policy exceeds the LIS in every county where the system operates. UNC Health Care provides a 100 percent discount at 250 percent of federal poverty guidelines, which is more generous than Orange County's LIS of 236.7 percent of federal poverty guidelines for a two adult and two child household.

In Henderson County, where the LIS is 189.8 percent of federal poverty level, Margaret R. Pardee Memorial Hospital in Hendersonville has a charity care policy that provides a 100 percent discount at 220 percent of federal poverty level. Iredell Memorial Hospital, where the LIS is 200 percent of federal poverty level, provides a 100 percent discount at 192 percent of federal poverty level. And University Health Systems of Eastern Carolina provides a 100 percent discount

at 200 percent of federal poverty level, which exceeds the LIS for the region where the system operates.

Other large nonprofit hospital systems provide the full discount at 200 percent of federal poverty level but fall short of matching the region's cost-of-living requirements. Duke University Medical Center provides a 100 percent discount at 200 percent of the federal poverty level, but the LIS in Durham County is 227.2 percent of federal poverty level, and in Wake County, where Duke also operates a hospital, the LIS is 246.6 percent of federal poverty guidelines. WakeMed, which operates several hospitals in Wake County, provides the same discount rate as Duke.

Eight hospitals that post charity care policies online provide a 100 percent discount at 150 percent of the federal poverty level. Another six hospitals posting charity care policies provide a 100 percent discount at 125 percent or 120 percent of federal poverty level. Only one hospital posting a comprehensive policy, Southeastern Regional Medical Center, has a charity care policy matching the federal poverty level.

It is heartening that a majority of hospitals in North Carolina post notice of a charity care policy online. We applaud those hospitals that post comprehensive policies online for their openness and accountability. Novant Health, UNC Health Care, University Health Systems of Eastern Carolina, Iredell Memorial Hospital, The Outer Banks Hospital, High Point Regional Health System, and Margaret R. Pardee stand out as providing excellent charity care policies. Other hospitals like Duke University Medical Center and WakeMed Health & Hospitals have good policies that could be strengthened in the future.

Conclusion

It is encouraging that a majority of North Carolina hospitals post some charity care information online, although fewer than half of the state's hospitals post comprehensive policies. This step would help struggling families understand discount programs at nearby hospitals before seeking care.

Hospitals that have posted policies online should be commended. Many of the large nonprofit hospitals in the state have fair policies that provide free care to patients with incomes less than 200 percent of the federal poverty level. The charity care policies of a few hospitals even take into account the cost of living in nearby communities.

In North Carolina high unemployment is causing people to lose insurance at high rates. Many uninsured patients seek care at free clinics and hospital emergency rooms. Hospitals are filling an important role as safety-net providers contributing a large amount of free care. Charity care should not bankrupt a hospital, but policies must be available to the public and should consider the living costs of families. The North Carolina Hospital Association has made impressive strides toward meeting these goals. With encouragement, North Carolina hospitals could serve as national models of openness and accountability.

Recommendations:

- All hospitals should post comprehensive charity care policies online. The policies should include information on asset limits, income guidelines, and catastrophic discounts.
- Most hospitals should move toward providing a 100 percent discount to families earning less than 200 percent of the federal poverty level and some discount to families earning less than 300 percent of the federal poverty level.
- Hospitals should consider adopting a more nuanced measure of poverty – such as the Living Income Standard – to calculate charity care policies.
- Hospitals should thoroughly screen patients, including those entering through the emergency room, to check eligibility for public programs or charity care discounts.

HOSPITAL CHARITY CARE POLICIES

HOSPITAL	Is some charity care information available online?	Is comprehensive policy available on website?	Financial assistance policy	LIS Budget for four-person family (two adults, two children) as % of FPL
Alamance Regional Medical Center	Y	N		200.40%
Albemarle Hospital	Y	N		201.60%
Alleghany Memorial Hospital	Y	N		182.90%
Angel Medical Center	Y	N		189.20%
Annie Penn Hospital	Y	Y	100% at 125% FPL; discount up to 200% FPL	180.80%
Anson Community Hospital	Y	N		175.10%
Ashe Memorial Hospital	Y	Y	100% discount at 150% FPL	179.90%
Beaufort County Hospital	N	N		189.60%
Bertie Memorial Hospital	Y	Y	100% discount for less than 200% FPL and bills over $5,000	185.90%
Betsy Johnson Regional Hospital	Y	N		189.70%
Bladen Healthcare	N	N		181.90%
Blowing Rock Hospital	N	N		207.70%
Blue Ridge Regional Hospital	Y	N		196.60%
Brunswick Community Hospital	Y	Y	100% discount at 300% FPL	203.80%
Caldwell Memorial Hospital	Y	Y	100% discount at 125% FPL	183.90%
Cannon Memorial Hospital	N	N		193.80%
Cape Fear Valley	N	N		189.10%
CarolinaEast Medical Center	Y	N	some discount for less than 200% FPL	187.50%
Carolinas Medical Center	Y	N		220.70%
Carolinas Medical Center Mercy	Y	N		220.70%
Carolinas Medical Center Northeast	Y	N		214.80%
Carolinas Medical Center Pineville	Y	N		220.70%
Carolinas Medical Center Union	Y	N		214.20%
Carolinas Medical Center University	Y	N		220.70%
Carteret County General Hospital	Y	Y	100% discount at 125% FPL; discount up to 300% FPL	195.60%
Catawba Valley Medical Center	Y	Y	100% discount at 150% FPL; discount up to 250% FPL	183.90%
Central Carolina Hospital	N	N		195.70%
Chatham Hospital	Y	N		220.60%
Chowan Hospital	Y	Y	100% discount at 200% FPL	195.70%
Cleveland Regional Medical Center	N	N		197.70%
CMC Lincoln	Y	N		196.60%
Columbus Regional Healthcare System	Y	N		184.70%
Community Care Partners	Y	N		189.80%
Crawley Memorial Hospital	N	N		197.70%
Davie County Hospital	Y	N		191.10%
Davis Regional Medical Center	N	N		200.70%
Duke Raleigh Hospital	Y	Y	100% discount at 200% FPL; discount up to 300% FPL	246.60%
Duke University Hospital	Y	Y	100% discount at 200% FPL; discount up to 300% FPL	227.20%
Duplin General Hospital	N	N		181.90%
Durham Regional Hospital	Y	Y	100% discount at 200% FPL; discount up to 300% FPL	227.20%
FirstHealth Montgomery Regional Hospital	N	N		187.60%
FirstHealth Moore Regional Hospital	N	N		194.80%
FirstHealth Richmond Memorial Hospital	N	N		185.90%
Forsyth Medical Center	Y	Y	100% discount at 300% FPL	199.70%
Franklin Regional Medical Center	N	N		215.00%
Frye Regional Medical Center	N	N		183.90%
Gaston Memorial Hospital	Y	N	some discount for Gaston County residents	206.60%
Grace Hospital	Y	Y	100% discount at 120% FPL; discount up to 250% FPL	182.30%
Granville Health System	Y	N	discount between 200% FPL and 300% FPL	194.10%
Halifax Regional Medical Center	Y	N		185.10%
Harris Regional Hospital	Y	Y	100% discount at 150% FPL; discount up to 300% FPL	194.60%
Haywood Regional Medical Center	N	N		181.20%
Heritage Hospital	Y	Y	100% discount at 200% FPL	191.00%
High Point Regional Health System	Y	Y	100% discount at 200% FPL; discount up to 400% FPL	208.20%
Highlands-Cashiers Hospital	N	N		191.10%
Hoots Memorial Hospital	N	N		189.10%
Hugh Chatham Memorial Hospital	Y	Y	100% discount at 150% FPL; discount up to 200% FPL	181.00%
Iredell Memorial Hospital	Y	Y	100% discount at 192% FPL	200.70%
J. Arthur Dosher Memorial Hospital	Y	N		203.80%
Johnston Memorial Hospital	N	N		213.80%

HOSPITAL CHARITY CARE POLICIES (cont.)

HOSPITAL	Is some charity care information available online?	Is comprehensive policy available on website?	Financial assistance policy	LIS Budget for four-person family (two adults, two children) as % of FPL
Kings Mountain Hospital	N	N		197.70%
Lake Norman Regional Medical Center	N	N		200.70%
Lenoir Memorial Hospital	N	N		187.40%
Lexington Memorial Hospital	Y	N		186.80%
Margaret R. Pardee Memorial Hospital	Y	Y	100% discount at 220% FPL; discount up to 400% FPL	189.80%
Maria Parham Medical Center	Y	N		188.20%
Martin General Hospital	N	N		182.50%
Medical Park Hospital	Y	Y	100% discount at 300% FPL	199.70%
Mission Hospital	Y	N		189.80%
Morehead Memorial Hospital	N	N		180.80%
Moses Cone Hospital System Greensboro	Y	Y	100% at 125% FPL; discount up to 200% FPL	208.20%
Murphy Medical Center	N	N		176.00%
Nash Healthcare System	Y	Y	100% at 150% FPL; discount up to 250% FPL	193.00%
New Hanover Regional Medical Center	Y	N	some discount for less than 200% FPL	214.00%
North Carolina Baptist Hospital	Y	N		199.70%
Northern Hospital of Surry County	N	N		181.00%
Onslow Memorial Hospital	N	N		184.60%
Our Community Hospital	N	N		185.10%
Park Ridge Hospital	N	N		189.80%
Pender Memorial Hospital	N	N		189.20%
Person Memorial Hospital	N	N		182.80%
Pitt County Memorial Hospital	Y	Y	100% discount for less than 200% FPL and bills over $5,000	187.50%
Presbyterian Healthcare	Y	Y	100% at 300% FPL	220.70%
Presbyterian Hospital Huntersville	Y	Y	100% at 300% FPL	220.70%
Presbyterian Hospital Matthews	Y	Y	100% at 300% FPL	220.70%
Pungo District Hospital Corporation	N	N		189.60%
Randolph Hospital	N	N		198.50%
Rex Healthcare	Y	Y	100% at 250% FPL; some co-pays required	246.60%
Roanoke-Chowan Hospital	Y	Y	100% discount for less than 200% FPL and bills over $5,000	184.40%
Rowan Regional Medical Center	Y	Y	100% at 300% FPL	201.30%
Rutherford Hospital	N	N		193.50%
Saint Luke's Hospital	Y	Y	100% at 150% FPL; discount up to 400% FPL	196.00%
Sampson Regional Medical Center	Y	N		181.70%
Sandhills Regional Medical Center	N	N		185.90%
Scotland Memorial Hospital	N	N		193.10%
Southeastern Regional Medical Center	Y	Y	100% at 100% FPL; discount up to 300% FPL	188.60%
Stanly Regional Medical Center	Y	Y	100% at 150% FPL discount up to 300% FPL	192.60%
Stokes-Reynolds Memorial Hospital	N	N		191.10%
Swain County Hospital	Y	Y	100% discount at 150% FPL; discount up to 300% FPL	187.00%
The McDowell Hospital	Y	N		192.90%
The Outer Banks Hospital	Y	Y	100% discount for less than 200% FPL	218.40%
Thomasville Medical Center	Y	Y	100% at 300% FPL	186.80%
Transylvania Community Hospital	Y	N		186.90%
UNC Hospitals	Y	Y	100% at 250% FPL; some co-pays required	238.60%
Valdese General Hospital	Y	Y	100% at 120% FPL; discount up to 200% FPL	182.30%
WadeMed Cary Hospital	Y	Y	100% at 200% FPL; discount up to 300% FPL	246.60%
WakeMed	Y	Y	100% at 200% FPL; discount up to 300% FPL	246.60%
Washington County Hospital	N	N		191.40%
Watauga Medical Center	N	N		207.70%
Wayne Memorial Hospital	Y	N		183.60%
Wilkes Regional Medical Center	N	N		185.90%
Wilson Medical Center	Y	N		196.10%

1 See "North Carolina's Increase in the Uninsured: 2007-2009" March 2009, a report prepared by the North Carolina Institute of Medicine and the Cecil G. Sheps Center for Health Services Research, University of North Carolina at Chapel Hill. Available online at http://www.nciom.org/data/DS_2009-01_UninUnemp.pdf.

2 See "Medical Bankruptcy in the United States, 2007: Results of a National Study", The American Journal of Medicine, August 2009. Available online at: http://www.pnhp.org/new_bankruptcy_study/Bankruptcy-2009.pdf.

3 Information is available under "Community Benefits Report" at www.ncha.org.

4 Tax refund information is available on the North Carolina Department of Revenue's website at http://www.dornc.com/publications/abstract/2008/table35b.pdf.

5 For a more thorough explanation of the Living Income Standard see "Making ends meet on low wages: the 2008 North Carolina Living Income Standard" available online at http://www.ncjustice.org/?q=node/243.

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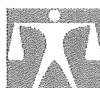

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