

Wilmington SurgCare Comments Regarding Iron Gate Surgery Center Project ID # O-11559-18

Co-applicants OWP4, LLC and Iron Gate Surgery Center, LLC have filed a Certificate of Need (CON) application with the North Carolina Department of Health and Human Services to develop a freestanding ambulatory surgical facility with three operating rooms to be transferred from New Hanover Regional Medical Center (NHRMC). OWP4, LLC is a wholly-owned limited liability company of NHRMC. The members of Iron Gate City Surgery Center, LLC include NHRMC and local physicians. NHRMC is a related entity to both OWP4, LLC and Iron Gate Surgery Center, LLC. The three operating rooms that are proposed to be relocated to Iron Gate Surgery Center are currently included on the NHRMC hospital license (H0221) and are located at the NHRMC Orthopedic Hospital campus.

In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), Wilmington SurgCare provides comments and documentation regarding why the Iron Gate application does not conform to multiple CON criteria as follows:

The Iron Gate Surgery Center application is not an approvable Certificate of Need (CON) application for multiple reasons:

- The applicants erroneously contend that CON Criteria 3a and 13a are not applicable to this project to withhold information from analysis and public comment that previous CON applicants were required to disclose.
- Omitting the information regarding the payor mix for the existing ORs at NHRMC denies other healthcare providers and the public the opportunity to comment regarding the extent to which the proposal will decrease access to medically underserved patients.
- NHRMC cannot relocate three operating rooms without severely reducing OR capacity and limiting patient access to surgery at the hospital because the hospital has previously documented that its existing operating rooms are already operating at over 100 percent capacity.
- Iron Gate Surgery Center focuses on serving the highly profitable orthopedic and neurosurgery specialties while substantially decreasing capacity and access at the existing NHRMC hospital for other surgical specialties with less favorable reimbursement.
- Utilization projections for the project are based on contrived patient origin data and a flawed methodology; utilization projections for the remaining ORs at NHRMC are omitted.
- The applicants represent that numerous orthopedic surgeons and neurosurgeons will shift cases to the proposed project even though many of these same physicians documented their support for previous CON-approved projects that are now in development.
- The proposed project represents unnecessary duplication of surgical services due to unrealistic and overstated utilization projections.
- Financial projections are unreliable based on unreasonable case projections and unsupported expense projections.

- Medicare and Medicaid certification and accreditation cannot be attained at Iron Gate Surgery Center due to the lack of pharmacy and pathology services.

Co-applicants OWP4, LLC and Iron Gate Surgery Center, LLC make the unreasonable claim that Criteria 3a and 13a should not be applicable, which is the same as seeking an exemption to these CON criteria. If the Agency accepts these representations, then the decision would prejudice those previous CON applicants who upheld their responsibility to properly disclose the relevant information that permitted public comment and due process.

Multiple criteria in the Certificate of Need Law emphasize that CON applicants have the burden of providing the necessary information to demonstrate conformity with each criterion. Even when a CON application is noncompetitive, the Agency must apply the CON review criteria in a consistent and judicious manner and consider the comments submitted during the public comment period. The Iron Gate Surgery Center CON application attempts to deny the public the opportunity to analyze and comment regarding the impact of the proposed relocation of operating rooms from NHRMC to the proposed project. The applicants fail to provide accurate and complete information in response to the CON application questions related to Criterion 3a and 13a.

Criterion 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.”*

Criterion 3 – Non Conforming (NC) Patient origin information on page 36 of the application fails to adequately explain the unquantified decreases in the projected percentage of patients from Brunswick and Columbus Counties and the offsetting increases in the percentages assigned to other counties. The application fails to show the methodology and assumptions for the Brunswick and Columbus patient origin percentages. Are these derived from the same percentage reduction for both counties? Are all these percentages contrived or based on some calculations and assumptions? Absent this information, the Iron Gate patient origin percentages have no mathematical foundation. The application does not explain how the purported adjustments in percentages of Brunswick and Columbus County patients affects the utilization projections provided in Exhibit C.7.

The Iron Gate methodology in Form C Section Q is not based on reasonable assumptions because previous CON-approved projects have already obtained the commitment and support of the majority of New Hanover physicians. These previously-approved projects included letters of support from many of the same physicians that are identified in the letter from Dr. Philip Brown in Exhibit C.4. Dr. Philip Brown, as an employed physician with NHRMC, has no real authority to make commitments on behalf of other independent physicians regarding their future surgery utilization. Just as CON public speakers are not permitted to speak on behalf of others at a Certificate of Need

hearing, the letter from Dr. Brown that describes other physicians' surgery utilization should not be considered credible because it is entirely speculative. It is up to each individual physician to provide documentation of their intent to obtain privileges at the proposed Iron Gate Surgery Center and to estimate the number of their cases to be performed at that facility. This is because physicians in New Hanover County have the option to obtain privileges at more than one ambulatory surgery center and many of the physicians have documented their support for other ambulatory surgery center projects that are already in development.

The Iron Gate application fails to discuss the other previous CON-approved projects to develop additional operating rooms in New Hanover County. Utilization projections in the Iron Gate Surgery Center application double count the OR cases that are attributed to surgeons who provided previous signed letters of support and volume projections for other CON-approved projects that are now in development.

The letter from Dr. Philip Brown regarding the surgery volumes for Iron Gate Surgery Center fails to acknowledge that multiple neurosurgeons in Wilmington previously provided letters of support for the Wilmington Ambulatory Surgery Center application, Project ID # O-11441-17. Therefore, the neurosurgery utilization projections in the Iron Gate Surgery Center application double count the OR cases that were documented by the neurosurgeons to be shifted to Wilmington Ambulatory Surgery Center.

The Iron Gate Surgery Center fails to acknowledge that EmergeOrtho physicians are currently focused on developing Brunswick Surgery Center, LLC. Multiple orthopedic surgeons with EmergeOrtho provided individual letters for the Brunswick Surgery Center, LLC with specific OR case projections. Some of these same surgeons are now referenced in the letter from Dr. Philip Brown. Consequently, the Iron Gate Surgery Center proposal is based on unreliable volume projections that double count the surgery cases for the following:

Walter Freuh, MD
Scott Hannum, MD
Eric Lescault, MD
Albert Marr, MD
Craig Rineer, MD
Daniel Rose, MD

The application provides inconsistent utilization projections. Page 41 of the application provides Table 6 and Table 7 that are copied below:

Surgical Case Performance

Table 6: Orthopedics Projected OR and Procedure Room Cases

Physician	Specialty	Projected OR Cases	Projected Procedure Room Cases
Bowling Orthopaedics	Orthopedics	84	21
Cape Fear Sports Medicine	Orthopedics	146	37
Carolina Sports Medicine	Orthopedics	370	93
EmergeOrtho	Orthopedics Spine	1,332	333
Moore Orthopaedics	Orthopedics	49	12
Port City Orthopaedics	Orthopedics	77	19
Other Orthopedic Surgeons	Orthopedics	55	14
Total Projected OR Cases		2,642	528

Source: Physician Cases at NHRMC

Table 7: Spine Neurosurgery Projected OR Cases

Physician	Specialty	Projected OR Cases
Atlantic Neurosurgical & Spine	Spine Neurosurgery	137
EmergeOrtho	Orthopedics Spine	260
Port City Neurosurgery and Spine *	Spine Neurosurgery	131
Other Neurosurgery Surgeons	Spine Neurosurgery	30
Total Projected Procedure Room Cases		558

Source: Physician Cases at NHRMC

* Coastal Neurological Associates merged with Port City Neurosurgery and Spine.

In the tables above from the Iron Gate application, the EmergeOrtho numbers include 1,332 orthopedic cases plus 260 spine cases for a total of **1,592 OR cases**. This is inconsistent with the letter from Dr. Philip Brown in Exhibit C.4 that shows **1,925 OR cases** for EmergeOrtho physicians. The internal inconsistency proves that the methodology and utilization projections are unreliable.

No documentation is provided in the application to verify that each of the physicians identified in the attachment to the Exhibit C.4 letter are committed to obtain medical staff privileges at the proposed Iron Gate Surgery Center. Dr. Brown's letter fails to identify the names of the surgeons who are expected to perform the projected 250 total joint cases per year. This projection has no rational basis because total joint cases performed in ambulatory surgery centers are not currently reimbursed by Medicare or most insurance companies. With no surgeons named who will perform these cases and no sources of reimbursement, the total joint cases referenced in Dr. Brown's letter are really just the invention of the person who drafted the letter.

It is misleading of NHRMC to propose the relocation of three hospital-based ORs to develop Iron Gate Surgery Center because the hospital will not have adequate remaining operating room capacity to serve the inpatients and ambulatory patients that are projected to remain at NHRMC for the next several years. In CON application

Project ID # O-011434-17, NHRMC documented that its existing operating rooms have operated at over 100 percent of OR capacity since FY2014. Furthermore, the Draft 2019 State Medical Facilities Plan demonstrates that NHRMC has a large projected deficit of operating rooms. Please see Attachment A.

Future years' utilization projections for the NHRMC operating rooms are omitted from the application making it impossible to evaluate the reasonableness of the proposed relocation of three operating rooms to Iron Gate Surgery Center. The need for the proposed project has to be evaluated in conjunction with NHRMC's OR utilization projections because the hospital licensed ORs, unlike the ORs at Iron Gate Surgery Center, can be used to serve both inpatients and ambulatory patients of many different surgical specialties.

Over the years, NHRMC has had previous opportunities to develop and operate ambulatory surgery centers in New Hanover County but the health system has not followed through. NHRMC once partnered with physicians to develop Atlantic Surgicenter (CON Project # O-6984-04) with 4 operating rooms that once was licensed as a freestanding licensed ambulatory surgical facility in New Hanover County. According to NHRMC, Atlantic Surgicenter was not financially viable as a freestanding ambulatory surgical facility and it was acquired in 2016 and became licensed as part of NHRMC. Therefore, the four ambulatory surgery operating rooms at Atlantic Surgicenter are currently included as hospital licensed operating rooms that have higher charges as compared to the freestanding ambulatory surgical facility. NHRMC obtained a Declaratory Ruling in 2013 for CON Project # O-7671-06 for Same Day Surgery Center New Hanover, LLC to develop the two operating rooms at NHRMC instead of at a freestanding ambulatory surgical facility. Both previous ASC opportunities demonstrate that NHRMC seeks to maximize surgery revenues and dominate the market by acquiring more hospital-based operating rooms instead of providing more cost-effective surgery in the freestanding ambulatory surgical facility.

Criterion 3a *"In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care."*

Criterion 3a – NC Iron Gate falsely contend that Criterion 3a is not applicable to this project as seen in the incomplete responses on pages 67 and 68 of the application. NHRMC Orthopaedic Hospital is not separately licensed from NHRMC. Criterion 3a must be applicable because the relocation of three operating rooms will reduce the total licensed OR capacity at NHRMC and the proposed new ambulatory surgical facility will be at a different location and separately licensed.

The three ORs at their current location on the have served multiple specialties in addition to orthopaedics and neurosurgery. The proposed reduction in surgery capacity at NHRMC restricts access to these other specialty patients. Thus, the omission of OR utilization projections for the operating rooms that would remain at NHRMC following the development of this project is an incurable error in this proposal.

CON Review Criterion 3a should be consistently applied to all CON applications that involve the “reduction or elimination of a service, including the relocation of a facility or a service.” Previous CON findings for OR projects in New Hanover County where the Agency correctly concluded 3a was applicable include:

- Cape Fear Surgical Center, LLC Project ID # O-011275-16 for the development of a new ASC with 3 new ORs, 3 ORs relocated from NHRMC and 3 multispecialty GI endoscopy rooms relocated from Wilmington Health. Pages 31-32 of the Agency Findings examine the utilization projections for NHRMC operating rooms in the analysis of Criterion 3a. This CON-approved project was relinquished.
- New Hanover Regional Medical Center Project ID # O-011189-16 involved the relocation of 68 existing acute care beds and 5 operating rooms from NHRNC Orthopaedic Hospital to the NHRMC 17th Street campus. The Agency Findings determined that Criterion 3a was applicable and examined the reasonableness of the utilization projections and assumptions for the NHRMC operating rooms.

Other Agency findings where Criterion 3a was applicable:

- CON Project ID # J-011428-17 WakeMed Cary Hospital for the relocation of 30 beds and one shared OR from WakeMed Raleigh to WakeMed Cary.
- CON Project ID # G-011104-15 Moses Cone Hospital for the relocation of beds and operating rooms.
- CON Project ID # F-011106-15 Randolph Surgery Center for the relocation of operating rooms.

In a previous NHRMC application for Project ID #: O-11434-17, the following payor percentages for the existing operating rooms was documented on page 77.

Surgical Services- NHRMC: 10/1/2016 to 9/30/2017
Current Patient Days/ Procedures as Percent of Total Utilization

	IP	OP
Self Pay/ Charity	4.6%	3.6%
Medicare/Medicare Managed Care	50.6%	46.0%
Medicaid	11.2%	6.9%
Managed Care/Commercial Insurance	27.6%	37.5%
Other	6.0%	6.0%
Total*	100.0%	100.0%

In contrast to the above percentages that reflect favorable access for Medicare patients, the Iron Gate application projects an unacceptably low 17.9% for Medicare. Clearly the

proposal to relocate operating rooms from NHRMC to Iron Gate will substantially decrease access to ORs for medically underserved patients.

Therefore, the applicants do not adequately demonstrate that the needs of the population presently served will be adequately met and that the proposal will not adversely affect the ability of medically underserved groups to obtain needed health care. Therefore, the application is not conforming to this criterion.

Criterion 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.”*

Criterion 4 – NC The Iron Gate Surgery Center application does not conform to all statutory criteria. An application that is nonconforming and cannot be approved is not an effective alternative. The application fails to explain if the Iron Gate project is supposed to shift some ambulatory surgery cases out of the hospital while also achieving stronger alignment with key surgeons to bring more inpatient cases to NHRMC. No explanation is provided regarding the decision to narrowly limit the scope of services at the proposed Iron Gate Surgery Center to include only orthopedic and neurosurgery specialties. Excluding other specialties and limiting the medical staff does not enhance patient access.

The application fails to explain why the proposed Iron Gate project is more cost effective as compared to the alternative of converting Atlantic Surgicenter (CON Project # O-6984-04) back to a freestanding licensed ambulatory surgical facility. When Atlantic Surgicenter was licensed as a freestanding ambulatory surgical facility it provided access to numerous surgical specialties and provided cost-effective surgical service to medically underserved patients. In contrast, the proposed Iron Gate ASC will only include orthopedic and neurosurgery specialties that are highly profitable due to the applicants’ projections of high percentages of insured patients.

The Iron Gate application lacks the approval of the New Hanover County Commissioners to reduce the operating room capacity of the hospital. As the sole hospital in New Hanover County, the NHRMC operating rooms and other assets are valuable community resources that are necessary for the overall health and safety of the community. There are no other hospitals in the region with sufficient licensed beds and operating room to provide effective disaster response. Therefore, the proposed project is not an effective alternative because it weakens the hospital and diminishes disaster response capabilities.

Criterion 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.”*

Criterion 5 – NC The assumptions used by Iron Gate Surgery Center in the financial pro forma are not reasonable or adequately supported. The revenue projections for the procedure room are incorrect and lack assumptions in financial pro forma. The draft lease for the building is omitted from the application even though the lease expenses represent a huge portion of the facility’s fixed expenses. The application fails to provide adequate assumptions regarding management consulting expenses and purchased services which are exceedingly costly but unexplained. No documentation describes these contract providers or the scope of services. For these reasons, the projected revenues and expenses are not based on reasonable assumptions.

Criterion 6 *“The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.”*

Criterion 6 – NC The applicant fails to adequately demonstrate that the proposed project would not result in unnecessary duplication of existing or approved services in the service area because the utilization projections are not reasonable and adequately supported.

Iron Gate fails to analyze the operating room inventory for New Hanover County in order to demonstrate that its proposed project will not result in unnecessary duplication of existing or approved health services capabilities or facilities. The following table summarizes that operating room inventory:

	Inpatient ORs	Ambulatory ORs	Shared ORs	CON Adjustment	Total
New Hanover Regional Medical Center	5	4	29	0	38
Wilmington SurgCare	0	7	0	3	10
Wilmington ASC	0	0	0	1	1
Totals	5	11	29	4	49

The proposed project would relocate three operating rooms from NHRMC to the Iron Gate facility which would reduce the hospital’s licensed capacity by three shared ORs. Having fewer shared operating rooms at NHRMC will make it exceedingly difficult to support any future growth for inpatient surgery, emergency surgery and ambulatory surgery. Why would additional surgeons want to join the medical staff of NHRMC if they cannot get operating room time?

Omitted from the application are the utilization projections for the licensed operating rooms that will continue to be licensed and staffed at NHRMC. Without the utilization projections, there is no way to determine if the proposed project will be duplicative of operating room capacity at NHRMC.

The application does not consider the development of additional operating rooms in New Hanover County for Wilmington SurgCare (CON Project ID # O-11272-16) and Wilmington ASC (CON Project ID # O-1141-17). Wilmington SurgCare currently

provides orthopedic and neurosurgery and other specialties in its accredited facility and is approved to add three operating rooms for a total of 10 operating rooms. Wilmington ASC, as an approved multispecialty ambulatory surgical facility, is approved for one operating room and will have the capability to serve orthopedic, neurosurgery and other surgical specialties. Therefore the proposed project is duplicative of these previously-approved projects.

Most of the physicians who are listed in the attachment to Dr. Philip Brown's letter in Exhibit C.4 have already committed their ambulatory surgery volumes to previous CON projects that are now in development. The previous CON support letters for the other projects included utilization projections in physician letters that were individually signed. Dr. Brown has no authority to change independent surgeons' commitments to these other previous projects.

Criterion 8 *"The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system."*

Criterion 8 – NC The Iron Gate application fails to demonstrate the availability of pharmacy and pathology services at the proposed ASC. These are essential ancillary services required by the CMS Conditions for Coverage. If the applicants intend to provide high quality orthopedic and neurosurgery ambulatory surgery services, the proposal should include documentation for the provision of ancillary services consistent with previous CON applications.

For example, in the 2016 New Hanover County OR Review of Wilmington SurgCare Project ID #: O-11272-16 the findings state, "Exhibits 9-12 respectively, contain copies of agreements for anesthesiology, pathology, radiology, pharmacy services, patient transfer, blood transfusions and a hospital transfer agreement. The applicant adequately demonstrates that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system."

Criterion 13 *The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of 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 needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:*

(a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

Criterion 13(a) – NC

It is incorrect for the applicants to contend that Criterion 13a is not applicable because the applicant OPW4, LLC is wholly owned by NHRMC and the three operating rooms are proposed to be relocated from the hospital. Omitting the historical payor data in Section L, page 103 causes the application to be critically defective.

Criterion 13(a) was determined to be applicable in a previous CON project that involved the same three operating rooms that were proposed to be relocated from NHRMC. In Project ID # O-011275-16, Cape Fear Surgical Center, LLC proposed the development of a new ASC with 3 new ORs, 3 ORs relocated from NHRMC and 3 multispecialty GI endoscopy rooms relocated from Wilmington Health. Pages 49-50 of the Agency Findings correctly examined the historical payor mix for the NHRMC ORs for Orthopedic Cases as seen below:

NHRMC-Outpatient Orthopedic OR cases Payor Mix CY 2015	
Payor	Cases as % of Total Cases
Self-Pay / Indigent/ Charity	3.4%
Medicare / Medicare Managed Care	31.4%
Medicaid	8.2%
Commercial / Managed Care	44.5%
Other*	12.5%
Total	100.00%

*Includes workers comp and other governmental payors.

Page 77 of the NHRMC CON application for Project ID #: O-11434-17 includes the following payor percentages for the existing operating rooms.

Surgical Services- NHRMC: 10/1/2016 to 9/30/2017
Current Patient Days/ Procedures as Percent of Total Utilization

	IP	OP
Self Pay/ Charity	4.6%	3.6%
Medicare/Medicare Managed Care	50.6%	46.0%
Medicaid	11.2%	6.9%
Managed Care/Commercial Insurance	27.6%	37.5%
Other	6.0%	6.0%
Total*	100.0%	100.0%

While the Iron Gate Surgery Center applicants proposed to relocate the same NHRMC ORs and even referenced the CON application Project ID # O-011275-16, they chose to omit the more recent NHRMC payor data.

Criterion 13 (c) *That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and*

Criterion 13(c) – NC The projected payor mix for Iron Gate Surgery Center fails to provide adequate access for Medicare and Medicaid patients based on the data provided in the application.

Second Full FY following Completion of the Project
(10/01/2021 to 09/30/2022)

Payor Source	Entire Facility
Self-Pay	4.2%
Medicare *	17.9%
Medicaid *	6.9%
Insurance *	55.2%
TRICARE	10.5%
Worker's Compensation	5.4%
Total	100.0%

* Including any managed care plans.

The Iron Gate projected Medicare percentage is 17.9% as compared to the 31.4% that was reported for NHRMC orthopedic cases in Project ID # O-011275-16. The projected Iron Gate Medicaid percentage is 6.9% as compared to the 8.2% that was reported for NHRMC orthopedic cases in Project ID # O-011275-16.

Criterion 18a *“The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.”*

Criterion 18(a) – NC The proposed project fails to improve competition because NHRMC already has surgery market dominance and this project is an attempt to recapture future surgical cases that are already committed to other ASC projects. The application fails to provide utilization projections for all NHRMC operating rooms. Instead of positive competition, NHRMC wants to have maximum control of surgery scheduling at multiple facility locations. The applicant fails to adequately demonstrate how the proposed project would enhance competition and promote the cost-effectiveness, quality and access to the proposed services:

- Unreasonable utilization projections and flawed financial projections cause the Iron Gate proposal to fail to demonstrate that it is cost-effective.
- Quality care cannot be achieved due to the omission of pharmacy and pathology services.
- Access to services is substandard because the Medicare payor mix percentage is projected to be far less than the OR historical utilization at NHRMC.

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program, or to add a specialty to a specialty ambulatory surgical program shall demonstrate the need for the number of proposed operating rooms in the facility that is proposed to be developed or expanded in the third operating year of the project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.

The Iron Gate application fails to adequately demonstrate the need for the proposed project due to the flawed methodology and unreliable utilization projections. The letter of support from Dr. Philip Brown is not credible because most of the physicians named in his letter have committed their projected ambulatory surgery cases to other CON-approved projects. The application includes unsupported patient origin percentages, inconsistent representations of EmergeOrtho OR cases, and unreliable projections for total joint cases to be performed by unnamed surgeons. The discussion regarding analysis of need, including projected utilization, found in Criteria 3 and 3(a) are incorporated herein by reference. Thus, the Iron Gate application is not conforming to these rules.

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(e) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.

The Iron Gate application documents the assumptions and provides data supporting the methodology used for its operating room projections. However, the applicants' projected utilization is not reasonable and adequately supported. Omitted from the application are the methodology and projections for the operating rooms to remain at NHRMC. The discussion regarding analysis of need, including projected utilization, found in Criteria 3 and 3(a) are incorporated herein by reference. Thus, the Iron Gate application is not conforming to this rule.

Attachment A.

Table 6B. 2019 Projected Operating Room Deficit

DRAFT 09/11/2018

Table 6B: Projected Operating Room Need for 2021

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Service Area	License	Facility	Inpatient Cases	Final Inpatient Case Time	Ambulatory Cases	Final Ambulatory Case Time	Total Adjusted Estimated Surgical Hours	Growth Factor	Projected Surgical Hours for 2021	Projected Surgical ORs Required in 2021	Adjusted Planning Inventory	Projected OR Deficit/ Surplus (Surplus shows as a "-")	Service Area Need
Mecklenburg	H0270	Novant Health Matthews Medical Center^^^/†/††	1,509	117.9	4,088	90.6	9,136	8.20	9,885	6.59	6	0.59	
Mecklenburg	H0282	Novant Health Huntersville Medical Center^^^/†/††	1,291	138.4	3,689	90.6	8,547	8.20	9,248	6.17	6	0.17	
Novant Health Total										56.96	64	-7.04	
Mecklenburg		Carolinas Center for Ambulatory Dentistry**	0	0.0	0	0.0	0		0	0.00	0	0.00	
Mecklenburg	AS0148	Mallard Creek Surgery Center**	0	0.0	2,227	0.0	0		0	0.00	0	0.00	
Mecklenburg		2018 SMFP Need Determination	0	0.0	0	0.0	0		0	0.00	6	-6.00	
Mecklenburg Total												10.74	11
Mitchell	H0169	Blue Ridge Regional Hospital	108	120.0	692	90.0	1,254	-0.36	1,254	0.84	3	-2.16	
Mitchell Total													0
Montgomery	H0003	FirstHealth Montgomery Memorial Hospital	0	0.0	251	53.4	223	1.34	226	0.15	2	-1.85	
Montgomery Total													0
Moore	AS0022	The Eye Surgery Center of the Carolinas	0	0.0	5,634	20.0	1,878	6.03	1,991	1.52	3	-1.48	
Moore	AS0069	Surgery Center of Pinehurst	0	0.0	5,607	60.0	5,607	6.03	5,945	4.53	6	-1.47	
Moore	H0100	FirstHealth Moore Regional Hospital†††	6,365	143.0	5,014	91.3	22,800	6.03	24,174	13.77	17	-3.23	
Moore Total													0
Nash	H0228	Nash General Hospital†/†††	1,567	132.0	6,465	77.0	11,744	0.04	11,749	7.83	13	-5.17	
Nash Total													0
New Hanover		Wilmington ASC	0	0.0	0	0.0	0		0	0.00	1	-1.00	
New Hanover	AS0055	Wilmington SurgCare	0	0.0	8,531	45.5	6,469	6.44	6,886	5.25	10	-4.75	
New Hanover	H0221	New Hanover Regional Medical Center†	11,924	176.0	25,301	109.8	81,278	6.44	86,509	44.36	34	10.36	
New Hanover Total												10.36	10
Onslow	H0048	Onslow Memorial Hospital†††	1,098	123.0	4,191	81.1	7,914	4.28	8,252	5.50	9	-3.50	
Onslow Total													0
Orange	H0157	University of North Carolina Hospitals	14,226	234.0	16,267	143.0	94,251	4.23	98,243	50.38	41	9.38	
Orange		2018 SMFP Need Determination	0	0.0	0	0.0	0		0	0.00	6	-6.00	
Orange Total												3.38	3