

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: April 28, 2017

Findings Date: May 4, 2017

Project Analyst: Gregory F. Yakaboski

Team Leader: Fatimah Wilson

Assistant Chief: Martha J. Frisone

COMPETITIVE REVIEW

Project ID #: O-11272-16
Facility: Wilmington SurgCare
FID #: 923566
County: New Hanover
Applicant: Wilmington Surgery Center L.P.
Project: Add three operating rooms and one minor procedure room for a total of ten operating rooms and one minor procedure room

Project ID #: O-11275-16
Facility: Cape Fear Surgical Center, LLC
FID #: 160563
County: New Hanover
Applicant(s): Cape Fear Surgical Center, LLC
New Hanover Regional Medical Center
Wilmington Health, PLLC
New Hanover Ambulatory Surgery, LLC
Project: Develop a new ASC with three new operating rooms, three existing operating rooms relocated from New Hanover Regional Medical Center and three existing GI Endoscopy rooms from Wilmington Health

Project ID #: O-11277-16
Facility: Surgery Center of Wilmington
FID #: 160562
County: New Hanover
Applicant: Surgery Center of Wilmington, LLC
Project: Develop a new ASC with three operating rooms and one procedure room

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

N.C. Gen. Stat. §131E-183(a) The Agency shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (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.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington Surgery Center, L.P. (WSC) proposes to renovate and expand its existing multispecialty ambulatory surgical center (ASC), Wilmington SurgCare, by adding three operating rooms (ORs) and one minor procedure room for a total of ten operating rooms and one minor procedure room. The project does not include any gastrointestinal endoscopy (GI/endoscopy) rooms.

Cape Fear Surgical Center, LLC (Cape Fear Surgical Center), New Hanover Regional Medical Center (NHRMC), Wilmington Health, PLLC (Wilmington Health) and New Hanover Ambulatory Surgery, LLC (NH Ambulatory Surgery) collectively to be known as the applicants and/or Cape Fear Surgical Center propose to develop a new, separately licensed freestanding ASC by developing three new ORs and relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three multispecialty GI/endoscopy rooms.

Surgery Center of Wilmington, LLC (Surgery Center of Wilmington) proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any GI/endoscopy rooms.

Need Determination

The 2016 State Medical Facilities Plan (2016 SMFP) includes an OR Need Determination for three ORs in the New Hanover County Operating Room Service Area. Three applications were received by the Healthcare Planning and Certificate of Need Section (CON Section or Agency) for development of the three ORs. The three applicants each applied for three ORs for a total of nine ORs. Pursuant to the need determination in the 2016 SMFP only three new or additional ORs can be approved in this review.

Policies

The following policies are applicable to all three applications in this review:

- POLICY GEN-3: BASIC PRINCIPLES
- POLICY GEN-4: ENERGY EFFICIENCY AND SUSTAINABILITY FOR HEALTH SERVICE FACILITIES

POLICY GEN-3: BASIC PRINCIPLES states:

“A certificate of need applicant applying to develop or offer a new institutional health service for which 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 also 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 residents in the proposed service area.”

POLICY GEN-4: ENERGY EFFICIENCY AND SUSTAINABILITY FOR HEALTH SERVICE FACILITIES states:

“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate, or add to a health service facility pursuant to G.S. 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN 4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. 131E-184 are required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy-GEN 4. The plan shall not adversely affect patient or resident health, safety, or infection control.”

Wilmington SurgCare proposes to renovate and expand its existing multispecialty ASC facility, Wilmington SurgCare, by adding three ORs and one minor procedure room for a total of ten operating rooms and one minor procedure room. The project does not include any GI/endoscopy rooms.

Need Determination

Wilmington SurgCare's application is consistent with the need determination to develop three ORs in the New Hanover County Operating Room Service Area. The applicant proposes to develop the three ORs in Wilmington, New Hanover County, and does not propose to develop more ORs than are determined to be needed in the New Hanover County Operating Room Service Area. Therefore, the application is consistent with the need determination in the 2016 SMFP.

Policies

Policy GEN-3

Promote Safety and Quality - The applicant describes how it believes the proposed project would promote safety and quality in Section II.8, page 13, Section III.4, pages 62-64 and Exhibits 14-15. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access - The applicant describes how it believes the proposed project would promote equitable access in Section III.4, page 63, Section VI, pages 87-94 and Exhibits 25-26. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value - The applicant describes how it believes the proposed project would maximize health care value in Section III.4, pages 63-64, Section X, pages 109-111 and the applicant's pro forma financial statements, pages 121-135. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal will maximize health care value.

The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the OR need determination in the 2016 SMFP. The application is consistent with Policy GEN-3.

Policy GEN-4

The proposed capital expenditure for this project is greater than \$5 million. In Section III, pages 64-66, and Section XI, pages 118-119, the applicant describes its plans for energy-efficiency and water conservation. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with Policy GEN-3, Policy GEN-4 and with the need determination in the 2016 SMFP. Consequently, the application is conforming to this criterion

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three GI/endoscopy rooms. Therefore, the application is consistent with the need determination in the 2016 SMFP.

Need Determination

Cape Fear Surgical Center's application is consistent with the need determination to develop three ORs in the New Hanover County Operating Room Service Area. The applicants propose to develop the three ORs in Wilmington, New Hanover County, and do not propose to develop more ORs than are determined to be needed in the New Hanover County Operating Room Service Area.

Policies

Policy GEN-3

Promote Safety and Quality - The applicants describe how the proposed project would promote safety and quality in Section II.8, pages 43-45, Section III.4, pages 109-117 and Exhibit 11. The information provided by the applicants' is reasonable and adequately supports the determination that the applicants' proposal would promote safety and quality.

Promote Equitable Access - The applicants describe how the proposed project would promote equitable access in Section III.4, page 117 and Section VI, pages 134-142 and referenced exhibits. The information provided by the applicants' is reasonable and adequately supports the determination that the applicants' proposal would promote equitable access.

Maximize Healthcare Value - The applicants describes how the proposed project would maximize health care value in Section III.4, pages 117-118, Section X, pages 160-163 and the applicants pro forma financial statements, pages 172-188. The information provided by the applicants is reasonable and adequately supports the determination that the applicants' proposal will maximize health care value.

The applicants adequately demonstrate how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the OR need determination in the 2016 SMFP. The application is consistent with Policy GEN-3.

Policy GEN-4

The proposed capital expenditure for this project is greater than \$5 million. In Section III, page 118, Section XI, page 168, and Exhibit 16 the applicants describe the plans for energy-efficiency and water conservation. The applicants adequately demonstrate that the application includes a

written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with Policy GEN-3, Policy GEN-4 and with the need determination in the 2016 SMFP. Consequently, the application is conforming to this criterion

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any GI/endoscopy rooms.

Need Determination

Surgery Center of Wilmington's application is consistent with the need determination to develop three ORs in the New Hanover County Operating Room Service Area. The applicant proposes to develop the three ORs in Wilmington, New Hanover County, and does not propose to develop more ORs than are determined to be needed in the New Hanover County Operating Room Service Area. Therefore, the application is consistent with the need determination in the 2016 SMFP.

Policies

Policy GEN-3

Promote Safety and Quality - The applicant describes how it believes the proposed project would promote safety and quality in Section II.6, page 34, Section II.8, page 36, Section III.4, pages 75-76 and Exhibits 9-10. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access - The applicant describes how it believes the proposed project would promote equitable access in Section III.4, pages 76-77 and Section VI, pages 111-124 and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value - The applicant describes how it believes the proposed project would maximize health care value in Section III.4, pages 76-77, Section X, pages 150-153 and the applicant's pro forma financial statements, pages 165-185. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal will maximize health care value.

The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the OR need determination in the 2016 SMFP. The application is consistent with Policy GEN-3.

Policy GEN-4

The proposed capital expenditure for this project is greater than \$5 million. In Section III, page 78, Section XI, page 161, and Exhibit 17 the applicant describes its plans for energy-efficiency and water conservation. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with Policy GEN-3, Policy GEN-4 and with the need determination in the 2016 SMFP. Consequently, the application is conforming to this criterion

Conclusion

In summary, all three applications are conforming to the OR need determination in the 2016 SMFP for three ORs in New Hanover County, Policy GEN-3 and Policy GEN-4. However, the limit on the number of new ORs that may be approved in this review is three. Collectively, the three applicants propose a total of nine new ORs. Therefore, even if all the applications were conforming or conditionally conforming to all statutory and regulatory review criteria, all the applications cannot be approved. See the Conclusion following the Comparative Analysis for the decision.

- (2) Repealed effective July 1, 1987.
- (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.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare proposes to renovate and expand its existing multispecialty ASC facility, Wilmington SurgCare, by adding three additional ORs and one minor procedure room for a total of ten ORs and one minor procedure room. The project does not include any GI/endoscopy rooms.

Patient Origin

On page 62, the 2016 SMFP defines the service area for ORs as "*the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6-1 [on page 67].*" Figure 6-1 shows New Hanover County as a single county OR service area. Thus, the service area for this proposal

is New Hanover County. Facilities may also serve residents of counties not included in their service area.

In Section III.6, page 69, the applicant provides the historic patient origin for the Wilmington SurgCare facility based on the 2016 License Renewal Application (LRA) [10/1/14 to 9/30/15], as shown in the table below.

Wilmington SurgCare: [2016 LRA Data: 10/1/14 to 9/30/15]

County	# of Patients	% of Total Patients
New Hanover	3,875	45.79%
Brunswick	1,852	21.88%
Pender	790	9.33%
Onslow	718	8.48%
Columbus	440	5.20%
Duplin	260	3.07%
Bladen	111	1.31%
Carteret	60	0.71%
Sampson	56	0.66%
Craven	47	0.56%
Jones	25	0.30%
Other NC Counties	103	1.22%
South Carolina	71	0.84%
Other States	55	0.65%
Total	8,463	100.00%

*Other North Carolina Counties includes Avery, Beaufort, Burke, Cabarrus, Cumberland, Durham, Forsyth, Franklin, Gaston, Guilford, Harnett, Hertford, Hoke, Lenoir, Mecklenburg, Nash, Northampton, Pamlico, Pitt, Richmond, Robeson, Rockingham, Rowan, Stokes, Union, Wake, Watauga, and Wayne counties.

In Section III.6, page 67, the applicant provides the projected patient origin for the OR surgery cases during the first two operating years (OY) [CY2020 and CY2021] following completion of the project, as shown in the table below.

OR Surgery Cases- Wilmington SurgCare

County	OY1-Patients (CY 2020)	OY2-Patients (CY 2021)	% of Total Patients
New Hanover	4,980	5,245	45.79%
Brunswick	2,380	2,507	21.88%
Pender	1,015	1,069	9.33%
Onslow	923	972	8.48%
Columbus	565	596	5.20%
Duplin	334	352	3.07%
Bladen	143	150	1.31%
Carteret	77	81	0.71%
Sampson	72	76	0.66%
Craven	60	64	0.56%
Jones	32	34	0.30%
Other NC Counties	132	139	1.22%
South Carolina	91	96	0.84%
Other States	71	74	0.65%
Total	10,876	11,456	100.00%

*Other North Carolina Counties includes Avery, Beaufort, Burke, Cabarrus, Cumberland, Durham, Forsyth, Franklin, Gaston, Guilford, Harnett, Hertford, Hoke, Lenoir, Mecklenburg, Nash, Northampton, Pamlico, Pitt, Richmond, Robeson, Rockingham, Rowan, Stokes, Union, Wake, Watauga, and Wayne counties.

On page 67, the applicant provides the assumptions and methodology used to project patient origin for the OR surgery cases as follows:

“See pages 51 to 59 for the methodology and assumptions for the projected numbers of patients. One surgery case is projected per patient. ... The projected patient origin for OR surgery patients is based on the historical patient origin utilization for Wilmington SurgCare as reported in its 2016 License Renewal Application. The future patient origin is expected to remain similar to the historical because no change in the facility location is proposed and the facility has a broad base of physicians on its medical staff.”

In Section III.6, page 68, the applicant provides the projected patient origin for the procedure room cases during the first two OYs following completion of the project, as shown in the table below.

Procedure Room Cases- Wilmington SurgCare

County	OY1-Patients (CY 2020)	OY2-Patients (CY 2021)	% of Total Patients
New Hanover	132	139	45.79%
Brunswick	63	67	21.88%
Pender	27	28	9.33%
Onslow	24	26	8.48%
Columbus	15	16	5.20%
Duplin	9	9	3.07%
Bladen	4	4	1.31%
Carteret	2	2	0.71%
Sampson	2	2	0.66%
Craven	2	2	0.56%
Jones	1	1	0.30%
Other NC Counties	4	4	1.22%
South Carolina	2	3	0.84%
Other States	2	2	0.65%
Total	288	304	100.0%

*Other North Carolina Counties includes Avery, Beaufort, Burke, Cabarrus, Cumberland, Durham, Forsyth, Franklin, Gaston, Guilford, Harnett, Hertford, Hoke, Lenoir, Mecklenburg, Nash, Northampton, Pamlico, Pitt, Richmond, Robeson, Rockingham, Rowan, Stokes, Union, Wake, Watauga, and Wayne counties.

On page 68, the applicant provides the assumptions and methodology used to project patient origin for the procedure room cases as follows:

“See page 91 for the methodology and assumptions for the projected numbers of procedure room cases... One procedure room case is projected per patient. ... The projected patient origin for procedure room patients is based on the historical ambulatory surgery patient origin utilization for Wilmington SurgCare as reported in its 2016 License Renewal Application.”

The applicant adequately identifies the population to be served.

Analysis of Need

In Section III, pages 25-61, and referenced exhibits, the applicant documents the need to develop three new ORs and one minor procedure room at the existing Wilmington SurgCare facility.

On pages 25-52, the applicant discusses the factors which it states support the need for the proposal, which are listed below along with the pages where each factor is discussed in the application:

- Need Determination in the 2016 SMFP for three Operating Rooms in the New Hanover County Operating Room Service Area. (See application page 35)
- Demographic Factors (Aging and Population). (See application pages 26-28)
- Technological Advances in Anesthesia and Surgical Techniques. (See application page 29)

- Ambulatory Surgery Utilization Trends. (See application pages 30-31)
- Reimbursement Changes for Ambulatory Surgery Centers. (See application pages 31-32)
- Increase in New Hanover County Ambulatory Surgery Cases. (See application page 33)
- Operating Room Utilization and Inventory in New Hanover County Operating Room Service Area. (See application pages 33-34)
- Access to and Delivery of Cost-Effective Care. (See application pages 36-37)
- Need to add ancillary and support space in the existing Wilmington SurgCare facility to accommodate ophthalmic procedures, provide optimal infection control, accommodate higher patient volumes and improve workflow and productivity to accommodate additional staff. (See application pages 37-52)

In Section III, pages 52-61, and referenced exhibits, the applicant discusses the methodology and assumptions supporting the need calculations for the proposed project.

In Section III, pages 70-72, the applicants discuss the alternatives considered and why the proposal was chosen.

The information provided by the applicants in the pages referenced above is reasonable and adequately supported.

Projected Utilization

In Section IV.1, page 78, the applicant provides the projected utilization for the ORs at the Wilmington SurgCare facility for the first three OYs (CY2020 – 2022) following completion of the project, as illustrated in the table below:

Wilmington SurgCare			
	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
# of ORs	10	10	10
Total Cases	10,680	11,267	11,887
Average OR Cases per OR	1,068	1,126.7	1,188.7
Annual hours based on 1.5 hrs/procedure*	16,020	16,900.5	17,830.5
1872 hrs x # of ORs	18,720	18,720	18,720
Utilization Rate	85.58%	90.28%	95.25%

*In Chapter 6 “Operating Rooms” of the 2016 SMFP there is a section on page 64 entitled “The Methodology for Projecting Operating Room Need” which states: “For purposes of the State Medical Facilities Plan, the average operating rooms is anticipated to be staffed nine hours a day, for 260 days per year, and utilized at least 80 percent of the available time. The standard number of hours per operating room per year based on these assumptions is 1,872 hours. (Column K: 9 hours x 260 days x 0.8 – 1,872 hours per operating room per year).” (See page 64, Step 3, Section f, of the 2016 SMFP)

In Section I, pages 6-8, Section III, pages 25-60, and Exhibit 48, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

On page 6, the applicant provided the following background information regarding Wilmington SurgCare.

History of Wilmington SurgCare

	ORs	GI Endoscopy Rooms
1992*	3	3
1996	4	3
1999	6	3
2004	6	4
2006	7	3
Proposed (plus major building addition and renovations)	10	0

Source: Page 6 of the application.

*Multispecialty since 1992

The applicant proposes to add three new ORs to its existing ASC facility, delicense the three existing GI/endoscopy rooms and add additional square footage and renovate existing space.

With the GI/endoscopy rooms delicensed, the applicant anticipates performing GI procedures in the ORs.

As illustrated in the tables below, to project OR utilization for the first three OYs, the applicant:

- started with its last year of historical data;
- converted the data into calendar years (CY);
- applied a growth rate of 5.5% for its OR cases and a growth rate of -4.0% for its GI/endoscopy cases;
- totaled the projected OR cases and the projected GI/endoscopy cases.

The applicant submitted this application on November 15, 2016. The first three OY following completion of the proposed project are CY2020; CY2021 and CY2022.

The applicant states that the actual number of OR cases from 9/1/2015 to 8/31/2016 was 8,621. (See pages 52-53 of the application.) The applicant projected the number of OR cases for the last four months of 2016 (September – December) by assuming that the last four months of Calendar Year (CY) 2016 would equate to one-third of the previous twelve months ($8,621/3 = 2,873.66$ or 2,874 OR Cases). The CY2016 cases are projected by the applicant to be the same as the previous twelve months of actual OR cases, or 8,621 ($2,873.66 \times 3 = 8,621$).

On page 56, the applicant applied the same methodology to establish projected GI/endoscopy cases. The CY2016 GI cases are projected to be the same as the twelve months from 9/1/2015 to 8/30/2016, or 231 GI/endoscopy cases.

To project utilization for the first three OY years, the applicant then applied a growth rate of 5.5% for the OR cases and a growth rate of -4.0% for the GI cases for CY2017 thru CY2022 (OY3) as illustrated in the table below.

	CY 2016 (Projected)	CY 2017 (Interim Yr)	CY 2018 (Interim Yr)	CY 2019 (Interim Yr)	CY 2020 (OY1)	CY 2021 (OY2)	CY 2022 (OY3)
Wilmington SurgCare OR cases	8,621	9,095	9,595	10,123	10,680	11,267	11,887
Growth Rate- OR Cases**		5.5%	5.5%	5.5%	5.5%	5.5%	5.5%
GI Endoscopy Cases	231	222	213	204	0	0	0
GI Endoscopy Cases Shifting to ORs*					196	188	181
Growth Rate-GI Cases**		-4.0%	-4.0%	-4.0%	-4.0%	-4.0%	-4.0%
Total OR Cases (OR Cases + GI Cases)					10,876	11,456	12,068

*Applicant has 3 existing GI/endoscopy rooms which it is delicensing as part of the proposed project and shifting the GI/endoscopy cases to the ORs.

**See application pages 55-56 and Exhibit 48 regarding projected growth rates of OR and GI/Endoscopy cases.

Utilizing projected total OR cases, the applicant then calculated the number of ORs needed based on projected utilization.

Number of ORs Needed based on Projected Utilization

	CY 2020 (OY1)	CY 2021 (OY2)	CY 2022 (OY3)
Total OR Cases	10,876	11,456	12,068
Total OR Hours Based on 1.5 Hrs per Case* (OP Cases x 1.5 hrs per case)	16,314	17,183	18,102
Annual Hrs Per OR	1,872	1,872	1,872
Total ORs Needed at Wilmington SurgCare (Total OR Hours/Annual Hrs (1,872) per OR)	8.71	9.18	9.67
Existing ORs	7	7	7
Additional ORs needed	1.7	2.2	2.7
Year 3 Rounded up to Whole Number			3.0

Source: Table on page 58 of the application.

*In Chapter 6 “Operating Rooms” of the 2016 SMFP there is a section on page 64 entitled “The Methodology for Projecting Operating Room Need” which states: “For purposes of the State Medical Facilities Plan, the average operating rooms is anticipated to be staffed nine hours a day, for 260 days per year, and utilized at least 80 percent of the available time. The standard number of hours per operating room per year based on these assumptions is 1,872 hours. (Column K: 9 hours x 260 days x 0.8 – 1,872 hours per operating room per year).” (See page 64, Step 3, Section f, of the 2016 SMFP)

As shown in the table above, in OY 3 (CY 2022), the applicant projects that 12,068 outpatient surgical cases will be performed in the 10 ORs (3 new and 7 existing) at the Wilmington SurgCare facility, which documents a need for ten ORs consistent with the OR Performance Standard promulgated in 10A NCAC 14C .2103(b), as illustrated in the table below:

	Inpatient Cases	Outpatient Cases	Total Hours (OP Cases x 1.5 Hours / Case)	Total Hours/ 1,872 Hours / OR / Year	# of ORs Needed
OY 3	----	12,068	18,102	9.67	10.0

In Section III.1, page 55, the applicant explains why it believes the projected 5.5% annual growth rate is reasonable. In Exhibit 48, the applicant breaks down the components of the 5.5% annual growth rate as follows:

- “0.7% Annual increase due to advances in surgical technology and changes in reimbursement based on the statement on page 5 of the article in Exhibit 20 “As medical innovation continues to advance, more and more procedures will be able to be performed safely in the outpatient setting.”*
- 1.3% Annual growth in demand due to population growth based on NC Office of Budget and Management, 2016 to 2019 average annual percentage growth.*
- 1.5% Annual increase due to patient preferences related to shopping for cost effective surgery. This assumption is based on the Blue Cross Blue Shield “How Consumers are Saving with the Shift to Outpatient Care” (February, 2016). Please see Exhibit 47.*
- 2.0% Annual increases in surgery utilization due to growth in numbers of physicians at Wilmington SurgCare based on historical trends of adding at least 5 new physicians per year for net gains in total physicians.”*

The compound annual growth rate (CAGR) was 7.03% between 1995 and 2015 (20 years). (See application page 33). This time period excludes the first three years of operation (1992-1994) and demonstrates consistent growth over a substantial period.

OR utilization at Wilmington SurgCare increased 6.65% between FFY 2015 (7,935 OR cases) and FFY 2016 (8,463 OR cases) [8,463 OR cases/ 7,935 OR Cases = 1.0665 or 6.65% growth].

Furthermore, the applicant projects GI/endoscopy cases utilizing a negative growth rate. The OR cases (11,887) and the GI/endoscopy cases (181) are combined, resulting in 12,068 projected OR cases (11,887 + 181 = 12,068) in OY3. If the GI/endoscopy cases are excluded from projected OR cases in OY3, the proposed project still demonstrates a need for the 10 ORs (7 existing and 3 new) as illustrated in the table below:

	Inpatient Cases	Outpatient Cases	Total Hours (OP Cases x 1.5 Hours / Case)	Total Hours/ 1,872 Hours / OR / Year	# of ORs Needed
OY 3	----	11,887	17,830.5	9.52	10.0

Based on the historical OR cases reported in Wilmington SurgCare’s LRA data for 2014 thru 2017, the seven existing ORs were utilized at 95.9%, 90.8%, 96.9% and 98.3% respectively, as illustrated in the table below. It is further noted that the number of OR cases reported in each of the LRAs and included in the table below does not include GI/endoscopy cases performed in Wilmington SurgCare’s three licensed, existing GI/endoscopy rooms, which Wilmington SurgCare is proposing to delicense and perform GI/endoscopy cases in the ORs instead.

	2014 LRA (10/1/12-9/30/13)	2015 LRA (10/1/13-9/30/14)	2016 LRA (10/1/14-9/30/15)	2017 LRA (10/1/15-9/30/16)
# of OR Cases	8,378	7,935	8,463	8,584
# of ORs	7	7	7	7
Total Hours (OP Cases x 1.5 Hours / Case)	12,567	11,902.5	12,694.5	12,876
Total Hours/ 1,872 Hours / OR / Year	6.713	6.358	6.78	6.878
% Utilization (Total Hrs / (1872 x # of ORs)	95.9%	90.8%	96.9%	98.3%

Utilization Projections for one proposed minor procedure room

In Section III, page 60, the applicant provides the projected utilization of the minor procedure room for the first three OYs.

	OY1 (CY 2020)	OY2 (CY 2021)	OY3 (CY 2022)
Wilmington SurgCare OR Cases	10,680	11,267	11,887
Pain Procedures as a % of OR Cases	0.027	0.027	0.027
Minor Procedure Room Cases	288	304	321

The methodology and assumptions to project utilization are stated on page 60 of the application and are summarized below.

During most recent twelve months (10/1/15 to 9/30/16) Wilmington SurgCare performed 8,621 OR cases and 234 pain management cases (performed in GI/endoscopy rooms) which is a ratio of 2.7% pain management cases to OR cases. The applicant utilized this ratio to project procedure room cases for the first three OYs. The applicant projects 321 cases in OY 3 which is less than one per day. However, there are no promulgated standards for procedure rooms. In fact, there is no definition of a procedure room in the certificate of need law.

Projected utilization of the existing and proposed ORs is based on reasonable and adequately supported assumptions.

Based on review of: 1) the information provided by the applicant in Section I, pages 6-8, Section III, pages 25-61, Section IV, page 78, and referenced exhibits; 2) comments received during the first 30 days of the review cycle; and 3) the applicant’s response to the comments received at the public hearing, the applicant adequately documents the need to develop the three new ORs at the existing Wilmington SurgCare facility.

Access

In Section VI, page 87, the applicants state *“The facility will not discriminate against anyone due to age, race, color, religion, ethnicity, gender, disability or ability to pay. The facility holds Medicare and Medicaid certification and accreditation in support of expanded patient access.”*

In Section VI.14, pages 94, the applicant provides the projected payor mix for the proposed project during OY2 (CY2021), as shown in the following table:

Wilmington SurgCare Payor Mix- OY2 FY 2021 (1/1/21-12/31/21)	
Payor	Cases as % of Total Cases
Self-Pay / Indigent	1.24%
Medicare / Medicare Managed Care	51.26%
Medicaid	7.78%
Commercial Insurance	0.41%
Managed Care	32.65%
Other (Workers Comp, TriCare and Other)	6.65%
Total	100.00%

As shown in the table above, the applicant projects that 51.25% of all cases will be covered by Medicare and 7.78% of all cases will be covered by Medicaid. The projected payor mix is based on the historical payor mix of Wilmington SurgCare.

The applicant adequately demonstrated the extent to which all residents, including underserved groups, will have access to the proposed services.

Conclusion

In summary, the applicant adequately identifies the population to be served, demonstrates the need that the population has for the services proposed and the extent to which all residents of the area, including underserved groups, are likely to have access to the proposed services. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three multispecialty GI/endoscopy rooms.

Patient Origin

On page 62, the 2016 SMFP defines the service area for ORs as *“the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6-1 [on page 67].”* Figure 6-1 shows New Hanover County as a single county OR service area. Thus, the service area for this proposal is New Hanover County. Facilities may also serve residents of counties not included in their service area.

In Section III.6, page 120, the applicants provide the projected patient origin for the both ORs and the multispecialty GI/Endoscopy rooms during the first two operating years (OY) following completion of the project, as shown in the tables below.

ORs- Cape Fear Surgery Center

County	OY1-Patients (7/1/19-6/30/20)	OY2-Patients (7/1/20-6/30/21)	% of Total Patients
New Hanover	3,381	3,472	49.3%
Onslow	1,056	1,084	15.4%
Pender	887	911	12.9%
Brunswick	353	362	5.1%
Other*	1,183	1,215	17.2%
Total	6,860	7,045	100.0%

*Other includes Alamance, Allegheny, Avery, Beaufort, Bladen, Buncombe, Cabarrus, Caldwell, Carteret, Chatham, Columbus, Craven, Cumberland, Currituck, Davie, Duplin, Edgecombe, Forsyth, Gaston, Guilford, Halifax, Harnett, Hoke, Johnston, Jones, Lenoir, McDowell, Mecklenburg, Moore, Nash, Orange, Pamlico, Pasquotank, Pitt, Randolph, Robeson, Sampson, Scotland, Stanly, Union, Wake, Wayne, Wilkes, and Wilson counties in North Carolina, as well as other states.

Multispecialty GI/Endoscopy Rooms- Cape Fear Surgery Center

County	OY1-Patients (7/1/19-6/30/20)	OY2-Patients (7/1/20-6/30/21)	% of Total Patients
New Hanover	2,571	2,604	52.6%
Brunswick	1,056	1,069	21.6%
Pender	530	536	10.8%
Onslow	286	289	5.8%
Other*	442	448	9.0%
Total	4,884	4,946	100.0%

*Other includes Alamance, Bladen, Carteret, Catawba, Columbus, Craven, Cumberland, Duplin, Forsyth, Gaston, Guilford, Halifax, Harnett, Johnston, Jones, Lenoir, Macon, Mecklenburg, Moore, Nash, Orange, Robeson, Rowan, Rutherford, Sampson, Stanly, Wake, Watauga and Wilkes counties in North Carolina, as well as other states.

On page 121, the applicants provide the assumptions and methodology used to project patient origin for both the OR and the multispecialty GI/Endoscopy rooms, as follows:

“CFSC expects its patient origin through the project years will closely match the historical patient origin of the cases and procedures projected to be performed at the ASC. Consequently, future patient origin for the proposed ASC is based on the 2016 operating room and procedure room patient origin for the physicians who are projected to perform procedures at the proposed ASC. As noted in Section III.1.(b), the operating room cases to be performed at the facility, and consequently the projected patient origin, exclude cases projected to be performed at a concurrently proposed ASC in Brunswick County.”

The applicants adequately identify the population to be served.

Analysis of Need

In Section III, pages 60-106, and referenced exhibits, the applicants document the need to develop a new ambulatory surgery center with three new ORs, three existing ORs and three existing multispecialty GI/endoscopy rooms.

On page 60, the applicant states:

“The unmet need is driven by the need to create additional freestanding ASC capacity. Importantly, the project includes the development of additional operating capacity in New Hanover County and the relocation of existing operating room capacity to respond to the continued demand for ambulatory surgical services. Further, CFSC will foster collaboration and coordination, and enhance quality, access, and value....”

On pages 60-94, and referenced exhibits, the applicants discuss the need for the project including the OR need determination in the 2016 SMFP for three new ORs in the New Hanover Operating Room Service Area.

In Section III, pages 94-106, and referenced exhibits, the applicants discuss the methodology and assumptions supporting the need calculations for the proposed project.

In Section III, pages 121-122, the applicants discuss the alternatives considered and why the proposal was chosen.

The information provided by the applicants in the pages referenced above is reasonable and adequately supported.

Projected OR Utilization

In Section IV.1, page 126, the applicants provide the projected utilization for the ORs at the proposed Cape Fear Surgery Center facility for the first three OYs (FY 7/1/19 -6/30/20 thru FY 7/1/21-6/30/22) following completion of the project, as illustrated in the table below:

Cape Fear Surgery Center			
	OY 1 (FY 7/1/19-6/30/20)	OY 2 (FY 7/1/20-6/30/21)	OY 3 (FY 7/1/21-6/30/22)
# of ORs	6	6	6
Total Cases	6,860	7,045	7,235
Average OR Cases per OR	1,143.3	1,174.2	1,205.8
Annual hours based on 1.5 hrs/procedure	10,290.0	10,567.5	10,852.5
1872 hrs x # of ORs	11,232	11,232	11,232
Utilization Rate	91.61%	94.08%	96.62%

In Section I, pages 10-35, Section III, pages 60-103, and referenced exhibits, the applicants provide the assumptions and methodology used to project OR utilization, which are summarized below.

Cape Fear Surgical Center, is newly formed and equally owned by three entities. On page 16, the application describes CFSC as a joint venture between: 1) New Hanover Regional Medical

Center; 2) Wilmington Health, PLLC; and 3) New Hanover Ambulatory Surgery, LLC. New Hanover Ambulatory Surgery, LLC is 100 percent owned by 15 physician owners affiliated with EmergeOrtho. In the application, NHAS is also referred to as EmergeOrtho. Wilmington Health operates Wilmington Health Endoscopy Center, a licensed ASC located in the physician office building of Wilmington Health. NHRMC is described on page 20 as a county-owned, public, not-for-profit teaching hospital owned by New Hanover County that serves as the tertiary, referral center for a seven-county region in southeast North Carolina. NHRMC consists of two campuses, NHRMC and NHRMC Orthopedic Hospital (formerly Cape Fear Hospital). The orthopedic hospital currently operates eight shared inpatient/outpatient ORs. Pursuant to Project ID#O-11189-16, NHRMC will relocate 68 acute care beds and five ORs from NHRMC Orthopedic Hospital to its main campus. As part of this application to develop three new ORs, NHRMC proposes to relocate the three remaining shared ORs from NHRMC Orthopedic Hospital to the proposed CFSC along with the three licensed multispecialty GI/endoscopy rooms from Wilmington Health.

As shown below, projected utilization is derived from two main sources:

1. OR Cases Currently Performed at NHRMC- Existing OR cases currently performed in NHRMC existing ORs by EmergeOrtho; Wilmington Health and other NHRMC surgeons that will be “shifted” to the proposed CFSC facility plus some new total joint cases and cases from a new NHRMC surgeon.

2. OR Cases Currently Performed at Wilmington SurgCare- Existing OR cases currently being performed at the existing ASC, Wilmington SurgCare, by Emerge Ortho and Wilmington Health surgeons who would now “shift” those OR cases to the proposed CFSC.

OR Cases Currently Performed at NHRMC

As described in the steps below, the applicants first identify the most recent historic overall outpatient OR case data at NHRMC for all types of outpatient OR cases, then identifies only outpatient orthopedic OR case data from NHRMC by groups of surgeons, projects a “shift” of some of those outpatient orthopedic OR cases to the proposed CFSC, and grows those “shifted” cases by 2.8% thru the 3rd project year. The 2.8% growth rate is slightly below the historic growth rate for outpatient orthopedic OR cases at NHRMC.

The applicants identify the total historical outpatient OR cases at NHRMC, as shown in the table below. (See page 97 of application.)

	CY2013	CY2014	CY2015	CY2016*	CAGR
Total OR Outpatient Cases	22,357	23,355	23,165	24,998	3.9%

Source p.97 of the application.

*Based on year-to-date data January thru June.

On page 97, the applicants provide the number of orthopedic outpatient OR cases performed at NHRMC by various groups of surgeons, as shown below.

	CY2013	CY2014	CY2015	CY2016*	CAGR
EmergeOrtho	3,355	3,512	3,330	3,634	2.7%
Wilmington Health	183	203	282	342	23.2%
Other Surgeons at NHRMC	2,457	2,477	2,637	2,566	1.5%
Total OR Outpatient Cases	5,995	6,192	6,249	6,542	3.0%

*Based on year-to-date data January thru June.

The applicants then identified the number of orthopedic outpatient OR cases of EmergeOrtho, Wilmington Health and other surgeons at NHRMC that would shift from NHRMC to CFSC.

	CY 2016
EmergeOrtho	2,105
Wilmington Health	304
Other Surgeons at NHRMC	1,883
Total OR Outpatient Cases	4,292

Source: Pages 97 and 98 of the application.

Further, the applicants identified some total joint cases and cases from a new Wilmington Health Surgeon that would also be performed at the new CFSC facility. (See application pages 98-99.) The table below illustrates the cases “shifted” from NHRMC by EmergeOrtho, Wilmington Health and other surgeons at NHRMC combined with projected total joint cases and cases to be performed by a new Wilmington Health surgeon. The OR cases are then grown yearly by 2.8%, which is slightly less than the historic growth rate for outpatient orthopaedic OR cases performed at NHRMC.

	CY2016	CY2017	CY2018	CY2019	CY2020	CY2021	CY2022	CAGR
EmergeOrtho	2,105	2,164	2,225	2,287	2,351	2,417	2,484	2.8%
Wilmington Health	304	313	321	330	340	349	359	2.8%
Other Surgeons at NHRMC	1,883	1,936	1,990	2,046	2,103	2,162	2,222	2.8%
Total Joints	250	257	264	272	279	287	295	2.8%
New Wilmington Health Surgeon (orthopedic)*	na	374	384	395	406	418	429	2.8%
Total	4,542	5,043	5,184	5,330	5,479	5,632	5,790	2.8%

Table Source page 100 of the application.

*Page 98 of the application states Wilmington Health has recruited a new orthopedic surgeon to start in CY2017.

OR Cases Currently Performed at Wilmington SurgCare to be “shifted” to CFSC

Individuals and entities associated with ownership in CFSC, the proposed new ambulatory surgery center, currently utilize the existing Wilmington SurgCare facility. Surgeons with EmergeOrtho and Wilmington Health plan to “shift” outpatient OR cases currently performed at Wilmington SurgCare to the proposed CFSC as illustrated in the table below:

	CY2016	CY2017	CY2018	CY2019	CY2020	CY2021	CY2022	CAGR
EmergeOrtho	495	509	523	538	553	568	584	2.8%
Wilmington Health	850	867	884	902	920	938	957	2.0%
Total	1,345	1,376	1,407	1,440	1,473	1,507	1,541	

Source: Table page 102.

The total OR cases projected to be shifted from NHRMC and Wilmington SurgCare are shown in the following table:

	CY2016	CY2017	CY2018	CY2019	CY2020	CY2021	CY2022
Shift from NHRMC	4,542	5,043	5,184	5,330	5,479	5,632	5,790
Shift from Wilmington SurgCare	1,345	1,376	1,407	1,440	1,473	1,507	1,541
Total	5,887	6,419	6,592	6,769	6,952	7,139	7,331

P.102

The applicants define the first three project years following completion of the proposed project as: PY1 (7/1/19-6/30/20); PY2 (7/1/20-6/30/21) and PY3 (7/1/21-6/30/22). To convert the OR case projections from the table above, which are in calendar years, to project years, the applicants used the following calculations:

$$PY1 = CY2019 \times 0.5 + CY2020 \times 0.5 [6,769 \times .5 = 3384] + [6,952 \times .5 = 3476] = 6,860$$

$$PY2 = CY2020 \times 0.5 + CY2021 \times 0.5 [6,952 \times .5 = 3,476] + [7,139 \times .5 = 3,569] = 7,045$$

$$PY3 = CY 2021 \times 0.5 + CY2022 \times 0.5 [7,139 \times .5 = 3,569.5] + [7,331 \times .5 = 3,665.5] = 7,235$$

The applicants calculated the number of ORs needed based on projected utilization, as shown below.

	OY1 (7/1/19-6/30/20)	OY2 (7/1/20-6/30/21)	OY3 (7/1/21-6/30/22)
OR Cases	6,860	7,045	7,235
Surgical Hours (OR Cases x 1.5)	10,291	10,568	10,853
OR Need (Surgical Hours / 1,872 hours)	5.5	5.6	5.8
#of ORs	6.0	6.0	6.0

Table Source: page 103 of the application.

As shown in the table above, in OY3, the applicants project that 7,235 outpatient surgical cases will be performed in the six ORs (3 new and 3 existing being relocated from NHRMC) at the proposed Cape Fear Surgery Center facility, which documents a need for six ORs consistent with the OR Performance Standard promulgated in 10A NCAC 14C .2103(b), as illustrated in the table below:

	Inpatient Cases	Outpatient Cases	Total Hours (OP Cases x 1.5 Hours / Case)	Total Hours/ 1,872 Hours / OR / Year	# of ORs Needed
OY 3	----	7,235	10,852.5	5.797	6.0

Multispecialty GI/Endoscopy Rooms

As part of the proposed project, the applicants intend to relocate three existing multispecialty GI/endoscopy rooms from Wilmington Health’s existing ASC, Wilmington Health Endoscopy Center, to the proposed new ASC, Cape Fear Surgery Center.

In Section IV.1, page 126, the applicants provide the projected utilization for the multispecialty GI/Endoscopy rooms at the proposed Cape Fear Surgery Center facility for the first three OYs (FY 7/1/19 -6/30/20 thru FY 7/1/21-6/30/22) following completion of the project, as illustrated in the table below:

	OY 1 (FY 7/1/19-6/30/20)	OY 2 (FY 7/1/20-6/30/21)	OY 3 (FY 7/1/21-6/30/22)
# of Rooms	3	3	3
# of Procedures	4,884	4,946	5,009

In Section III, pages 103-106, the applicants provide the assumptions and methodology used to project utilization, which are summarized below.

- Historical GI/Endoscopy procedures at Wilmington Health Endoscopy Center

	2014	2015	2016	CAGR
GI/Endo Procedures	3,955	4,343	4,672*	8.7%

Source: Table page 104 of the application

*2016 based on year-to-date January thru June data.

- Calculate projected population growth in New Hanover County

New Hanover County	2015	2022	CAGR
Total Population	220,231	240,664	1.28%

Source: NC OSBM population data updated 9/19/16.

- Shift all of the GI/Endoscopy Cases (and the only three GI/Endoscopy rooms) from Wilmington Health to CFSC and project future utilization using the projected 1.28% population growth rate of New Hanover County.

	CY2016	CY2017	CY2018	CY2019	CY2020	CY2021	CY2022	CAGR
GI/Endoscopy Procedures	4,672	4,732	4,792	4,853	4,915	4,978	5,041	1.28%

- Convert projected utilization from CY to OY.

$$PY1 = CY2019 \times 0.5 + CY2020 \times 0.5 [4,853 \times .5 = 2,426.5] + [4,915 \times .5 = 2,457.5] = 4,884$$

$$PY2 = CY2020 \times 0.5 + CY2021 \times 0.5 [4,915 \times .5 = 2,457.5] + [4,978 \times .5 = 2,489] = 4,946.5$$

$$PY3 = CY2021 \times 0.5 + CY2022 \times 0.5 [4,978 \times .5 = 2,489] + [5,001 \times .5 = 2,520.5] = 5,009.5$$

	OY 1 (FY 7/1/19-6/30/20)	OY 2 (FY 7/1/20-6/30/21)	OY 3 (FY 7/1/21-6/30/22)
Procedures in GI/Endoscopy Rooms	4,884	4,946	5,009
# of GI/Endoscopy Rooms	3	3	3
Procedures per Room	1,628	1,649	1,670

As shown in the table above, the applicants project at least 1,600 GI endoscopy procedures per GI endoscopy room in OY2 which exceeds the performance standard of at least 1,500 GI endoscopy procedures per GI endoscopy room for GI/endoscopy rooms promulgated in N.C. Gen. Stat. §131E-182(a) and 10A NCAC 14C .3903(b).

Projected utilization of the ORs is based on reasonable and adequately supported assumptions.

Based on review of: 1) the information provided by the applicant in Section I, pages 10-35, Section III, pages 60-106, including referenced exhibits; 2) comments received during the first 30 days of the review cycle; and 3) the applicant’s response to the comments received at the public hearing, the applicant adequately documents the need to develop the three new ORs in a new ASC including three relocated ORs and three relocated multispecialty GI/endoscopy rooms.

Access

In Section VI., page 134, the applicants state *“CFSC will provide services to all persons in need of medical care, regardless of race, color, religion, natural origin, sex, age, disability, or source of payment.”*

In Section VI.14, pages 140-141, the applicants provide the projected payor mix for the proposed project during OY 2 (7/1/19-6/30/20), as show in the following table:

Cape Fear Surgical Center Payor Mix – OY2 7/1/19 – 6/30/20	
Payor	Cases as % of Total Cases
Self-Pay / Indigent/ Charity	3.3%
Medicare / Medicare Managed Care	30.1%
Medicaid	10.7%
Commercial / Managed Care	43.9%
Other*	12.1%
Total	100.00%

*Includes workers comp and other governmental payors.

As shown in the table above, the applicants project that 30.1% of all cases will be covered by Medicare and 10.7% of all cases will be covered by Medicaid. The projected payor mix is based on the historical payor mix for the cases and procedures projected at Cape Fear Surgical Center based on internal data of NHRMC, Wilmington Health and EmergeOrtho. (See application page 140)

Furthermore, the proposed project will increase access for patients in that part of the project involves relocating three existing ORs from NHRMC (where they are on the hospital’s license) to a new ASC with patients able to benefit from the cost savings associated with having outpatient surgery at an ASC as opposed to having the same outpatient surgery performed in a hospital-based OR.

The applicants adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services.

Conclusion

In summary, the applicants adequately identify the population to be served, demonstrate the need that the population has for the services proposed and the extent to which all residents of the area, including underserved groups, are likely to have access to the proposed services. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any gastrointestinal (GI) endoscopy rooms.

Patient Origin

On page 62, the 2016 SMFP defines the service area for ORs as *“the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6-1 [on page 67].”* Figure 6-1 shows New Hanover County as a single county OR service area. Thus, the service area for this proposal is New Hanover County. Facilities may also serve residents of counties not included in their service area.

In Section III.6, page 80, the applicant provides the projected patient origin for the proposed project during the first two operating years (OY) following completion of the project, as shown in the table below.

Surgery Center of Wilmington

County	OY1-Patients (CY 2020)	OY2-Patients (CY 2021)	% Total Patients
New Hanover	962	1,322	45.96%
Brunswick	460	632	21.97%
Pender	189	259	9.01%
Onslow	178	245	8.52%
Columbus	109	150	5.22%
Other NC*	99	136	4.74%
Duplin	65	89	3.08%
Other States	31	43	1.46%
Total	2,093	2,876	100.00%

*Other NC includes Avery, Beaufort, Bladen, Burke, Cabarrus, Carteret, Craven, Cumberland, Durham, Forsyth, Franklin, Gaston, Guilford, Harnett, Hertford, Jones, Lenoir, Mecklenburg, Nash, Northampton, Pamlico, Pitt, Richmond, Robeson, Rockingham, Rowan, Sampson, Stokes, Union, Wake, Watauga and Wayne counties in North Carolina.

On pages 80-81, the applicant provides the assumptions and methodology used to project patient origin for the proposed project, as follows:

“SCW is not an existing facility and therefore no historical patient origin data is available. To estimate reasonably SCW’s proposed patient origin by percentage, the applicant used patient origin data based on Wilmington SurgCare’s 2016 LRA. Wilmington SurgCare is the only other freestanding, non-hospital owned ASF in New Hanover that provides all of the specialties proposed by the applicant.”

The applicant adequately identifies the population to be served.

Analysis of Need

In Section III, pages 45-71, and referenced exhibits, the applicant documents the need to develop a new ambulatory surgery center with three new ORs and one procedure room.

On pages 45-65, the applicant discusses the factors which they state support the need for the proposal, which are listed below along with the pages where each factor is discussed in the application:

- *Need Determination in the 2016 SMFP for three Operating Rooms in the New Hanover County Operating Room Service Area. (See application page 46)*
- *Growth, aging, and health status of the population of the project’s service area. (See application pages 46-48)*
- *Need for additional, non-hospital owned ambulatory surgical facilities in New Hanover County. (See application pages 49-50)*
- *Growth in Neurosurgery and Ophthalmology ambulatory surgical cases in New Hanover County. (See application pages 51-52)*
- *Need for a dental specific operating room in a non-hospital based setting. (See application pages 53-60)*
- *Need to reduce cost of dental surgeries. (See application page 61)*
- *Need to reduce the cost of spine surgeries, which are extremely expensive in a hospital-based environment. (See application pages 60-61)*
- *Need for specialized equipment. (See application page 62)*
- *Need for standardized pre and post-surgical processes for neurosurgery cases. (See application page 63)*
- *Need for increased patient convenience. (See application page 63)*
- *Need to increase physician capacity to treat more patients in Southeastern North Carolina. (See application pages 64-65)*
- *Need for extended stat/short stay recovery beds. (See application page 65)*

In Section III, pages 66-71 and Section IV, pages 91-101, and referenced exhibits, the applicant discusses the methodology and assumptions supporting the need calculations for the proposed project.

In Section III, pages 82-84 the applicant discusses the alternatives considered and why the proposal was chosen.

The information provided by the applicant in the pages referenced above is reasonable and adequately supported.

Projected Utilization

In Section IV.1, page 92, the applicant provides the projected utilization for the ORs at the proposed Surgery Center of Wilmington facility for the first three OYs (CY2019 – 2021) following completion of the project, as illustrated in the table below:

Surgery Center of Wilmington			
	OY 1 (CY 2019)	OY 2 (CY 2020)	OY 3 (CY 2021)
# of ORs	3	3	3
Total Cases	1,904	2,615	3,321
Average OR Cases per OR	634.7	871.7	1,107
Annual hours based on 1.5 hrs/procedure	2,856	3,922.5	4,981.5
1872 hrs x # of ORs	5,616	5,616	5,616
Utilization Rate	50.85%	69.85%	88.7%

In Section III, pages 45-71 and Section IV, pages 91-101, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

Surgery Center of Wilmington is not an existing facility. In projecting OR utilization for the proposed new facility, the applicant focused strictly on two categories of OR cases:

- 1) Neurosurgery- defined as including neurosurgery and orthopedic procedures done by neurosurgeons; and
- 2) Ophthalmology- defined as including only ophthalmology procedures.

The applicant projects OR utilization in the first three OYs following project completion by projecting OR utilization for each of the two categories of cases identified above and then totaling the number of OR cases in each category. The applicant followed the same methodology to establish projected utilization for each of the two categories:

Neurosurgery:

- Step 1. Project the number of neurosurgery ambulatory surgery cases expected to be performed in New Hanover County by Operating Year. (See pages 93-95 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Neurosurgery	1,532	1,639	1,746

In Section III, pages 67-71, specifically, Tables III.11 through Tables III.15, the applicant describes the methodology and assumptions utilized to project the number of neurosurgery ambulatory surgery cases expected to be performed in New Hanover County by Operating Year. The projected neurosurgery cases are based on the Average Annual Rate of Change (107 cases per year) as defined on page 70, which results in a lower number of cases than if the applicant had used the historical CAGR (18.1%) for neurosurgery ambulatory surgery cases in New Hanover County. (See application pages 70-71)

Step 2. Project Surgery Center of Wilmington Case Volumes based on Market Share projections. (See page 94 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Neurosurgery	1,532	1,639	1,746
% Market Share	50.0%	57.0%	60.0%
Projected Cases	766	934	1,048

In Section IV, page 94, and Exhibit 19, the applicant documents that the three neurosurgery practices who have committed to utilize the proposed Surgery Center of Wilmington performed 74% of all neurosurgery cases reported in the 2015 LRAs. Based on the 74% figure, the applicants state that an assumption of 60% market share of ambulatory surgical cases in OY3 is reasonable. The market share assumptions of 50% in OY1 and 57% in OY2 are projected as a ramp up.

Ophthalmology Cases

Step 1. Project the number of ophthalmology ambulatory surgery cases expected to be performed in New Hanover County by Operating Year. (See pages 95-96 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Ophthalmology	11,379	12,005	12,631

In Section III, pages 67-71, specifically, Tables III.11 through Tables III.15, the applicant describes the methodology and assumptions utilized to project the number of ophthalmology ambulatory surgery cases expected to be performed in New Hanover County by Operating Year. The projected ophthalmology cases are based on the Average Annual Rate of Change (626 cases per year) as defined on page 70, which results in a lower number of cases than if the applicant had used the historical CAGR (11.5%) for ophthalmology ambulatory surgery cases in New Hanover County. (See application pages 70-71)

Step 2. Project Surgery Center of Wilmington Ophthalmology Case Volumes based on Market Share projections. (See page 95-96 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Ophthalmology	11,379	12,005	12,631
% Market Share	10.0%	14.0%	18.0%
Projected Cases	1,138	1,681	2,274

In Section IV, pages 95-96, the applicant describes the methodology and assumptions utilized to project market share of ophthalmology case volume for OY1 through OY3.

Total Projected OR Cases: Combined Neurosurgery and Ophthalmology Cases

The applicant then combined the projected Neurosurgery OR cases and Ophthalmology cases to project total OR cases for the first three OYs after completion of the proposed project. (See page 98 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Neurosurgery Projected OR Cases	766	934	1,048
Ophthalmology Projected OR Cases	1,138	1,681	2,274
Total Projected OR Cases	1,904	2,615	3,322

Utilizing projected total OR cases, the applicant then calculated the number of ORs needed based on projected utilization.

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Total Projected OR Cases	1,904	2,615	3,322
Ambulatory Case Time 1.5 hours	2,856	3,922.5	4,983
Hours per OR per Year	1,872	1,872	1,872
Projected ORs needed	1.53	2.095	2.66
Rounded up	2.0	2.0	3.0

As shown in the table above, in OY 3 (CY 2021), the applicant projects that 3,322 outpatient surgical cases will be performed in the three ORs at the proposed Surgery Center of Wilmington facility, which documents a need for three ORs consistent with the OR Performance Standard promulgated in 10A NCAC 14C .2103(b), as illustrated in the table below:

	Inpatient Cases	Outpatient Cases	Total Hours (OP Cases x 1.5 Hours / Case)	Total Hours/ 1,872 Hours / OR / Year	# of ORs Needed
OY 3	----	3,322	4,981.5	2.66	3.0

Procedure Room

The third category of cases that the applicant projects will be performed at the proposed Surgery Center of Wilmington facility are dental and oral surgical cases. The applicant projects all dental and oral surgical cases will be performed in the procedure room. (See application

pages 99-100) The applicant uses the same methodology to project dental and oral surgical cases as it did to project OR cases set forth above.

Step 1. Project the number of dental and oral surgical cases expected to be performed in New Hanover County by Operating Year. (See page 97 of the application.)

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Dental/Oral surgical cases	950	970	990

In Section III, pages 67-71, specifically, Tables III.11 through Tables III.15, the applicant describes the methodology and assumptions utilized to project the number of dental and oral surgical cases expected to be performed in New Hanover County by Operating Year. The projected neurosurgery cases are based on the Average Annual Rate of Change (20 cases per year) as defined on page 70, which results in a lower number of cases than if the applicant had used the historical CAGR (3.1%) for dental/oral ambulatory surgery cases in New Hanover County. (See application pages 70-71)

Step 2. Project Surgery Center of Wilmington dental and oral surgical case volumes based on market share projections.

	OY 1 (CY2019)	OY2 (CY2020)	OY3 (CY 2021)
Dental/Oral surgical cases	950	970	990
% Market Share	20%	27%	30%
Projected Cases	190	262	297

In Section IV, page 97, the applicant describes the methodology and assumptions used to project the market share percentages utilized for OY1 through OY3. Based on two provider letters in Exhibit 20, which project a total of 324 annual dental surgery cases to be performed at the proposed Surgery Center of Wilmington, the applicant calculates that 324 dental cases would equate to more than 30% of the projected oral surgery cases in New Hanover County in OY3(CY2021) [$324/990 = 0.3272$ or 32.7%]. The applicant states that, based on the projected 32.7% market share it projects market share percentages of 20%, 27% and 30%, respectively, for OY1 through OY3.

Projected utilization is based on reasonable and adequately supported assumptions.

Based on review of: 1) the information provided by the applicant in Section III, pages 45-71, Section IV, pages 92-101, including referenced exhibits; 2) comments received during the first 30 days of the review cycle; and 3) the applicant’s response to the comments received at the public hearing, the applicant adequately documents the need to develop three new ORs in a new AMSU facility.

Access

In In Section VI., page 112, the applicant states “*SCW will not discriminate on the basis of age, race, national, or ethnic origin, disability, sex, income, or ability to pay.*”

In Section VI.14, page 120, the applicant provides the projected payor mix for the proposed project during OY2 (CY2020), as shown in the following table:

Surgery Center of Wilmington Payor Mix – OY2 CY2020	
Payor	Cases as % of Total Cases
Self-Pay	1.0%
Medicare / Medicare Managed Care	48.0%
Medicaid	10.0%
Commercial / Managed Care	39.0%
Other (Military, Workers Comp)	2.0%
Total	100.00%

As shown in the table above, the applicant projects that 48.0% of all cases will be covered by Medicare and 10.0% of all cases will be covered by Medicaid. In projecting payor mix, the applicant relies on an average payor mix by specialty for the seven other North Carolina facilities managed by Surgical Care Affiliates and the experience of the neurosurgery practices expected to utilize the proposed facility. (See pages 121-124 of the application.)

The applicants adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services.

Conclusion

In summary, the applicant adequately identifies the population to be served, demonstrates the need that the population has for the services proposed and the extent to which all residents of the area, including underserved groups, are likely to have access to the proposed services. Therefore, the application is conforming to this 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.

C

Cape Fear Surgical Center

NA

Wilmington SurgCare
Surgery Center of Wilmington

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three multispecialty GI/endoscopy rooms.

Operating Rooms

According to Table 6A, on page 75 of the 2016 SMFP, there are 45 ORs in New Hanover County. See table below. The total number of ORs (45) in New Hanover County will increase by three as a result of this proposal to meet the OR Need Determination in the 2016 SMFP.

	Inpatient ORs	Ambulatory ORs	Shared ORs	CON Adjustments	Total
Wilmington SurgCare	0	7	0	0	7
New Hanover Regional Medical Center	5	4	27	2	38
Total*	5	11	27	2	45

*Does not include CON adjustments for C-Section ORs.

NHRMC is a county-owned, public, not-for-profit teaching hospital owned by New Hanover County that serves as the tertiary, referral center for a seven-county region in southeast North Carolina. NHRMC consists of two campuses, NHRMC and NHRMC Orthopedic Hospital (formerly Cape Fear Hospital). The orthopedic hospital currently operates eight shared inpatient/outpatient ORs. Pursuant to Project ID#O-11189-16, NHRMC received a certificate of need effective December 17, 2016, to relocate 68 acute care beds and five ORs from NHRMC Orthopedic Hospital to its main campus. As part of this application, NHRMC proposes to relocate the three remaining shared ORs from NHRMC Orthopedic Hospital to the proposed CFSC along with the three new ORs and to relocate the three licensed multispecialty GI/endoscopy rooms from Wilmington Health. (See page 20 of the application.)

NHRMC, including the main campus and NHRMC Orthopedic Hospital, is currently licensed for 38 ORs (2 dedicated Open Heart; 3 C-Section; 4 dedicated ambulatory surgery and 29 shared). The proposed Cape Fear Surgical Center facility will be located approximately 1.8 miles from NHRMC. Main traffic corridors, connect the proposed and existing facilities. The proposed Cape Fear Surgical Center facility will be located in the same Operating Room Service Area as NHRMC (New Hanover County).

If the proposed project is approved, NHRMC will have 35 ORs upon project completion (38 ORs – 3 shared ORs currently located at NHRMC Orthopedic Hospital being relocated to CFSC). In Exhibit 14, page 289, the applicants provided projected utilization at NHRMC, as illustrated in the tables below.

NHRMC	OY1 (7/1/19-6/30/20)	OY2 (7/1/20-6/30/21)	OY3 (7/1/21-6/30/22)
Total IP Cases	10,094	10,177	10,261
Total OP Cases	20,711	21,075	21,446
Total Surgical Hours [(IP cases x 3.0) + (OP cases x 1.5)]	61,347	62,144	62,952
Divided by 1,872	32.8	33.2	33.6
# of ORs needed whole number >0.5	33	33	34
# of OR's remaining at NHRMC after relocation of 3 shared ORs to proposed Cape Fear Surgery Center facility*	35	35	35

(*2 dedicated Open Heart Surgery ORs + 3 Dedicated C-section ORs + 4 Dedicated Ambulatory ORs + 29 Shared ORs = 38 ORs – 3 Shared ORs being relocated to CFSC = 35 remaining ORs)

As shown in the table above, the applicants demonstrate that, based on projected utilization, NHRMC will need a total of 34 ORs in the third OY following completion of the proposed project. As illustrated in the table, there will be 35 remaining ORs at NHRMC for each of the first three OYs. NHRMC will have adequate OR capacity to meet projected utilization. The applicants adequately demonstrated that the relocation of three existing ambulatory/shared ORs from NHRMC will have no effect 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 at NHRMC.

Furthermore, the proposed project will increase access for patients in that part of the project involves relocating three existing ORs from NHRMC (where they are on the hospital's license) to a new ASC with patients able to benefit from the cost savings associated with having outpatient surgery at an ASC as opposed to having the same outpatient surgery performed in a hospital-based OR.

NHRMC is an existing hospital in the New Hanover County Operating Room Service Area. The proposed Cape Fear Surgical Center will be an AMSU also located in the New Hanover County Operating Room Service Area. Both will be located in Wilmington, New Hanover County and both are owned, in whole or in part by the same legal entity. The same physician practices will utilize both facilities. Therefore, it is reasonable to conclude that both facilities will provide similar access to underserved groups.

GI/Endoscopy rooms

The applicants propose to relocate three multispecialty GI/Endoscopy rooms from the Wilmington Health Endoscopy Center (a licensed and existing ambulatory center owned and operated by Wilmington Health) to the Cape Fear Surgery Center, both facilities are located within Wilmington. According to Map Quest, the proposed Cape Fear Surgery Center facility will be located approximately 2.5 miles (a four minute drive) from the Wilmington Health Endoscopy Center. Therefore, the three multispecialty GI/Endoscopy rooms would be

geographically accessible to the same population currently utilizing the Wilmington Health Endoscopy Center. The same physician practices will utilize the rooms.

The applicants 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 access to the three ORs and the three multispecialty GI/Endoscopy rooms. Therefore, the application is conforming to this 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.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare proposes to renovate and expand its existing multispecialty ASC facility, Wilmington SurgCare, by adding three ORs and one minor procedure room for a total of ten ORs and one minor procedure room. The project does not include any GI/endoscopy rooms.

In Section III.8, pages 70-72, the applicant discusses the three alternatives considered prior to submitting this application, which include:

1. Maintain the Status Quo – The applicant states that the existing utilization (99 percent based on 2016 SMFP methodology), increased medical staff and changes in surgical technologies involving greater use of imaging equipment during minimally invasive procedures requires more space and additional OR capacity. Maintaining the status quo is not the most effective alternative to meet the need for three additional ORs in the 2016 SMFP.
2. Develop a CON Exempt Project for Facility Renovations Separate from the CON Project to Add Operating Rooms- The applicant states that submitting two separate applications, one for facility renovations which does not require CON approval and a second application to develop three new ORs pursuant to the 2016 SMFP need determination would be both cost ineffective due to the unnecessary duplication of plans and project management. Furthermore, the applicant would be open to the critique that the two separate applications were really part of the same overall project and should have both been subject to CON review. For these reasons, the applicant determined that this was not the most effective alternative to meet the need for three additional ORs.
3. Develop a New ASC at an Alternate Location- The applicant states that the current location of Wilmington SurgCare is in a highly effective location, can be expanded, and offers high quality services and a broad scope of services. Developing a new ASC in a

new location in New Hanover County would necessitate incurring site, equipment and facility costs and be more financially susceptible to changes in physicians or primary care referral patterns. Developing a new ASC at an alternate location would not be as cost effective as the proposed alternative.

After considering these alternatives to its proposal, the applicant believes its most effective alternative is to develop the three ORs in its existing ASC in Wilmington.

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that this proposal is its least costly or most effective alternative to meet the identified need for three additional ORs in the New Hanover County Operating Room Service Area. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three multispecialty GI/endoscopy rooms.

In Section III.8, pages 121-122, the applicants discuss the two alternatives considered prior to submitting this application, which include:

1. Maintain the Status Quo – Additional surgical capacity is needed in New Hanover County as demonstrated by the Need Determination for three additional ORs in the New Hanover Operating Room Service Area in the 2016 SMFP and maintaining the status quo would not resolve this need. Further, the proposed project creates additional OR capacity in a freestanding ASC which would not be achieved by maintaining the status quo.
2. Develop a New ASC with Fewer than Six ORs- the proposed project is a collaborative effort between three entities involving a significant number of referring physicians and surgeons projected to generate a significant volume of surgical cases. A new ASC with fewer than six ORs and three GI/endoscopy rooms would not accommodate the projected utilization.

After considering these alternatives to its proposal, the applicants believe the most effective alternative is to develop the three ORs as part of a new ASC, as proposed in the application, in Wilmington.

Furthermore, the application is conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicants adequately demonstrate that this proposal is their least costly or most effective alternative to meet the identified need for three additional ORs in the New

Hanover County Operating Room Service Area. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any GI/endoscopy rooms.

In Section III.8, pages 82-84, the applicant discusses the four alternatives considered prior to submitting this application, which include:

1. Maintain the Status Quo – OR capacity in New Hanover County is limited as evidenced by the OR need determination in the 2016 SMFP for the New Hanover County Operating Room Service Area. The population of New Hanover County is growing. Maintaining the status quo will result in delays for surgery.
2. Develop More Operating Rooms at New Hanover Regional Medical Center or Wilmington SurgCare- NHRMC and Wilmington SurgCare are the only two OR providers in New Hanover County. Adding OR capacity to one of the two existing providers denies the patient population of the benefits of competition, such as lower cost and higher quality.
3. Joint Venture with Other Providers and/or include other Specialties- The applicant states that it has established a membership structure that will allow joint ventures with specialists who practice at the proposed facility.
4. Develop Fewer Than Three Operating Rooms- There is an existing need determination for three additional ORs in New Hanover County. To develop less than three ORs will not resolve the lack of OR capacity. In addition, the proposed facility projects sufficient utilization for an ASC with three ORs and a facility with three ORs is a financially more viable facility.

After considering these alternatives to its proposal, the applicant believes its most effective alternative is to develop the three ORs as part of a new ASC, as proposed in the application, in Wilmington.

Furthermore, the application is conforming or could be conditioned to be conforming to all other statutory and regulatory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicant adequately demonstrates that this proposal is its least costly or most effective alternative to meet the identified need for three additional ORs in the New Hanover County OR Service Area. Therefore, the application is conforming to this 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.

C

Wilmington SurgCare
Cape Fear Surgical Center

NC

Surgery Center of Wilmington

Wilmington SurgCare proposes to renovate and expand its existing multispecialty ASC facility, Wilmington SurgCare, by adding three ORs and one minor procedure room for a total of ten operating rooms and one minor procedure room. The project does not include any GI/endoscopy rooms.

Capital and Working Capital Costs

In Section VIII.1, page 104, the applicant projects the total capital cost of the project will be \$5,600,388, which includes:

Site Costs	\$ 508,180
Construction Costs	\$3,756,208
Movable Equipment Purchase/Lease	\$ 886,000
Architect/Engineering Fees	<u>\$ 450,000</u>
Total:	\$5,600,388

In Section IX.1-3, page 108, the applicant projects no working capital costs (start-up and initial operating expenses) as the proposed project is for the expansion of the existing Wilmington SurgCare facility which is operational and has positive net revenues.

Availability of Funds

In Section VIII.3, page 105, the applicant states that it will finance the capital costs with cash and cash equivalents from its parent company, Surgery Partners, Inc.

In Exhibit 38, the applicant provides a letter from Teresa Sparks, the Chief Financial Officer of Surgery Partners Inc. which states that Surgery Partners Inc. has \$57,933,000 in Cash and Cash Equivalents as of 12/31/15, the funds are available, and is committed to fund the proposed project in the amount of \$5,600,388.

Exhibit 40 contains a copy of the audited Form 10-K for Surgery Partners Inc. for the fiscal year ending December 31, 2015 which, on page F-4 (or page 373 of the application) shows \$57,933,000 in Cash and Cash Equivalents and Net Assets of \$1,925,370,000 (Total Assets – Total Current Liabilities).

The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project.

Financial Feasibility

In the projected revenue and expense statement (Forms B, C, D and E), the applicant projects revenues will exceed operating expenses in each of the first three operating years following completion of the proposed project, as shown in the table below.

	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
Total Number of Cases (OR and Procedure Room)	10,968	11,571	12,208
Average Projected Charge per Case	\$9,786	\$10,275	\$10,789
Total Gross Revenue	\$107,333,007	\$118,895,673	\$131,713,101
Total Net Revenue	\$16,969,299	\$18,321,469	\$19,769,412
Total Expenses	(\$15,168,978)	(\$16,049,889)	(\$16,982,854)
Net Income	\$1,800,321	\$2,271,580	\$2,786,558

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates sufficient funds for operating needs and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates the availability of sufficient funds for the capital and operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three GI/endoscopy rooms.

Capital and Working Capital Costs

In Section VIII.1, pages 153-154, the applicants project the total capital cost of the project will be \$28,946,325, which includes:

Site Costs	\$ 3,311,281
Construction Costs	\$12,859,754
Fixed Equipment Purchase/Lease	\$ 2,960,630

Movable Equipment Purchase/Lease	\$ 4,909,360
Furniture	\$ 580,000
Architect/Engineering Fees	\$ 1,192,800
Financing Costs	\$ 575,000
Interest during Construction	\$ 850,000
Other (Artwork and IT Equipment)	<u>\$ 1,707,500</u>
Total:	\$28,946,325

In Section IX.1-2, page 159, the applicants project \$2,718,322 in working capital costs (\$987,173 start-up + \$1,731,148 initial operating expenses).

Availability of Funds

In Section VIII.3, page 154, the applicants states that they will finance the capital costs with conventional loans from SunTrust Bank. In Section IX.3, page 159, the applicants state that the working capital costs of the proposed project will be financed by reserve funds and a line of credit from SunTrust Bank.

In Exhibit 24, the applicants provides a letter from Sandra Spiers, Senior Vice President of SunTrust Bank which states that SunTrust Bank will provide Cape Fear Surgical Center, LLC with \$29,000,000 in secured financing to develop the proposed project.

Exhibit 24 also contains a second letter from Sandra Spiers, Senior Vice President of SunTrust Bank confirming that Wilmington Health, PLLC has access to a reserve account with a \$4.9 million balance and a line of credit of \$6.0 million of which \$1.864 million is available to fund the working capital needs of the proposed project.

Further, Exhibit 24 contains a letter from Chasity Chase, Chief Financial Officer of Wilmington Health, which states that Wilmington Health is one of the owners of Cape Fear Surgical Center, LLC, that Wilmington Health intends to initially fund 100 percent of the working capital of the proposed project and that Wilmington Health has access to a reserve account and line of credit at SunTrust Bank with sufficient funds to cover the projected working capital needs of the proposed project.

The applicants adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project.

Financial Feasibility

In the projected revenue and expense statement (Forms B, C, D and E), the applicants project revenues will exceed operating expenses in each of the first three operating years following completion of the proposed project, as shown in the table below.

	OY 1 (7/1/19-6/30/20)	OY 2 (7/1/20-6/30/21)	OY 3 (7/1/21-6/30/22)
Total number of OR Cases	6,860	7,045	7,235
Average Projected Charge per OR Case	\$6,619	\$6,754	6,893
Gross Revenue- OR Cases	\$45,408,182	\$47,586,027	\$49,868,530
Total number of Procedure Room Cases	4,884	4,946	5,009
Average Projected Charge per Procedure Room Case	\$1,066	\$1,088	\$1,110
Gross Revenue- Procedure Room Cases	\$5,208,428	\$5,380,362	\$5,557,972
Total Gross Revenue	\$50,616,611	\$52,966,390	\$55,426,503
Total Net Revenue	\$17,821,587	\$18,642,831	\$19,502,429
Total Expenses	(\$16,919,652)	(\$17,406,203)	(\$17,916,668)
Net Income	\$901,935	\$1,236,628	\$1,585,761

The assumptions used by the applicants in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate sufficient funds for operating needs and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicants adequately demonstrate the availability of sufficient funds for the capital, working capital and operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any gastrointestinal (GI) endoscopy rooms.

Capital and Working Capital Costs

In Section VIII.1, pages 138-139, the applicant projects the total capital cost of the project will be \$9,645,317, which includes:

Construction Costs	\$3,244,637
Fixed Equipment Purchase/Lease	\$ 787,080
Movable Equipment Purchase/Lease	\$3,343,313
Furniture	\$ 367,072
Architect/Engineering Fees	\$ 281,370
Legal Fees	\$ 10,000
Other Fees	\$ 197,374
Interest during Construction	\$ 156,386
Additional Contingency (15%)	<u>\$1,258,085</u>

Total: \$9,645,317

In Section IX.1, page 148, the applicant projects \$870,827 in working capital costs (\$184,096 start-up + \$686,731 initial operating expenses).

Availability of Funds

In Section VIII.3, page 142, the applicant states that the capital costs will be financed with conventional loans. In Section IX.2, page 149, the applicants state that the working capital costs of the proposed project will be financed by a commercial loan.

In Exhibit 25, the applicant provides a letter from Rocky Rhodes, Senior Vice President of FirstCitizens Bank which states that FirstCitizens Bank will provide Surgical Care Affiliates, the sole member of Surgery Center of Wilmington, LLC, with \$10.0 million for the capital costs and \$1.0 million of the working capital costs to develop the proposed project.

The letter in Exhibit 25 is addressed to Surgical Care Affiliates, the sole member of the applicant and the application does not contain a letter from an officer of Surgical Care Affiliates confirming how the money would be used or that it would go to the applicant and there is no letter from an officer of the applicant confirming how the money would be used. Therefore, the applicant does not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project. See the N.C. Court of Appeals decisions in the working papers.

Financial Feasibility

In the projected revenue and expense statement (Forms B, C, D and E), the applicant projects revenues will exceed operating expenses in each of the first three operating years following completion of the proposed project, as shown in the table below.

	OY 1 (CY 2019)	OY 2 (CY 2020)	OY 3 (CY 2021)
Total number of OR Cases	1,904	2,615	3,321
Average Projected Charge per OR Case	\$,9,022	\$8,870	\$8,729
Gross Revenue: OR Cases	\$17,177,800	\$23,194,016	\$28,987,456
Total Number of Procedure Room Cases	190	262	297
Average Projected Charge per Procedure Room Case	\$2,000	\$1,999	\$2,000
Gross Revenue: Procedure cases	\$380,080	\$523,800	\$593,880
Total Gross Revenue	\$17,557,880	\$23,717,816	\$29,581,336
Total Net Revenue	\$7,191,882	\$9,516,044	\$11,631,711
Total Expenses	(\$7,114,011)	(\$8,134,769)	(\$8,921,876)
Net Income	\$77,872	\$1,381,275	\$2,709,835

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the financial section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

Conclusion

In summary, the applicant adequately demonstrates the availability of sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. However, the applicant does not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project. Therefore, the application is not conforming to this 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.

C

Wilmington SurgCare
 Cape Fear Surgical Center
 Surgery Center of Wilmington

The 2016 State Medical Facilities Plan (2016 SMFP) includes an Operating Room Need Determination for three operating rooms in the New Hanover County Operating Room Service Area.

On page 62, the 2016 SMFP defines the service area for ORs as “*the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6-1 [on page 67].*” Figure 6-1 shows New Hanover County as a single county OR service area. Thus, the service area for this proposal is New Hanover County. Facilities may also serve residents of counties not included in their service area.

According to Table 6A, on page 75 of the 2016 SMFP, there are 45 ORs in New Hanover County located in two facilities: Wilmington SurgCare (7 ORs) and NHRMC (38 ORs). See table below. The total number of ORs (45) in New Hanover County will increase by three if one of the proposals is approved to meet the OR Need Determination in the 2016 SMFP.

	Inpatient ORs	Ambulatory ORs	Shared ORs	CON Adjustments	Total
Wilmington SurgCare	0	7	0	0	7
New Hanover Regional Medical Center	5	4	27	2	38
Total*	5	11	27	2	45

*Does not include CON adjustments for C-Section ORs.

Wilmington SurgCare proposes to renovate and expand its existing multispecialty ASC facility, Wilmington SurgCare, by adding three ORs and one minor procedure room for a total of ten ORs and one minor procedure room. The project does not include any GI/endoscopy rooms. The applicant adequately demonstrates the need to develop three additional ORs at Wilmington SurgCare in Wilmington, New Hanover County, based on the number of projected patients it proposes to serve. The discussion on projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the proposal will not result in the unnecessary duplication of existing or approved ORs in New Hanover County. Consequently, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three GI/endoscopy rooms. The applicants adequately demonstrate the need to develop three new ORs at a new ASC facility in Wilmington, New Hanover County based on the number of projected patients they propose to serve. The discussion on projected utilization found in Criterion (3) is incorporated herein by reference. The applicants adequately demonstrate that the proposal will not result in the unnecessary duplication of existing or approved ORs in New Hanover County. Consequently, the application is conforming to this criterion.

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any GI/endoscopy rooms. The applicant adequately demonstrates the need to develop three new ORs at a new ASC facility in Wilmington, New Hanover County based on the number of projected patients it proposes to serve. The discussion on projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates that the proposal will not result in the unnecessary duplication of existing or approved ORs in New Hanover County. Consequently, the application is conforming to this criterion.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare. In Section VII.2, page 96, the applicant projects staffing at Wilmington SurgCare in the second operating year, as illustrated in the following table:

Position	Number of Full-Time Equivalent (FTE) Positions
Administration	3.25
Medical Records/Billing	14.50
Materials Management	1.00
Clinical-Supervisors-RNs	2.00
Clinical-Infection/Quality Coordinator	1.00
Registered Nurses (RN)	28.00
Certified Nursing Assistants II	5.75
Certified Sterile Processing Technicians	3.50
Surgical Technicians	10.50
Clinical-PreAdmission RN	2.50
Radiological Technologists	0.75
TOTAL	72.75

Source: Table VII.2, page 96.

As shown in the table above, the applicant projects to employ 72.75 FTEs in the second operating year. In Section VII.3, pages 96-97, and Section VII.7, page 100, and Exhibit 35, the applicant describes its experience and process for recruiting and retaining staff. Exhibit 30 contains a letter from David Lensch, MD, which expresses his commitment to serve as the Medical Director for Wilmington SurgCare.

Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed ambulatory surgical services. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center. In Section VII.2, page 143, the applicants project staffing at the proposed Care Fear Surgical Center facility in the second operating year, as illustrated in the following table:

Position	Number of Full-Time Equivalent (FTE) Positions
ASC Administrator	1.0
Clinical Director	1.0
OR Coordinator	1.0
Registered Nurses (RN)	23.0
Patient Navigators (RN)	1.0
Nursing Aides, Orderlies, or Attendants	1.0
Surgical Technicians	14.0
Medical Records / Administrator	1.0
Radiological Technologists and/or Technicians (ARRT)	3.0
Nurse Educator/Infection Control/OSHA	1.0
Central Sterile Processing	3.0
Materials Management/Purchasing	1.5
Environmental Services	0.5
IT Administrator	0.5
Biomed	0.5
All “non-health professionals” and “technical” personnel*	9.0
TOTAL	62.0

Source: Table VII.2, page 143.

*Includes Business Office Manager, Billing Office Coordinator, Billing Office Staff, Front Desk Staff, and Coding Staff

As shown in the table above, the applicants project to employ 62.0 FTEs in the second operating year. In Section VII.3, page 144, and Section VII.7, page 147, the applicants describe their experience and process for recruiting and retaining staff. Exhibit 10 contains a letter from Craig A. Rineer, MD, which expresses his commitment to serve as Medical Director for the proposed Cape Fear Surgical Center.

Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in the pro forma financial statements.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed ambulatory surgical services. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington. In Section VII.2, page 125, the applicant projects staffing at the proposed Surgery Center of Wilmington facility in the second operating year, as illustrated in the following table:

Position	Number of Full-Time Equivalent (FTE) Positions
Professional Health Care Administrators	1.00
Director of Nursing	1.00
Business Office Lead	1.00
RN	11.13
LPN	1.50
Surgical Technician	3.18
Radiology Technician	1.06
Sterile Processing Coordinator	1.06
All “non-health professionals” and “technical” personnel*	5.71
TOTAL	26.64

Source: Table VII.2, page 143.

*Includes Business Office Clerk, Physician’s Office Liaison, and a Purchasing Coordinator.

As shown in the table above, the applicant projects to employ 26.64 FTEs in the second operating year. In Section VII.7, pages 130-131, the applicant describe its experience and process for recruiting and retaining staff. Exhibit 5 contains a letter from J. Alex Thomas, MD, which expresses his commitment to serve as Medical Director for the proposed Surgery Center of Wilmington.

Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in the pro forma financial statements.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed ambulatory surgical services. Therefore, the application is conforming to this 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.

C

Wilmington SurgCare
 Cape Fear Surgical Center
 Surgery Center of Wilmington

Wilmington SurgCare is an existing facility. In Section II, pages 9-10, the applicant identifies the necessary ancillary and support services and indicates how they are or will be made available. Exhibit 30 contains a letter from the medical director of the facility expressing his support for the proposed project. The applicant discusses coordination with the existing health care system in Section V, pages 79-82. Exhibits 9-12 respectively, contain copies of agreements for anesthesiology, pathology, radiology, pharmacy services, patient transfer and

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. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center. In Section II, pages 40-41, the applicants identify the necessary ancillary and support services and indicates how they are or will be made available. Exhibit 10 contains a letter from the proposed medical director of the facility expressing his support for the proposed project. The applicants discuss coordination with the existing health care system in Section 5, pages 128-132. Exhibit 6 contains letters for anesthesiology and pharmacy services. Exhibit 19 contains a copy of a hospital transfer agreement. The applicants adequately demonstrate that the necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing health care system. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington. In Section II, pages 29-30, the applicant identifies the necessary ancillary and support services and indicates how they are or will be made available. Exhibit 5 contains a letter from the proposed medical director of the facility expressing his support for the proposed project. The applicant discusses coordination with the existing health care system in Section V, pages 102-107. Exhibit 9 contains a letter from the Regional VP of Surgical Care Affiliates which states that if approved, he will become the interim Administrator of the proposed facility. The letter also details which services will be provided by facility staff and which services will be provided by outside vendors including a statement that Surgical Care Affiliates has “*existing vendors for these services for SCA facilities.*” Exhibit 11 contains a copy of a letter from Surgical Care Affiliates addressed to NHRMC seeking establishment of a 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. Therefore, the application is conforming to this criterion.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:
- (i) would be available under a contract of at least 5 years duration;

- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

- (11) Repealed effective July 1, 1987.
- (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.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare. In Section XI, pages 114 and 117, the applicant states that it currently leases 22,548 square feet of a building located at 1801 South Seventeenth Street in Wilmington. The applicant proposes to renovate 4,273 square feet and add 4,319 square feet for a total of 26,867 square feet upon project completion. Exhibit 37 contains a letter from Bruce Bowan, AIA, which provides costs estimates relating to site development, construction, renovation and professional fees for the proposed project which are consistent with the cost estimates found on page 104 of the application. In Section III, pages 64-66, and Section XI, pages 118-119, the applicant describes its plans for energy-efficiency and water conservation. Costs and charges are described by the applicant in the financials section of the application. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference.

The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative for the proposed renovation and expansion of the existing ASC to accommodate three new ORs, that energy saving features have been incorporated into the construction plans, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center. In Section XI, pages 164- 167, the applicants propose to acquire a parcel of land and develop a new 48,356 square foot facility to be located on Iron Gate Drive in Wilmington. Exhibit 26 contains a letter from Little Diversified Architectural Consulting, Inc. which provides costs estimates relating to site preparation, construction, and professional fees for the proposed project which are consistent with the cost estimates found on pages 153-154 of the application. In Section III, page 118, Section XI, page 168, and Exhibit 16 the applicants describe the plans for energy-efficiency and water conservation. Costs and charges are

described by the applicant in Section X, pages 160-163 and the financials section of the application. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference.

The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative for the proposed ASC, that energy saving features have been incorporated into the construction plans, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington. In Section XI, pages 154- 157, the applicant proposes to lease and upfit a 12,500 square foot facility building which a separate corporation, not the applicant, will develop at 4301 Carolina Beach Road in Wilmington. Exhibit 17 contains a letter from Andrew Burell, AIA, which provides construction cost estimates relating to upfitting the shell building and professional fees for the proposed project which are consistent with the cost estimates found on page 139 of the application. In Section III, page 78, Section XI, page 161, and Exhibit 17 the applicant describes its plans for energy-efficiency and water conservation. Costs and charges are described by the applicant in Section X, pages 150-153 and the proformas section of the application. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference.

The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative for the proposed ASC, that energy saving features have been incorporated into the construction plans, and that the construction cost will not unduly increase costs and charges for health services. Therefore, the application is conforming to this 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;

C

Wilmington SurgCare
Cape Fear Surgical Center

NA

Surgery Center of Wilmington

Wilmington SurgCare. In Section VI.13, pages 93, the applicant provides the payor mix for Wilmington SurgCare during FY 2015, as shown in the following table:

Wilmington SurgCare Payor Mix FY 2015 (1/1/15-12/31/15)	
Payor	Cases as % of Total Cases
Self-Pay / Indigent	1.24%
Medicare / Medicare Managed Care	51.26%
Medicaid	7.78%
Commercial Insurance	0.41%
Managed Care	32.65%
Other (Workers Comp, TriCare and Other)	6.65%
Total	100.00%

Source: Application page 93. Tables may not foot due to rounding.

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant's service area.

Percent of Population						
County	% 65+	% Female	% Racial & Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
New Hanover	16%	52%	23%	18%	9%	19%
Statewide	15%	51%	36%	17%	10%	15%

Source: <http://www.census.gov/quickfacts/table>, 2014 Estimate as of December 22, 2015.

*Excludes "White alone" who are "not Hispanic or Latino"

***This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable...The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicants' current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicant adequately demonstrates that the facility currently provides access to medically underserved populations. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center does not yet exist. The three ORs to be relocated are on the license of NHRMC, one of the members of Cape Fear Surgical Center. In Section VI.13, pages 140, the applicants provide the payor mix for NHRMC Outpatient Orthopedic OR cases during CY 2015, as shown in the following table:

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.

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant's service area.

Percent of Population						
County	% 65+	% Female	% Racial & Ethnic Minority*	% Persons in Poverty**	% < Age 65 with a Disability	% < Age 65 without Health Insurance**
New Hanover	16%	52%	23%	18%	9%	19%
Statewide	15%	51%	36%	17%	10%	15%

Source: <http://www.census.gov/quickfacts/table>, 2014 Estimate as of December 22, 2015.

*Excludes "White alone" who are "not Hispanic or Latino"

**"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable...The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicants' current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

The applicants adequately demonstrates that NHRMC currently provides access to medically underserved populations. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington is not an existing facility.

- (b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Wilmington SurgCare
Cape Fear Surgical Center

NA

Surgery Center of Wilmington

Wilmington SurgCare. In Section VI.11, page 92, the applicant states that Wilmington SurgCare has no obligation to provide uncompensated care. In Section VI.10, page 92, the applicant states that there have been no civil rights equal access complaints in the last five years. The application is conforming to this criterion.

Cape Fear Surgical Center. In Section VI.11, page 139, the applicants state that Cape Fear Surgical Center has no obligation to provide uncompensated care. In Section VI.10, page 139, the applicants state Cape Fear Surgical Center is not an existing entity and that no civil rights equal access complaints have been filed in the last five years against any of its member entities in North Carolina. The application is conforming to this criterion.

Surgery Center of Wilmington is not an existing facility.

- (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

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare. In Section VI, page 87, the applicant states *“The facility will not discriminate against anyone due to age, race, color, religion, ethnicity, gender, disability or ability to pay. The facility holds Medicare and Medicaid certification and accreditation in support of expanded patient access.”* In Section VI.14, pages 94, the applicant projects 59.04% of all patients in OY2 (FY2021) will have all or part of their services paid for by Medicare and/or Medicaid, as indicated in the table below:

Wilmington SurgCare Payor Mix- OY2 FY 2021 (1/1/21-12/31/21)	
Payor	Cases as % of Total Cases
Self-Pay / Indigent	1.24%
Medicare / Medicare Managed Care	51.26%
Medicaid	7.78%
Commercial Insurance	0.41%
Managed Care	32.65%
Other (Workers Comp, TriCare and Other)	6.65%
Total	100.00%

In Section VI.14, page 94, the applicant states that the projected payor percentages are based on the historical payor mix of the facility. The applicant adequately demonstrates the extent to which each group will have access to the proposed services. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center. In Section VI., page 134, the applicants state “*CFSC will provide services to all persons in need of medical care, regardless of race, color, religion, natural origin, sex, age, disability, or source of payment.*” In Section VI.14, pages 140-141, the applicants project 40.8% of all patients in OY2 (7/1/19-6/30/20) will have all or part of their services paid for by Medicare and/or Medicaid, as indicated in the table below:

Cape Fear Surgical Center Payor Mix – OY2 7/1/19 – 6/30/20	
Payor	Cases as % of Total Cases
Self-Pay / Indigent/ Charity	3.3%
Medicare / Medicare Managed Care	30.1%
Medicaid	10.7%
Commercial / Managed Care	43.9%
Other*	12.1%
Total	100.00%

*Includes workers comp and other governmental payors.

The projected payor mix is based on the historical payor mix for the cases and procedures projected at Cape Fear Surgical Center based on internal data of NHRMC, Wilmington Health and EmergeOrtho. (See application page 140) The applicants adequately demonstrate the extent to which each group will have access to the proposed services. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington. In In Section VI., page 112, the applicant states “*SCW will not discriminate on the basis of age, race, national, or ethnic origin, disability, sex, income, or ability to pay.*” In Section VI.14, page 120, the applicant project 58% of all patients in OY2 (CY2020) will have all or part of their services paid for by Medicare and/or Medicaid, as indicated in the table below:

Surgery Center of Wilmington Payor Mix – OY2 CY2020	
Payor	Cases as % of Total Cases
Self-Pay	1.0%
Medicare / Medicare Managed Care	48.0%
Medicaid	10.0%
Commercial / Managed Care	39.0%
Other (Military, Workers Comp)	2.0%
Total	100.00%

On pages 121-124, the applicants provide the assumptions and methodology utilized to estimate projected payor mix in OY2. The applicant adequately demonstrates the extent to which each group will have access to the proposed services. Therefore, the application is conforming to this criterion.

- (d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

C

Wilmington SurgCare
 Cape Fear Surgical Center
 Surgery Center of Wilmington

Wilmington SurgCare. In Section VI.9, page 92, the applicant describes the range of means by which persons will have access to the proposed facility. The applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center. In Section VI.9, pages 138-139, the applicants describe the range of means by which persons will have access to the proposed facility. The applicants adequately demonstrate that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington. In Section VI.9, page 118, the applicant describes the range of means by which persons will have access to the proposed facility. The applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare. In Section V.1, page 79, the applicant states that it has clinical training agreements in place with area health professional training programs. Exhibit 27 contains copies of training agreements with Campbell University Physician Assistant Program, Medical University of South Carolina College of Health Professions, Miller Mott College Surgical Technology Program and Shenandoah University Division of Physician Assistant Studies. See Exhibit 27. The information provided in Section V is reasonable and credible and supports a finding of conformity to this criterion.

Cape Fear Surgical Center. In Section V.1, page 128, the applicants state that *“each of CFSC’s member providers has existing relationships in the area for the provision of professional health training. Most notably, NHRMC is committed to collaborative relationships with local and regional health professional training programs and currently has agreements with over 110 health professional training programs. Please see Exhibit 18 for a list of these training programs and a sample copy of one of NHRMC’s training program affiliation agreements... Students from these clinical programs will have access to the services at the proposed ASC for clinical rotations.”* See Exhibit 18. The information provided in Section V is reasonable and credible and supports a finding of conformity to this criterion.

Surgery Center of Wilmington. In Section V.1, page 102, the applicant refers to letters to program leaders at Brunswick Community College Nursing and Allied Health Department, Cape Fear Community College Health and Sciences Department and University of North Carolina at Wilmington School of Nursing which state *“I am writing to inform you of a training opportunity for the nursing students We welcome area training programs to establish a relationship with the proposed facility.”* See Exhibit 21. The information provided in Section V is reasonable and credible and supports a finding of conformity to this criterion.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.

- (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.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

According to Table 6A, on page 75 of the 2016 SMFP, there are 45 ORs in New Hanover County. See table below. The total number of ORs (45) in New Hanover County will increase by three, to 48 ORs (45+3=48), as a result of this proposal to meet the OR Need Determination in the 2016 SMFP.

	Inpatient ORs	Ambulatory ORs	Shared ORs	CON Adjustments	Total
Wilmington SurgCare	0	7	0	0	7
NHRMC	5	4	27	2	38
Total*	5	11	27	2	45

*Does not include CON adjustments for C-Section ORs.

On page 62, the 2016 SMFP defines the service area for ORs as “*the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6-1 [on page 67].*” Figure 6-1 shows New Hanover County as a single county OR service area. Thus, the service area for this proposal is New Hanover County. Facilities may also serve residents of counties not included in their service area.

Wilmington SurgCare proposes to renovate and expand its existing multi-specialty facility ASC, Wilmington SurgCare, by adding three ambulatory surgical ORs and one minor procedure room for a total of ten operating rooms and one minor procedure room. The project does not include any GI/endoscopy rooms.

In Section V.7, pages 83-86, the applicant discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services.

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicant adequately demonstrates the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.

- The applicant adequately demonstrates that it will provide quality services. The discussions regarding quality found in Criteria (1) and (20) are incorporated herein by reference.
- The applicant adequately demonstrates that it will provide access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three GI/endoscopy rooms.

In Section V.7, pages 132-133, the applicants discuss how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access to the proposed services.

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicants adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicants adequately demonstrate that they will provide quality services. The discussions regarding quality found in Criteria (1) and (20) is incorporated herein by reference.
- The applicants adequately demonstrate that they will provide access to medically underserved populations. The discussions regarding access found in Criteria (3), (3a) and (13) are incorporated herein by reference.

Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington proposes to develop a new ASC with three new ORs and one procedure room. The project does not include any GI/endoscopy rooms.

In Section V.7, pages 108-110, the applicant discusses how any enhanced competition in the service area will promote the cost-effectiveness, quality and access to the proposed services.

See also Sections II, III, V, VI and VII where the applicant discusses the impact of the project on cost-effectiveness, quality and access to the proposed services.

The information in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicant adequately demonstrate the need for the proposed project and that it is a cost-effective alternative. The discussions regarding analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates that it will provide quality services. The discussions regarding quality found in Criteria (1) and (20) are incorporated herein by reference.
- The applicant adequately demonstrates that it will provide access to medically underserved populations. The discussions regarding access found in Criteria (3) and (13) are incorporated herein by reference.

Therefore, the application is conforming to this criterion.

- (19) Repealed effective July 1, 1987.
- (20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

Wilmington SurgCare proposes to renovate and expand its existing multispecialty facility ASC, Wilmington SurgCare, by adding three ORs and one minor procedure room for a total of ten ORs and one minor procedure room. The project does not include any GI/endoscopy rooms. In Section I, page 5, Wilmington Surgery Center, L.P, states that it has not developed any other surgical facilities in North Carolina.

According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision, Wilmington SurgCare has not been found to be out of compliance with any Medicare conditions of participation. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

Cape Fear Surgical Center proposes to develop a new, separately licensed freestanding ASC by developing three new ORs in addition to relocating three existing ORs from NHRMC and three licensed multispecialty GI/endoscopy rooms from Wilmington Health for a total of six ORs and three multispecialty GI/endoscopy rooms.

In Section I, pages 13-19, the applicants state that Cape Fear Surgery Center, LLC is a newly formed LLC comprised of NHRMC, Wilmington Health and New Hanover Ambulatory Surgery, LLC (also a newly formed LLC). Wilmington Health operates one healthcare facility in North Carolina, Wilmington Health Endoscopy Center. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding the submittal of the application through the date of the decision neither NHRMC nor Wilmington Health were found to be out of compliance with any Medicare conditions of participation. At this time, NHRMC and Wilmington Health are both in compliance with all Medicare conditions of participation. After reviewing and considering information provided by the applicants and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at NHRMC and Wilmington Health, the applicants provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

Surgery Center of Wilmington is not an existing facility but Surgical Care Affiliates has multiple ASCs in North Carolina.

- (21) Repealed effective July 1, 1987.
- (b) The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

C

Wilmington SurgCare
Cape Fear Surgical Center
Surgery Center of Wilmington

The applications are conforming with all applicable Criteria and Standards for Surgical Services and Operating Rooms promulgated in 10A NCAC 14C .2100. The specific criteria are discussed below.

SECTION .2100 – CRITERIA AND STANDARDS FOR SURGICAL SERVICES AND OPERATING ROOMS

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) *In projecting utilization, the operating rooms shall be considered to be available for use five days per week and 52 weeks a year.*

-C- **Wilmington SurgCare.** In Section II, page 19, the applicant states that the ORs at the Wilmington SurgCare facility are considered to be available for use five days per week and 52 weeks a year.

-C- **Cape Fear Surgical Center.** In Section II, page 48, the applicants state that the ORs at the proposed Cape Fear Surgical Center facility are considered to be available for use five days per week and 52 weeks a year.

-C- **Surgery Center of Wilmington.** In Section II, page 39, the applicant states that the ORs at the proposed Surgery Center of Wilmington facility are considered to be available for use five days per week and 52 weeks a year.

(b) *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:*

(1) *demonstrate the need for the number of proposed operating rooms in the facility which is proposed to be developed or expanded in the third operating year of the project based on the following formula: {[(Number of facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus (Number of facility's projected outpatient cases times 1.5 hours)] divided by 1872 hours} minus the facility's total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms or demonstrate conformance of the proposed project to Policy AC-3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects;" and*

(2) *The number of rooms needed is determined as follows:*

(A) *in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;*

(B) *in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number*

for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and

(C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.

-C- **Wilmington SurgCare.** In Section II, page 20, the applicant states that the OR service area for the proposed project is New Hanover County which has more than ten ORs.

On page 20 of the application, the applicant projects the ten ORs (3 proposed and 7 existing) at the Wilmington SurgCare facility will perform 12,068 outpatient surgical cases in the third year of operation which demonstrates a need for ten ORs at the facility [12,068 cases x 1.5 hours per case = 18,102 hours; 18,102 hours/ 1,872 hours = 9.669 or 10 operating rooms needed]. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Thus, the application is conforming with this rule.

-C- **Cape Fear Surgery Center.** In Section II, page 51, the applicants state that the OR service area for the proposed project is New Hanover County which has more than ten ORs.

On page 49 of the application, the applicants project the six ORs (3 proposed and 3 existing being relocated from NHRMC) at the proposed Cape Fear Surgery Center facility will perform 7,235 outpatient surgical cases in the third year of operation which demonstrates a need for six ORs at the facility [7,235 cases x 1.5 hours per case = 10,853 hours; 10,853 hours/ 1,872 hours = 5.797 or 6 operating rooms needed]. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Thus, the application is conforming with this rule.

-C- **Surgery Center of Wilmington.** In Section II, page 40, the applicant states that the OR service area for the proposed project is New Hanover County which has more than ten ORs.

On pages 39-40 of the application, the applicant projects the three ORs (3 proposed) at the proposed Surgery Center of Wilmington facility will perform 3,321 outpatient surgical cases in the third year of operation which demonstrates a need for three ORs at the facility [3,321 cases x 1.5 hours per case = 4,982 hours; 4,982 hours/ 1,872 hours = 2.66 or 3 operating rooms needed]. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Thus, the application is conforming with this rule.

(c) A proposal to increase the number of operating rooms (excluding dedicated C-section operating rooms) in a service area shall:

- (1) *demonstrate the need for the number of proposed operating rooms in addition to the rooms in all of the licensed facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project based on the following formula: $\{[(\text{Number of projected inpatient cases for all the applicant's or related entities' facilities, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of projected outpatient cases for all the applicant's or related entities' facilities times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$ minus the total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all of the applicant's or related entities' licensed facilities in the service area; and*
- (2) *The number of rooms needed is determined as follows:*
- (A) *in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;*
 - (B) *in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and*
 - (C) *in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.*

-NA- **Wilmington SurgCare.** In Section II, page 22, the applicant states that neither Wilmington SurgCare nor a related entity has a controlling interest in any other ORs in the service area.

-C- **Cape Fear Surgery Center.** In Section II, page 51, the applicants projects utilization at Cape Fear Surgery Center and NHRMC in the third operating year of the proposed project.

Facility	# of Operating Rooms	Total Hours
CFSC	6	10,853
NHRMC*	29	62,953
Total	35	73,806

*NHRMC's # of ORs is based on a current total of 38 ORs minus 3 ORs transferring to Cape Fear Surgery Center = 35 ORs; 35 ORs minus 2 dedicated open heart surgery ORs = 33 ORs; 33 ORs minus 3 dedicated C-Section ORs = 30 ORs; 30 ORs minus 1 OR for Level II trauma = 29 ORs.

As shown in the table above, the applicants project 73,806 total hours / 1,872 hours per OR = 39.43 or 39 ORs needed. Therefore, the applicants reasonably demonstrated the need for the number of proposed ORs in addition to the ORs in its licensed facilities [39.4 – 35 (existing and proposed ORs) = 4.4 ORs needed].

-NA- **Surgery Center of Wilmington.** In Section II, page 41, the applicant states that neither Surgery Center of Wilmington nor a related entity has a controlling interest in any other ORs in the service area.

(d) *An applicant that has one or more existing or approved dedicated C-section operating rooms and is proposing to develop an additional dedicated C-section operating room in the same facility shall demonstrate that an average of at least 365 C-sections per room were performed in the facility's existing dedicated C-section operating rooms in the previous 12 months and are projected to be performed in the facility's existing, approved and proposed dedicated C-section rooms during the third year of operation following completion of the project.*

-NA- **Wilmington SurgCare** does not have an existing or approved dedicated C-section ORs and is not proposing to develop an additional dedicated C-Section OR.

-NA- **Cape Fear Surgery Center** is not an existing facility.

-NA- **Surgery Center of Wilmington** is not an existing facility.

e) *An applicant proposing 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:*

(1) *provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the application is currently utilized an average of at least 1,872 hours per operating room per year, excluding dedicated open heart and C-Section operating rooms. The hours utilized per operating room shall be calculated as follows: [(Number of projected inpatient cases, excluding open heart and C-sections performed in dedicated rooms, times 3.0 hours) plus (Number of projected outpatient cases times 1.5 hours)] divided by the number of operating rooms, excluding dedicated open heart and C-Section operating rooms; and*

(2) *demonstrate the need in the third operating year of the project based on the following formula: [(Total number of projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours) divided by 1872 hours] minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms and shared operating rooms in the service area. The need is demonstrated if the difference is a positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of 0.50 or greater.*

- NA- **Wilmington SurgCare** is not proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program.
- NA- **Cape Fear Surgery Center** is not an existing facility.
- NA- **Surgery Center of Wilmington** is not an existing facility.

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

- C- **Wilmington SurgCare.** In Section III, pages 52-60 and Exhibits 20, 47 and 48, the applicant documents the assumptions and provides data supporting the methodology used for each projection in this Rule. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.
- C- **Cape Fear Surgery Center.** In Section III, pages 94-106, and Exhibit 14 the applicants document the assumptions and provides data supporting the methodology used for each projection in this Rule. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.
- C- **Surgery Center of Wilmington.** In Section III, pages 66-71, and Section IV, pages 91-101, the applicant documents the assumptions and provides data supporting the methodology used for each projection in this Rule. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.

COMPARATIVE ANALYSIS

Pursuant to N.C. Gen. Stat. §131E-183(a) (1) and the 2016 State Medical Facilities Plan (2016 SMFP), no more than three new or additional ORs may be approved in this review for New Hanover County. Because the three applications in this review collectively propose nine new ORs (3 ORs each), only one of the applications can be approved to develop the new ORs. Therefore, after considering all of the information in each application and reviewing each application individually against all applicable review criteria, the Project Analyst conducted a comparative analysis of the proposals to decide which proposal should be approved to develop the new ORs. For the reasons set forth below and in the rest of the findings, the application submitted by:

- Wilmington Surgery Center L.P., Project I.D. #O-11272-16, is approved;
- Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, Project I.D.#O-11275-16 is:
 - denied as it relates to developing three new ORs; and
 - is approved as it relates to developing a new ambulatory surgery center with three existing ORs relocated from NHRMC and three multispecialty GI/endoscopy rooms relocated from Wilmington Health;
- Surgery Center of Wilmington, LLC, Project I.D. #O-11277-16, is denied.

Conformity with Applicable Statutory and Regulatory Review Criteria

All three applications are conforming or could be conditioned to be conforming with all applicable statutory and regulatory review criteria as discussed throughout the Findings. Therefore, with regard to statutory and regulatory review criteria the three applications are comparable.

Geographic Accessibility

The 2016 SMFP identifies a need for three additional ORs in the New Hanover County OR Service Area. All three applications propose to develop three new ORs, in freestanding ambulatory surgical centers, in Wilmington, New Hanover County. Therefore, with regard to geographic accessibility the three proposed projects are comparable.

Patient Access to Alternative Providers

In New Hanover County there are only two facilities with ORs: New Hanover Regional Medical Center and Wilmington SurgCare. NHRMC is a hospital and Wilmington SurgCare is a freestanding ambulatory surgical center. NHRMC is one of the owners of CFSC which is proposing to develop the three new ORs in a new ambulatory surgery center and Wilmington SurgCare is proposing to add the three new ORs to its existing ambulatory surgery center.

Wilmington SurgCare and NHRMC are currently the only providers of surgical services in the New Hanover County OR Service Area. If Wilmington SurgCare's application is approved, Wilmington SurgCare would be the only provider of ORs in an ASC facility in New Hanover County. If CFSC's application is approved that would create a second ASC facility with ORs in New Hanover County.

Approval of Surgery Center of Wilmington, which is ultimately owned by Surgical Care Affiliates would introduce an alternative provider of OR services and, introduce an alternative ASC for certain OR services in New Hanover County.

Therefore, with regard to providing New Hanover County patients with access to an alternative provider of outpatient OR services the proposal submitted by Surgery Center of Wilmington is the more effective alternative.

Physician Support

Wilmington SurgCare is an existing ASC. Exhibit 23 contains letters of support from 34 surgeons who either have performed OR cases at Wilmington SurgCare or who have staff privileges at Wilmington SurgCare and have expressed their intent to utilize the facility.

Cape Fear Surgical Center- The members of Cape Fear Surgical Center are NHRMC, Wilmington Health and NH Ambulatory Surgery, which is comprised of EmergeOrtho physicians. Projected utilization for CFSC is based on existing cases currently performed at either NHRMC or Wilmington SurgCare by surgeons from EmergeOrtho, Wilmington Health, other NRHMC surgeons and a newly recruited Wilmington Health surgeon. Exhibit 28 contains letters of support from 70 physicians.

Surgery Center of Wilmington- The applicant is proposing to develop a new ASC in Wilmington. Exhibit 20 contains physician letters of support projecting a total of 1,188 cases annually. In the summary page of Exhibit 20, the applicant assumes Carolina Eye Associates will perform 2,500 annual cases. The letter from Carolina Eye Associates, from Dr. Gregory J. Mincey, indicates that Carolina Eye Associates does not currently have an office in Wilmington but would consider opening an office if the proposed project is approved. In addition, Dr. Mincey does not include in his letter a projection of a specific number of referrals that the proposed project could expect from Carolina Eye Associates. The applicant came up with the number of referrals that it assumes would come from Carolina Eye Associates if Carolina Eye Associates did open an office in Wilmington. Thus, the applicant did not have letters of physician support with respect to ophthalmology cases from physician(s) who currently practice within the New Hanover County OR Service Area and the letter of support from Carolina Eye Associates did not include any projection as to the number of ophthalmology cases they would perform annually at Surgery Center of Wilmington.

Therefore, with regard to physician support, Wilmington SurgCare and Cape Fear Surgical Center are equally effective alternatives. Surgery Center of Wilmington is a less effective alternative regarding physician support.

Patient Access to Surgical Specialties

Wilmington SurgCare is a multispecialty facility providing gastroenterology, general surgery, vascular surgery, gynecology, neurology, ophthalmology, orthopedic surgery, otolaryngology, plastic surgery, podiatry and urology services, which equals eleven specialties.

Cape Fear Surgical Center proposes a multispecialty facility performing orthopaedic, otolaryngology, gynecology, urology and GI endoscopy services, which equals five specialties. However, the majority of the cases expected to shift from NHRMC and Wilmington SurgCare will be orthopedic cases. The applicants project 7,331 OR cases in CY2022 of which all are projected to be orthopedic cases except for some percentage of the 957 OR cases expected to be performed by Wilmington Health surgeons who previously utilized the Wilmington SurgCare facility assuming none of the 957 cases are orthopaedic, 87% of the 7,331 OR cases in CY2022 are projected to be orthopedic cases $(7,331 - 937)/7,331=0.87$.

Surgery Center of Wilmington projects two categories of cases: 1) Neurosurgery, which includes neurosurgery and orthopaedic procedures performed by neurosurgeons; and 2) Ophthalmology.

Therefore, with regard to providing New Hanover County patients with access to more specialties in an ASC, the proposal submitted by Wilmington SurgCare is the more effective alternative since that facility offers eleven specialties.

Access by Underserved Groups

The following tables show each applicant’s projected OR cases to be provided to Self Pay/Indigent/Charity Care, Medicaid and Medicare recipients in the third OY following completion of the project, based on the information provided in the applicants’ pro forma financial statements (Form E). Generally, the application proposing to serve the higher numbers of Charity Care, Medicare and Medicaid patients is the more effective alternative with regard to this comparative factor.

The following tables reflect OR cases only.

OR Cases: Self Pay/Indigent/ Charity - OY3

	Cases as a % of Total Cases	Total Cases	# of ORs	Average Cases Per OR
Wilmington SurgCare*	1.24%	147	10	14.7
Cape Fear Surgical Center**	3.30%	239	6	39.8
Surgery Center of Wilmington***	0.64%	21	3	7

* Source: Form E, page 131 of proformas.

** Source: Form E, page 176 of proformas

*** Source: Form E, page 171 of proformas

OR Cases: Medicare - OY3

	Cases as a % of Total Cases	Total Cases	# of ORs	Average Cases Per OR
Wilmington SurgCare*	51.26%	6,093	10	609.3
Cape Fear Surgical Center**	30.1%	2,178	6	363.0
Surgery Center of Wilmington***	55.63%	1,848	3	616.0

* Source: Form E, page 131 of proformas.
 ** Source: Form E, page 176 of proformas
 *** Source: Form E, page 171 of proformas

OR Cases: Medicaid - OY3

	Cases as a % of Total Cases	Total Cases	# of ORs	Average Cases Per OR
Wilmington SurgCare*	7.78%	926	10	92.6
Cape Fear Surgical Center**	10.7%	769	6	128.17
Surgery Center of Wilmington***	3.38%	112	3	37.3

* Source: Form E, page 131 of proformas.
 ** Source: Form E, page 176 of proformas
 *** Source: Form E, page 171 of proformas

Total OR Cases: Medicare/Medicaid/Self Pay/Indigent/Charity- OY3

	Total Cases	# of ORs	Total Cases Per OR
Wilmington SurgCare*	7,166	10	716.6
Cape Fear Surgical Center**	3,186	6	531.0
Surgery Center of Wilmington***	1,981	3	660.3

* Source: Form E, page 131 of proformas.
 ** Source: Form E, page 176 of proformas
 *** Source: Form E, page 171 of proformas

As shown in the tables above, Wilmington SurgCare projects both the highest total number of cases to be provided to Charity Care, Medicare and Medicaid recipients and the highest average cases per OR. Therefore, the application submitted by Wilmington SurgCare is the most effective alternative with regard to access by underserved groups.

Projected Average Gross Revenue per OR Case

The following table shows the projected gross revenue per OR case in the third year of operation for each of the applicants, based on the information provided in the applicants' pro forma financial statements (Form B). Generally, the application proposing the lowest average gross revenue per case is the more effective alternative with regard to this comparative factor.

Third Operating Year	Wilmington SurgCare	Cape Fear Surgery Center	Surgery Center of Wilmington
Gross Revenue	\$130,077,927	\$49,868,530	\$28,987,456
Cases	11,887	7,235	3,321
Gross Revenue/Case	\$10,942.87	\$6,892.68	\$8,728.53

Source: Form D of proformas of each application

As shown in the table above, Cape Fear Surgery Center projects the lowest average gross revenue per case in the third operating year. However, due to differences in the types of surgical services proposed by each of the facilities, it is not possible to make conclusive comparisons with regard to gross revenue per surgical case. Thus, this comparative factor may be of little value.

Projected Average Net Revenue per OR Case

The following table shows the projected net revenue per OR case in the third year of operation for each of the applicants, based on the information provided in the applicants' pro forma financial statements (Form B). Generally, the application proposing the lowest average net revenue per case is the more effective alternative with regard to this comparative factor.

Third Operating Year	Wilmington SurgCare	Cape Fear Surgery Center	Surgery Center of Wilmington
Net Revenue	\$19,511,980	\$17,439,308	\$11,954,695
Cases	11,887	7,235	3,321
Net Revenue/Case	\$1,641.46	\$2,410.41	\$3,599.73

Source: Form E of proformas of each application.

As shown in the table above, Wilmington SurgCare projects the lowest average net revenue per case in the third operating year. However, due to differences in the types of surgical services proposed by each of the facilities, it is not possible to make conclusive comparisons with regard to net revenue per surgical case. Thus, this comparative factor may be of little value.

Projected Average Operating Expense per Case

The following table shows the projected average operating expense per case in the third year of operation for each of the applicants, based on the information provided in the applicants' pro forma financial statements (Form B). Generally, the application proposing the lowest average operating expense per case is the more effective alternative with regard to this comparative factor.

Third Operating Year	Wilmington SurgCare	Cape Fear Surgery Center	Surgery Center of Wilmington
Total Operating Expenses	16,982,854	17,916,668	8,921,876
Cases*	12,208	12,244	3,618
Operating Expense/Case	\$1,391.13	\$1,463.30	\$2,465.97

*Cases is for the entire facility including both OR cases and procedure room cases.

As shown in the table above, Wilmington SurgCare projects the lowest average operating expense per case in the third operating year. However, due to differences in the types of surgical services proposed by each of the facilities, it is not possible to make conclusive comparisons with regard to operating expense per case. Thus, this comparative factor may be of little value.

SUMMARY

All applications were determined to be conforming or could be conditioned to be conforming with all applicable statutory and regulatory review criteria.

For each of the comparative factors listed below, all three applications were determined to be equally effective:

- Conformity with applicable Statutory and Regulatory Review Criteria
- Geographic Accessibility
- Projected Average Gross Revenue per OR Case
- Projected Average Net Revenue per OR Case
- Projected Average Operating Expense per OR Case

For each of the comparative factors listed below, the application submitted by Wilmington SurgCare was determined to be the most effective alternative.

- Patient Access to Surgical Specialties in an Ambulatory Center
- Access by Underserved Groups

For the comparative factor listed below, the applications submitted by Wilmington SurgCare and Cape Fear Surgery Center were determined to be the more effective alternatives than Surgery Center of Wilmington.

- Physician Support

For the comparative factor listed below, the application submitted by Surgery Center of Wilmington was determined to be the most effective alternative.

- Patient Access to Alternative Providers

In summary:

- Wilmington Surgery Center L.P., Project I.D. #O-11272-16, is the most effective alternative proposed in this review for the three additional operating rooms in New Hanover County and that application is approved as conditioned below.
- Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, Project I.D.#O-11275-16 is:
 - denied as it relates to developing three new ORs; and
 - approved as it relates to developing a new ambulatory surgery center with three ORs relocated from NHRMC and with three multispecialty GI/endoscopy relocated from Wilmington Health as conditioned below.
- Surgery Center of Wilmington, LLC, Project I.D. #O-11277-16, is denied in its entirety.

CONCLUSION

N.C. Gen. Stat. §131E-183(a) (1) states that the need determination in the SMFP is the determinative limit on the number of ORs that can be approved in this review. The Agency determined that the application submitted by Wilmington Surgery Center L.P., Project I.D. #O-11272-16, is the most effective proposed in this review for the development of three new ORs in New Hanover County to meet the 21016 OR Need Determination for the New Hanover OR Service Area and that application is approved as conditioned below. The approval of either the Cape Fear Surgery Center application and/or the Surgery Center of Wilmington application for development of any new ORs in the New Hanover OR Service Area would result in the approval of ORs in New Hanover County in excess of the operating room need determination in the 2016 SMFP and therefore, the Cape Fear Surgery Center and Surgery Center of Wilmington applications are both denied as to the development of any new ORs. While the Cape Fear Surgical Center application, Project I.D. #O-11275-16 is denied as it relates to developing three new ORs the application is approved as it relates to developing a new ambulatory surgery center with three ORs relocated from NHRMC and with three multispecialty GI/endoscopy rooms relocated from Wilmington Health as conditioned below;

The application submitted by Wilmington SurgCare is approved subject to the following conditions.

- 1. Wilmington Surgery Center L.P. shall materially comply with all representations made in the certificate of need application.**
- 2. Wilmington Surgery Center L.P. shall develop no more than three new operating rooms in the existing Wilmington SurgCare facility for a total of no more than ten operating rooms.**
- 3. Wilmington Surgery Center L.P. shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in**

Section VIII of the application and that would otherwise require a certificate of need.

- 4. Wilmington Surgery Center L.P. shall take the steps necessary to delicense its three existing GI/endoscopy rooms at Wilmington SurgCare such that Wilmington SurgCare shall be licensed for no GI/endoscopy rooms.**
- 5. Procedures performed in the minor procedure rooms shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the facility's license renewal application as procedures performed in an operating room.**
- 6. Wilmington Surgery Center L.P. shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.**

The application submitted by Cape Fear Surgery Center is approved subject to the following conditions.

- 1. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall materially comply with all representations made in the certificate of need application except as specifically amended by these conditions of approval.**
- 2. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VIII of the application and that would otherwise require a certificate of need**
- 3. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall not develop any new operating rooms as part of this project.**
- 4. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall construct an ambulatory surgical facility licensed for no more than three operating rooms to be relocated from NHRMC and three multispecialty GI/endoscopy rooms to be relocated from Wilmington Health.**
- 5. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall meet all criteria to receive accreditation of the ambulatory surgical facility from JCAHO, AAAHC or a comparable accreditation authority within two years following completion of the facility.**

- 6. Upon licensure Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall take the steps necessary to delicense three operating rooms at NHRMC and three multispecialty GI/endoscopy rooms at Wilmington Health such that NHRMC shall be licensed for no more than 32 operating rooms and that Wilmington Health Endoscopy Center shall no longer be licensed as an ambulatory surgical facility.**

- 7. Cape Fear Surgical Center, LLC, New Hanover Regional Medical Center, Wilmington Health, PLLC and New Hanover Ambulatory Surgery, LLC, shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.**