

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 26, 2018
Findings Date: November 2, 2018

Project Analyst: Julie M. Faenza
Team Leader: Fatimah Wilson
Chief: Martha J. Frisone

COMPETITIVE REVIEW

Project ID #: B-11514-18
Facility: Asheville SurgCare
FID #: 180266
County: Buncombe
Applicant: Orthopaedic Surgery Center of Asheville, LP
Project: Develop a new multispecialty ambulatory surgical facility with five operating rooms and two procedure rooms by relocating the three operating rooms at Orthopaedic Surgery Center of Asheville and developing the two operating rooms in the 2018 SMFP

Project ID #: B-11515-18
Facility: Blue Ridge Outpatient Surgery Center
FID #: 180263
County: Buncombe
Applicants: Blue Ridge Outpatient Surgery Center, LLC
BRBJ Asheville.2, LLC
Project: Develop a new single specialty ambulatory surgical facility with two operating rooms and two procedure rooms

Project ID #: B-11520-18
Facility: Western Carolina Surgery Center
FID #: 180265
County: Buncombe
Applicant: Summit Health Partners, LLC
Project: Develop a new multispecialty ambulatory surgical facility with two operating rooms and three procedure rooms

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
OSCA

NC
BROSC
SHP

Need Determination

Chapter 6 of the 2018 State Medical Facilities Plan (SMFP) includes a methodology for determining the need for additional operating rooms (ORs) by service area. Application of the standard need methodology in the 2018 SMFP identifies a need for two additional ORs in the Buncombe-Madison-Yancey multicounty OR planning area. Three applications were submitted to the Healthcare Planning and Certificate of Need Section (Agency), each proposing to develop two new ORs in the Buncombe-Madison-Yancey multicounty OR planning area. The three applicants each applied for two ORs for a combined total of six additional ORs. Pursuant to the need determination in Table 6C, found on page 80 of the 2018 SMFP, only two new ORs may be approved in this review for the Buncombe-Madison-Yancey multicounty OR planning area.

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, found on page 33 of the 2018 SMFP, 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, found on page 33 of the 2018 SMFP, 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 is 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.”

Orthopaedic Surgery Center of Asheville, LP (OSCA) proposes to develop a new multispecialty ambulatory surgical facility (ASF) with five ORs and two procedure rooms (PRs) by relocating its three existing ORs from its existing single specialty ASF in Buncombe County (also called OSCA) and combining them with the two ORs in the 2018 SMFP at a new location.

Need Determination. The applicant does not propose to develop more ORs than are determined to be needed in the Buncombe-Madison-Yancey multicounty OR planning area.

Policy GEN-3. In Section B, pages 11-14, the applicant explains why it believes its application is conforming to Policy GEN-3. The applicant states:

- It will obtain accreditation and comply with all local, state, and federal requirements. The applicant includes its quality improvement plan and safety policies in Exhibit B.3.

- It will serve medically underserved patients including those needing charity care. The applicant states it has recently developed a relationship with Project Access, a program to assist patients with financial needs administered through the Western Carolina Medical Society, to assist in delivering charity care. See Exhibit D.5 for documentation of the applicant's relationship to Project Access. The applicant provides its charity care and financial assistance policies in Exhibit C.8.
- It can achieve greater cost savings and have higher productivity at its new expanded facility by utilizing its existing resources which can easily be moved to the new expanded facility.

The applicant adequately demonstrates that the proposal is consistent with Policy GEN-3 because the applicant adequately documents in the application how the project will:

- Promote safety and quality in the delivery of surgical services in the Buncombe-Madison-Yancey multicounty OR planning area.
- Promote equitable access to surgical services in the Buncombe-Madison-Yancey multicounty OR planning area.
- Maximize healthcare value for the resources expended in the Buncombe-Madison-Yancey multicounty OR planning area.
- Incorporate the concepts of Policy GEN-3 in its projected volumes in meeting the need.

Policy GEN-4. In Section B, page 15, the applicant explains why it believes its application is conforming to Policy GEN-4. The applicant provides a written statement saying it will develop and implement its facility by designing it to conform to or exceed the energy efficiency and water conservation standards found in the most recent edition of relevant building codes. The applicant also lists a number of systems and features it will implement to provide greater 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant does not propose to develop more ORs than are determined to be needed in the Buncombe-Madison-Yancey multicounty OR planning area which is consistent with the need determination in the 2018 SMFP.

- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-3.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4.

Blue Ridge Outpatient Surgery Center, LLC and BRBJ Asheville.2, LLC (BROSC), propose to develop Blue Ridge Outpatient Surgery Center (Blue Ridge OSC), a new single specialty ASF with two ORs and two PRs in Buncombe County.

Need Determination. The applicants do not propose to develop more ORs than are determined to be needed in the Buncombe-Madison-Yancey multicounty OR planning area.

Policy GEN-3. In Section B, page 15, the applicants explain why they believe their application is conforming to Policy GEN-3. The applicants state:

- They are dedicated to compliance with all applicable licensure and certification standards to ensure quality care and safety.
- They will serve medically underserved patients and will not discriminate based on race, color, national origin, age, disability, gender, or sexual orientation.
- They will maximize healthcare value by increasing access to lower cost surgical services for patients who are eligible for surgery at an ASF.
- Their projected utilization incorporates the concepts of this policy by demonstrating the need the population has for the proposed services and by projecting utilization based on reasonable and adequately supported assumptions.

However, the applicants do not adequately demonstrate how their projected volumes incorporate the concept of maximum value for resources expended. The applicants do not adequately demonstrate the availability of sufficient funds to cover the capital and working capital needs of the project. Therefore, the applicants fail to adequately demonstrate how the proposed project will maximize healthcare value for resources expended in meeting the need identified in the 2018 SMFP. The discussion regarding availability of funds found in Criterion (5) is incorporated herein by reference. Therefore, the application is not consistent with Policy GEN-3.

Policy GEN-4. In Section B, pages 16-17, the applicants explain why they believe their application is conforming to Policy GEN-4. On pages 16-17, the applicants provide a written statement saying they will develop the facility by designing it to exceed the energy efficiency and water conservation standards found in the most recent edition of relevant building codes. The applicants also list a number of systems and features they will implement to provide greater 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to Policy GEN-3 because the applicants do not adequately demonstrate how the project will maximize healthcare value for resources expended. Therefore, the application is not conforming to this criterion.

Summit Health Partners (SHP) proposes to develop a new multispecialty ASF, Western Carolina Surgery Center (WCSC), which will have two ORs and three PRs.

Need Determination. The applicant does not propose to develop more ORs than are determined to be needed in the Buncombe-Madison-Yancey multicounty OR planning area.

Policy GEN-3. In Section B, pages 16-20, the applicant explains why it believes its application is conforming to Policy GEN-3. The applicant states:

- The company that will manage the new ASF, Compass Surgical Partners, LLC (Compass), will develop a Quality Assurance/Performance Improvement (QA/PI) program and committee. The applicant provides examples of existing QA/PI policies and procedures from other Compass-managed locations in Exhibit B.3.
- It will not discriminate against any patients based on protected class or ability to pay. The applicant states that it will serve a significant number of Medicare and Medicaid patients as well as provide charity care. The applicant includes a copy of Compass' existing Patient Rights and Responsibility Policy used in other facilities in Exhibit B.3.
- The applicant states that by developing the new ASF, it can provide an environment with lower patient infection rates, saving patients money; it can provide services at a reduced out of pocket cost for its patients; and it can provide more timely access to surgical services because surgical cases at an ASF are almost never rescheduled at the last minute or "bumped" like they are in hospital settings. The applicant provides articles to support its assertions in Exhibit B.3.
- Its projected utilization incorporates the concepts of this policy by providing services to more than 7,400 patients every year; the patients would not otherwise have access to the safety, quality, and cost effectiveness of a new multispecialty ASF.

However, the applicant does not adequately demonstrate how its projected volumes incorporate the concept of maximum value for resources expended. The applicant does not

adequately demonstrate the need to develop a new multispecialty ASF with two ORs and three PRs. Therefore, the applicant fails to adequately demonstrate how the proposed project will maximize healthcare value for resources expended in meeting the need identified in the 2018 SMFP. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Therefore, the application is not consistent with Policy GEN-3.

Policy GEN-4. In Section B, pages 21-22, the applicant explains why it believes its application is conforming to Policy GEN-4. The applicant provides a written statement saying it will develop and implement the facility by designing it to conform to the energy efficiency and water conservation standards found in the most recent edition of relevant building codes. The applicant also lists a number of systems and features it will implement to provide greater 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion because the applicant does not adequately demonstrate that the proposal is consistent with Policy GEN-3. The applicant does not adequately demonstrate the need to develop a new multispecialty ASF with two ORs and three PRs in the Buncombe-Madison-Yancey multicounty OR planning area, and therefore, the applicant does not adequately demonstrate how its projected volumes incorporate the concept of maximum value for resources expended.

Decision

The applications submitted by **OSCA**, **BROSC**, and **SHP** are conforming to the need determination in the 2018 SMFP, which identifies a need for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area. However, the limit on the number of ORs that can be approved is two. Collectively, the applicants propose a total of six ORs. Therefore, all of the applications cannot be approved even if all are conforming to all statutory and regulatory review criteria.

The application submitted by **OSCA** is consistent with both Policies GEN-3 and GEN-4.

The applications submitted by **BROSC** and **SHP** are not consistent with Policy GEN-3 but are consistent with Policy GEN-4.

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.

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OSCA
BROSC

NC
SHP

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County (also called OSCA) and combining them with the two ORs in the 2018 SMFP at a new location in a building developed by an unrelated developer. OSCA is majority owned by Surgery Partners, Inc., and it has 14 individuals comprising the remaining ownership of OSCA.

Patient Origin

On page 57, the 2018 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.*” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

OSCA – Current and Projected Patient Origin						
County	Current (ORs only) 10/1/2016-9/30/2017		ORs – 3rd Full FY of Operation – CY 2023		PRs – 3rd Full FY of Operation – CY 2023	
	Patients	% of Total	Patients	% of Total	Patients	% of Total
Buncombe	1,621	48.26%	3,139	48.26%	329	48.26%
Henderson	471	14.02%	912	14.02%	96	14.02%
McDowell	182	5.42%	352	5.42%	37	5.42%
Madison	141	4.20%	273	4.20%	29	4.20%
Transylvania	153	4.55%	296	4.55%	31	4.55%
Haywood	105	3.13%	203	3.13%	21	3.13%
Burke	104	3.10%	201	3.10%	21	3.10%
Yancey	89	2.65%	172	2.65%	18	2.65%
Macon	66	1.96%	128	1.96%	13	1.96%
Jackson	65	1.94%	126	1.94%	13	1.94%
Mitchell	54	1.61%	105	1.61%	11	1.61%
Rutherford	49	1.46%	95	1.46%	10	1.46%
Polk	43	1.28%	83	1.28%	9	1.28%
Swain	30	0.89%	58	0.89%	6	0.89%
Cherokee	28	0.83%	54	0.83%	6	0.83%
Avery	20	0.60%	39	0.60%	4	0.60%
Graham	18	0.54%	35	0.54%	4	0.54%
Other NC Counties	51	1.52%	99	1.52%	10	1.52%
Georgia	14	0.42%	27	0.42%	3	0.42%
South Carolina	21	0.63%	41	0.63%	4	0.63%
Tennessee	12	0.36%	23	0.36%	2	0.36%
Other States	22	0.65%	43	0.65%	4	0.65%
TOTAL	3,359	100.00%	6,504	100.00%	681	100.00%

Source: 2018 OSCA License Renewal Application; Section C, pages 21-22.

Other NC Counties: Alamance, Alexander, Caswell, Catawba, Chatham, Clay, Cleveland, Davidson, Forsyth, Guilford, Iredell, Mecklenburg, Orange, Pender, Rowan, Union, Wake, Watauga, and Wilkes.

As shown in the table above, the projected patient origin is the same as the historical patient origin. In Section C, page 23, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 24-45, the applicant first summarizes, then explains, the factors it believes support the need the population projected to utilize the proposed services has for the proposed services:

- The applicant, currently operating a single specialty ASF with three ORs, proposes to relocate the existing ORs to a new facility, develop the two ORs in the 2018 SMFP, and become a multispecialty ASF with five ORs. The applicant currently offers orthopedic surgery; it plans to offer podiatry, ophthalmology, plastic surgery, urology, and pain management/anesthesia at the proposed facility, and may add other specialties in the future (pages 24-25).

- **Age and condition of existing facility:** The existing facility is over 25 years old and was not designed for the complexity of cases that are currently performed. There is no reserve capacity in any area and there are no PRs, which results in nonsurgical procedures being performed in ORs. On pages 26-28, the applicant provides a table which lists problem areas with the existing facility, including parking; physical condition; registration; pre-op, post-op, and observation rooms; surgical ORs; post-anesthesia care unit; equipment storage; offices; lack of PRs; waiting area and consult room; sterile processing; building systems; and other problem areas; the table on page 26 of the application describes the issue with each of the listed problem areas and describes how its proposed facility will alleviate the problem areas that exist at the current facility. The applicant provides physician and patient support letters, found in Exhibit C.4, to further document the problem areas it describes (pages 25-30).
- **Area population growth and aging:** Data from the US Census Bureau, NC Office of State Budget and Management (NC OSBM), and the UNC Carolina Population Center shows the projected population growth for Buncombe County through 2030. The applicant discusses the overall population growth as well as the population growth for people aged 65 and older. The applicant cites other data from NC OSBM showing that over the next five years, the Buncombe County total population is expected to grow by 5.92 percent, the Madison County population is expected to grow by 5.88 percent, and the Yancey County population is expected to grow by 1.54 percent (pages 31-32).
- **Changes in surgical technologies and anesthesia:** The applicant discusses the past and continuing advances in surgical and medical techniques which allow for less invasive surgery and higher utilization of ASFs. The applicant states that surgeries which previously needed to be performed in a hospital, due to patient issues or the need for general anesthesia, can now be performed safely in ASFs (page 33).
- **Reimbursement and cost savings for patients:** Reimbursement from insurance companies, including Medicare and Medicaid, and cost savings for patients are leading to the increased utilization of ASFs for more surgical cases than in the past. The applicant states that the Centers for Medicare and Medicaid Services (CMS) has increased the number and type of procedures that are reimbursable when performed in ASFs. The applicant states that because ASFs do not have the same overhead and ancillary service costs that a hospital does, patients are responsible for lower overall costs, as well as lower coinsurance costs. The applicant uses the Blue Cross Blue Shield of North Carolina's (BCBSNC) public online health cost estimator tool to provide average costs of treatments for identical procedures performed at its facility versus two local hospitals to show the difference in cost (pages 34-36).
- **Historical utilization:** SMFP data shows that historical utilization of ASFs, both statewide and in the Buncombe-Madison-Yancey multicounty OR planning area, is increasing as compared to inpatient surgery at hospitals. The applicant further notes that the existing facility's increases in utilization are partly responsible for creating the existing need determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area (pages 37-38).

- **Positive effect of competition:** Mission Hospital has 44 of the service area's 48 ORs (excluding dedicated C-Section ORs and one burn/trauma OR), and two single specialty ASFs – OSCA and Asheville Eye Surgery Center – have the remaining ORs. There is not currently a multispecialty ASF in the service area or in any service area west of Catawba County. The applicant describes the difficulties patients face because of the lack of a multispecialty ASF and explains how the positive competition its proposed facility will create will benefit patients (pages 39-40).
- **Projected utilization:** The applicant provides its projected utilization to demonstrate that the patient population needs its proposed ASF with five ORs and two PRs (pages 40-42).
- **Necessity of new site location:** The applicant explains that it chose its proposed site location due to population growth, development of the area, proximity to physician offices, and accessibility from major highways to keep the proposed facility within easy traveling distance for its patients (pages 43-45).

The information is reasonable and adequately supported for the following reasons:

- There is a need determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in the 2018 SMFP. The applicant is applying to develop two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in accordance with the OR need determination in the 2018 SMFP.
- The utilization of OSCA's existing ORs is partly responsible for the need for two ORs in the 2018 SMFP.
- The applicant uses reasonable and clearly identified historical and demographic data to make assumptions with regard to identifying the population to be served.
- The applicant makes reasonable statements and uses reasonable assumptions to demonstrate the need the population to be served has for the proposed services.

Projected Utilization

In Section Q, the applicant provides historical and projected utilization, as illustrated in the following table.

Historical & Projected Utilization – OSCA/Asheville SurgCare							
	Last Full FY (FY 2017)	Interim FY (CY 2018)	Interim FY (CY 2019)	Interim FY (CY 2020)	1st Full FY (CY 2021)	2nd Full FY (CY 2022)	3rd Full FY (CY 2023)
# of ORs	3	3	3	3	5	5	5
# of Surgical Cases	3,359	3,441	3,525	3,611	6,199	6,350	6,505
Final Case Time (minutes) (1)	68.6	68.6	68.6	68.6	68.6	68.6	68.6
Total Hours (2)	3,840.5	3,934.1	4,030.1	4,128.3	7,087.4	7,260.3	7,437.5
Standard Hours per OR per Year (3)	1,312.5	1,312.5	1,312.5	1,312.5	1,312.5	1,312.5	1,312.5
# of ORs needed (4)	2.9	3.0	3.1	3.1	5.4	5.5	5.7
# of PRs	0	0	0	0	2	2	2
# of Procedures	0	0	0	0	650	666	682

- (1) The Average Case Time for Group 6 in the 2018 SMFP.
 (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
 (3) From Table 6B in the 2018 SMFP.
 (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

In Section Q, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

Historical Data

The applicant analyzed its historical number of cases to determine the two year Compound Annual Growth Rate (CAGR) for the time periods reported on its 2016-2018 License Renewal Applications (LRAs), as shown in the table below.

OSCA Historical Utilization – 2016-2018 LRAs				
	10/1/14-9/30/15	10/1/15-9/30/16	10/1/16-9/30/17	CAGR
# of Surgical Cases	3,201	3,016	3,359	2.44%

In Section C, page 38, the applicant states there was an 11.4 percent increase in surgical cases on its 2018 LRA as compared to its 2017 LRA. The applicant states it uses the CAGR of 2.44 percent to project future increases in utilization.

Projected Growth During Interim Years

The applicant projects growth during the interim years prior to the first full operating year (OY) by applying its 2.44 percent CAGR to the most recent number of surgical cases per fiscal year and then continuing to apply a 2.44 percent CAGR to future growth, as shown in the table below.

OSCA Interim Utilization – CYs 2018-2020				
	Actual	Projected Interim		
	10/1/16-9/30/17*	CY 2018	CY 2019	CY 2020
Orthopedic Cases	3,250	3,329	3,411	3,494
Podiatry Cases	109	112	114	117
Total # Surgical Cases	3,359	3,441	3,525	3,611
Growth Rate		2.44%	2.44%	2.44%

*The applicant does not account for the time period between 10/1/17 and 12/31/17; the Agency is treating this as if the applicant is projecting no growth during this time period.

Projected Utilization During First Three OYs

The applicant continues to project growth of its orthopedic and podiatry cases at a growth rate of 2.44 percent during each of the first three OYs, as shown in the table below.

OSCA Projected Utilization – OYs 1-3 (CYs 2021-2023)				
	Interim	OYs		
	CY 2020	OY 1 (CY 2021)	OY 2 (CY 2022)	OY 3 (CY 2023)
Orthopedic Cases	3,494	3,579	3,666	3,756
Podiatry Cases	117	120	123	126
Total # Surgical Cases	3,611	3,699	3,789	3,882
Growth Rate		2.44%	2.44%	2.44%

Physician Support

In Exhibit C.4, the applicant provides letters of support from existing OSCA physicians as well as other physicians who are interested in obtaining privileges at Asheville SurgCare. The letters also include a projection of the number of surgeries the physician would be willing to perform at Asheville SurgCare. The physicians who have written letters of support, their specialties, and their projections are shown in the table below.

OSCA Physician Letters of Support and Projections				
Name	Specialty	Currently at OSCA?	Projections	
			Low	High
Thomas Stanley	Anesthesia	Yes	NA	NA
Thomas Mulford	Anesthesia	Yes	NA	NA
Christopher Lechner	Orthopedic	Yes	500	566
Joseph Dement	Orthopedic	Yes	50	100
Jay West	Orthopedic	Yes	365	392
Gene Thornburg	Orthopedic	Yes	449	509
Bruce Minkin	Orthopedic	Yes	191	218
Samuel Abrams	Orthopedic	Yes	130	150
Christopher Elder	Orthopedic	Yes	130	150
Marc Bennett	Orthopedic	Yes	17	25
Gordon Groh	Orthopedic	Yes	279	294
Daniel Waldman	Podiatrist	Yes	20	30
Sheldon Marne	Podiatrist	Yes	20	30
Gretchen Lawrence	Podiatrist	Yes	16	33
Douglas Milch	Podiatrist	Yes	30	40
Matthew Sheedy	Podiatrist	Yes	20	40
Robert Przynosh	Podiatrist	Yes	29	40
		Totals	2,246	2,617
Javid Baksk	Pain Management	No	100	200
Alan Verm	Ophthalmologist	No	1,450	1,500
Daniel Yoder	Ophthalmologist	No		
Anthony Greer	Ophthalmologist	No		
John Johnson	Ophthalmologist	No		
Ryan Marshall	Plastic Surgery	No	350	480
Eric Halvorson	Plastic Surgery	No	20	30
James McDonough	Plastic Surgery	No	110	115
Rick Bare	Urologist	No	107	134
J.G. Cargill	Urologist	No	98	123
James Brien	Urologist	No	81	101
Michael Burris	Urologist	No	139	173
Brooks Hooper	Urologist	No	45	56
Mark Moody	Orthopedic/Spine	No	50	100
		Totals	2,550	3,012
		Grand Totals	4,796	5,629

Note: the information in this table was compiled by the Project Analyst directly from the letters of support from the physicians themselves and not from any parts of Sections C and Q.

Add Physician Support Projections to Projected Utilization

The applicant adds the lowest number of projected surgeries from physicians who would be new to OSCA to its existing OY 1 utilization projections. The applicant then projects that the number of new surgeries to be performed at Asheville SurgCare will grow at the same 2.44 percent growth rate as all other surgeries, as shown in the table below.

OSCA Projected Utilization – OYs 1-3 (CYs 2021-2023)				
	Interim	OYs		
	CY 2020	OY 1 (CY 2021)	OY 2 (CY 2022)	OY 3 (CY 2023)
Orthopedic Cases	3,494	3,579	3,666	3,756
Podiatry Cases	117	120	123	126
Pain Management	--	100	102	105
Ophthalmology	--	1,450	1,485	1,522
Plastic Surgery	--	480	492	504
Urology	--	470	481	493
Total # Surgical Cases	3,611	6,199	6,349	6,505
Growth Rate		2.44%	2.44%	2.44%

Determine Number of ORs Needed During First Three OYs

The applicant multiplies the number of surgery cases in each OY by 68.6 minutes, the average case time for its assigned group (Group 6) in the 2018 SMFP and divides it by 60 minutes to obtain the projected number of surgical hours for each OY. The applicant then divides the projected number of surgical hours for each OY by 1,312.5 hours per year, the average number of minutes an OR in Group 6 is operational each year (per the 2018 SMFP), to determine the number of ORs needed. This process is shown in the table below.

Asheville SurgCare OR Need – OYs 1-3 (CYs 2021-2023)			
	OY 1 (CY 2021)	OY 2 (CY 2022)	OY 3 (CY 2023)
Projected # of Surgical Cases	6,199	6,349	6,505
Annual Minutes [# of Cases X 68.6 minutes (1)]	425,251.4	435,541.4	446,243
Total Hours (Minutes / 60 minutes per hour) (2)	7,087.5	7,259.0	7,437.4
Average Annual Operating Hours – Group 6 (3)	1,312.5	1,312.5	1,312.5
Number of ORs Needed (Annual Hours / Average Operating Hours) (4)	5.4	5.5	5.7

- (1) The Average Case Time for Group 6 in the 2018 SMFP.
- (2) Total Hours equals Surgical Cases multiplied by the Average Case Time, then divided by 60.
- (3) From Table 6B in the 2018 SMFP.
- (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

As shown in the table above, using the OR Need Methodology in Chapter 6 of the 2018 SMFP, the applicant shows a need for 5.7 ORs in the third OY, which would be rounded to 6. This is consistent with 10A NCAC 14C .2103, which requires the applicant to demonstrate the need for the number of ORs it proposes to develop, using the OR Need Methodology in the applicable SMFP in the third OY.

Procedures

The applicant also projects the number of procedures that will be performed in its PRs. The applicant’s methodology and assumptions to project procedures are summarized as follows:

- The applicant begins with the number of procedures during its most recent full fiscal year (FY 2017).

- The applicant assumes those procedures will grow at the same 2.44 percent growth rate used for surgical case projections through the interim years as well as the first three OYs.
- The applicant assumes that once the new facility opens, there will be an increase in procedures roughly equal to five percent of the total number of surgical cases projected during the first OY.
- The applicant then grows those additional procedures at the same 2.44 percent growth rate.

The applicant’s projections are shown in the table below.

Projected Number of Procedures – OSCA/Asheville SurgCare							
	Last Full FY 10/1/16-9/30-17*	Interim FY (CY 2018)	Interim FY (CY 2019)	Interim FY (CY 2020)	1st Full FY (CY 2021)	2nd Full FY (CY 2022)	3rd Full FY (CY 2023)
# of Procedures - OSCA	309	317	324	332	340	349	357
Growth Rate	--	2.44%	2.44%	2.44%	2.44%	2.44%	2.44%
# of New Procedures	--	--	--	--	310	318	325
Growth Rate	--	--	--	--	--	2.44%	2.44%
Total # of Procedures	309	317	324	332	650	667	682
# of PRs	0	0	0	0	2	2	2

*The applicant does not account for the time period between 10/1/17 and 12/31/17; the Agency is treating this as if the applicant is projecting no growth during this time period.

Projected utilization is reasonable and adequately supported for the following reasons:

- The applicant relies on its historical utilization in projecting future utilization.

In Section Q, the applicant provides the following data to demonstrate its historical utilization:

OSCA Historical Utilization – 2016-2018 LRAs				
	10/1/14-9/30/15	10/1/15-9/30/16	10/1/16-9/30/17	CAGR
# of Surgical Cases	3,201	3,016	3,359	2.44%

There appears to be missing information in the applicant’s data. Data from the applicant’s 2014-2018 LRAs shows the following:

Selected Information – OSCA LRAs 2014-2018					
LRA Year	2014 (FY 2013)	2015 (FY 2014)	2016 (FY 2015)	2017 (FY 2016)	2018 (FY 2017)
# of Surgical Cases	3,160	3,201	3,138	3,016	3,359
# of Surgeons*	23	22	19	26	25

*Excludes anesthesiologists

The applicant appears to have substituted its FY 2014 utilization for its FY 2015 utilization, which makes its calculation of a two year 2.44 percent CAGR inaccurate. The table below

shows various calculations of growth rates during the time period covered by the 2014-2018 LRAs.

Growth Rates – OSCA LRAs 2014-2018					
LRA Year	2014 (FY 2013)	2015 (FY 2014)	2016 (FY 2015)	2017 (FY 2016)	2018 (FY 2017)
# of Surgical Cases	3,160	3,201	3,138	3,016	3,359
4 year CAGR	1.54%				
3 year CAGR	1.62%				
2 year CAGR	3.46%				
4 year AAGR*	1.70%				
3 year AAGR*	1.84%				
2 year AAGR*	3.74%				

*AAGR = Average Annual Growth Rate

Comments submitted to the Agency during the public comment period suggested that the applicant failed to demonstrate that a 2.44 percent CAGR was reasonable and adequately supported. After analyzing the combinations of different growth rates (CAGR and AAGR) over different time periods (3, 4, and 5 years), the Project Analyst notes that every single method of calculation produces a positive growth rate, and at least two show a higher growth rate than the one used by the applicant. Thus, the Project Analyst concludes that the applicant’s use of a 2.44 percent CAGR is reasonable and adequately supported.

- Projections from physicians currently utilizing OSCA support the use of historical utilization.

As shown in the tables above, in FY 2017, there were 25 surgeons who had privileges to operate at OSCA. Projections from 15 of those surgeons – approximately 60 percent of physicians utilizing OSCA – suggest that they will perform between 2,246 and 2,617 surgeries per year in the first OY. The applicant projects that applying a 2.44 percent growth rate to surgeries performed by existing surgeons in FY 2017 will result in 3,699 surgeries performed by existing physicians in OY 1. 60 percent of 3,699 is 2,219 (3,699 X 0.60 – 2,219) – slightly less than what the existing physicians project to perform in OY 1. Thus, the projections from physicians currently utilizing OSCA provide support for the applicant’s projected growth.

- Projections from physicians interested in utilizing OSCA are reasonable and adequately supported.

The applicant provides letters of support from physicians that currently utilize the facility as well as physicians who either plan to utilize the proposed facility or who are interested in utilizing the proposed facility.

The letters provide a low projection and a high projection of surgeries that the physician would perform at the facility each year. Each of the letters contains a statement explaining how those estimates were determined – with physicians stating that they were consistent with the average number of outpatient ambulatory surgical cases they had performed in

recent years, or stating that they were based on their outpatient ambulatory surgical cases during the previous year.

Each of the 15 physicians who currently have privileges at OSCA and five of the 14 physicians who do not currently have privileges at OSCA state that they “plan” to obtain privileges at the new facility. The remaining nine physicians who do not currently have privileges at OSCA state that they “would have interest” in obtaining privileges at OSCA.

- The lowest number of projected surgeries is higher than the minimum number of surgeries needed to meet the required performance standard promulgated in 10A NCAC 14C .2103.

The following analysis shows that five ORs would still be needed at the proposed facility if the projected utilization was as low as 5,166 outpatient cases in OY 3. The performance standards promulgated in 10A NCAC 14C .2103(d) require that the applicant “*demonstrate the need in the third operating year of the project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan.*”

In Step 7 of the Operating Room Need Methodology, on page 60 of the 2018 SMFP, states that if a facility or health system located in an OR service area with greater than 10 ORs “...has a projected fractional deficit of 0.50 or greater, round the deficit to the next highest whole number.” Only 5,166 outpatient cases would have to be projected to show a need for five ORs, as shown in the following table:

	Outpatient Cases	Total Hours Needed (OP Cases x 68.6 Minutes/Case / 60 Minutes/Hour)	Total Hours / 1,312.5 Hours/OR/Year	# of ORs Needed
OY 3	5,166	5,906.46	4.50	5.0

Comments submitted to the Agency during the public comment period suggested that the applicant’s CAGR was as low as 1.5 percent. When the Project Analyst calculated various growth rates for the applicant, the lowest growth rate was 1.52 percent. If the applicant instead used a 1.52 percent growth rate applied to its historical volume, it would need only 1,489 additional surgical cases – a little more than half of the lowest projections from surgeons not currently utilizing OSCA – to meet the performance standard required during the third OY. The Project Analyst’s calculations are shown in the table below.

Historical & Projected Utilization (Alternative Calculations) – OSCA/Asheville SurgCare							
	Last Full FY (FY 2017)	Interim FY (CY 2018)	Interim FY (CY 2019)	Interim FY (CY 2020)	1st Full FY (CY 2021)	2nd Full FY (CY 2022)	3rd Full FY (CY 2023)
# of ORs	3	3	3	3	5	5	5
# of Surgical Cases	3,359	3,410	3,462	3,515	3,568	3,622	3,677
Growth Rate	--	1.52%	1.52%	1.52%	1.52%	1.52%	1.52%
# of New Surgical Cases Needed	--	--	--	--	--	--	1,489
Total # of Projected Surgical Cases	--	--	--	--	--	--	5,166
Final Case Time (minutes) (1)	--	--	--	--	--	--	68.6
Total Surgical Hours (2)	--	--	--	--	--	--	5,906.5
Standard Hours per OR per Year (3)	--	--	--	--	--	--	1,312.5
# of ORs needed (4)	--	--	--	--	--	--	4.5

- (1) The Average Case Time for Group 6 in the 2018 SMFP.
- (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
- (3) From Table 6B in the 2018 SMFP.
- (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

The Project Analyst also notes that OSCA is an existing facility and reports a Final Ambulatory Case Time of 87.7 minutes in Table 6B on page 72 of the 2018 SMFP. The 87.7 minutes is adjusted down from the actual average case time reported on its 2018 LRA (105 minutes) because its actual average case time was more than one standard deviation higher than the Average Case Time for Group 6. Had the applicant used its existing average case time of 87.7 minutes in its calculations, it would need even fewer of the projected surgeries to meet the required performance standard in the third OY (see the working papers for calculations).

The Project Analyst further notes that the 2018 SMFP, based on information from the 2017 LRAs, shows that even with the lowest number of surgical cases in recent years, OSCA would need 3.5 ORs by 2020, which is part of what triggered the need determination. Had all data stayed the same except the utilization from the 2018 LRA was substituted for the data in the 2017 LRA, OSCA would need 3.9 ORs by 2020 – before any growth is projected (see the working papers for calculations).

Projected utilization is reasonable and adequately supported for the following reasons:

- There is a need determination in the 2018 SMFP for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area.
- The applicant adequately demonstrates which surgical services will be performed in the ORs and which ones will be performed in the PRs.
- The applicant relies on its historical utilization in projecting future utilization.
- Projections from physicians currently utilizing OSCA support the use of historical utilization.
- Projections from physicians interested in utilizing OSCA are reasonable and adequately supported.

- The applicant meets the performance standard promulgated in 10A NCAC 14C .2013(a).

Access

In Section C, page 48, the applicant states:

“Asheville SurgCare will expand access to healthcare services for the medically underserved by providing surgical procedures to patients who are indigent, lack health insurance or are otherwise medically underserved. Asheville SurgCare is committed to provide services to all of the listed categories of patients. In addition, the facility will not discriminate against anyone due to age, race, color, religion, ethnicity, gender, disability or ability to pay.”

In Section L, page 93, the applicant projects the following payor mix during all three full fiscal years of operation following completion of the project, as illustrated in the following table.

Asheville SurgCare Projected Payor Mix (CYs 2021, 2022, & 2023)	
Payor Source	% of Patients
Self-Pay	2.7%
Charity Care	0.5%
Medicare*	46.2%
Medicaid*	5.0%
Insurance*	40.6%
Workers' Compensation	3.7%
TRICARE	0.8%
Other	0.5%
TOTAL	100.0%

*Including any managed care plans

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately identifies the population to be served.

- The applicant adequately explains why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports its assumptions.

BROSC. The applicants propose to develop a new single specialty ASF with two ORs and two PRs in Buncombe County. Blue Ridge OSC and the two applicants are affiliated with EmergeOrtho, a statewide orthopedic practice.

Patient Origin

On page 57, the 2018 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.” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area.

The following table illustrates current and projected patient origin.

BROSC – Current and Projected Patient Origin				
County	Current* CY 2017		3 rd Full FY of Operation – CY 2022	
	Patients	% of Total	Patients	% of Total
Buncombe	1,701	36.4%	1,459	36.4%
Henderson	1,374	29.4%	1,178	29.4%
Haywood	217	4.6%	186	4.6%
Transylvania	210	4.5%	180	4.5%
Polk	185	4.0%	159	4.0%
McDowell	128	2.7%	110	2.7%
Madison	122	2.6%	105	2.6%
Jackson	114	2.4%	98	2.4%
Yancey	95	2.0%	81	2.0%
Macon	76	1.6%	65	1.6%
Rutherford	61	1.3%	52	1.3%
Cherokee	45	1.0%	39	1.0%
Mitchell	45	1.0%	39	1.0%
Other**	299	6.4%	256	6.4%
TOTAL	4,672	100.0%	4,007	100.0%

Source: Section C, page 21

*BROSC does not currently own or operate any ASFs. The applicants state on page 20 that they provided the historical patient origin of patients that their surgeons operated on in CY 2017 for reference.

**Includes less than one percent of patients from all other NC counties as well as other states.

As shown in the table above, the projected patient origin is the same as the historical patient origin. In Section C, page 22, the applicants provide the assumptions and methodology used to project patient origin. The applicants' assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 23-44, the applicants explain the factors they believe support the need the population projected to utilize the proposed services has for the proposed services:

- **Utilization Growth and Technological Advances:** SMFP data shows that historical utilization of outpatient surgery, both statewide and by the Buncombe-Madison-Yancey multicounty OR planning area, is a significant portion of total surgeries. Outpatient surgeries represent approximately 72 percent of all surgeries performed, both statewide and in this service area. The applicants discuss the past and continuing advances in surgical and medical techniques which allow for less invasive surgery and higher utilization of ASFs as surgeries that once needed to be performed in a hospital can now be performed safely in ASFs (pages 23-25).
- **Benefits of ASFs:** The applicants describe below some of the benefits ASFs provide (pages 25-31).
 - **Physician Ownership:** The applicants state that physician ownership provides increased control over surgical practices and can allow for tailored needs of patients and practices.
 - **Quality and Safety:** The applicants state that ASFs are typically certified by the Medicare program, and must meet federal guidelines, including safety and quality requirements. The applicants also state that many ASFs go through additional voluntary accreditation and that ASFs often have better quality and safety outcomes than hospital outpatient departments. Newer technology, organizational efficiency, and higher job satisfaction of staff, along with other benefits to patients, often result in better patient encounters and outcomes.
 - **Cost Effectiveness:** Reimbursement from insurance companies, including Medicare and Medicaid, and cost savings for patients are leading to the increased utilization of ASFs for more surgical cases than in the past. The applicants state that CMS reimburses ASFs approximately 53 percent of what the same procedure would be reimbursed when performed in a hospital outpatient setting, with similar cost savings for private insurers. The applicants further state that BCBSNC, the state's largest private insurer, has said that their customers utilizing Mission Health end up paying more for their care than at other state systems. BCBSNC has provided a letter of support for this project.
- **Geographic Access:** The applicants state that the existing ORs in the Buncombe-Madison-Yancey multicounty OR planning area are all located in Buncombe County. The applicants also state the ORs in Buncombe County are all concentrated in the central part of the county, while the southern part of the county, with no ORs, has one-third of the total county

population, and that part of the county is projected to grow at a faster rate than the rest of the county. The applicants further state that the facility will be located near major regional access points for patient convenience (pages 31-35).

- **Prevalence of Orthopedic Surgery:** The applicants cite the US Census Bureau and the National Health Interview Survey results showing that musculoskeletal conditions have the highest prevalence among all self-reported medical conditions by the country's population. The applicants further cite a National Health Statistics Report from 2017 which showed a large majority of musculoskeletal procedures were performed for patients between the ages of 15-64, which makes up a significant portion of the service area's population. The applicants state CMS, in 2018, removed joint replacements from a list of procedures that were only eligible to be performed in inpatient settings, which the applicants state will lead to even higher demand for ASFs. The applicants provide data from 2018 LRAs for facilities offering surgery in Buncombe County, which shows that approximately 24 percent of all surgeries performed in Buncombe County during FY 2017 were orthopedic surgeries (pages 36-40).
- **Existing ASF Utilization:** The applicants state that EmergeOrtho physicians have performed increasing numbers of surgeries on residents of the service area. The applicants state that EmergeOrtho physicians performed 3,801 surgical cases, 3,870 surgical cases, and 4,672 surgical cases on service area patients in calendar years 2015, 2016, and 2017, respectively, which results in a CAGR of 10.9 percent (page 41).
- **Area Population Growth:** Data from NC OSBM for Buncombe, Madison, Yancey, and Henderson counties shows a total area population increase of 1.2 percent over the next four years. The applicants state that the population ages 18-44 comprises more than 32 percent of the area population and that age group is noted for its sports-related injuries. The applicants also state that the aging of baby boomers, who are more active than previous generations, is contributing to increasing demand for ambulatory surgery (pages 41-44).
- **Physician Support:** The applicants state that local physicians, who currently refer patients to EmergeOrtho, are enthusiastic about the proposed ASF, and provide letters of support from physicians in Exhibit 19 (page 44).

The information is reasonable and adequately supported for the following reasons:

- There is a need determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in the 2018 SMFP. The applicants are applying to develop two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in accordance with the OR need determination in the 2018 SMFP.
- The applicants use reasonable and clearly identified historical and demographic data to make assumptions with regard to identifying the population to be served.
- The applicants make reasonable statements and use reasonable assumptions to demonstrate the need the population to be served has for the proposed services.

Projected Utilization

In Section Q, the applicants provide projected utilization as illustrated in the following table.

Blue Ridge OSC Projected Utilization			
	1st Full FY (CY 2020)	2nd Full FY (CY 2021)	3rd Full FY (CY 2022)
# of ORs	2	2	2
# of Surgical Cases	3,038	3,641	4,007
Final Case Time (minutes) (1)	68.6	68.6	68.6
Total Surgical Hours (2)	3,473	4,162	4,581
Standard Hours per OR per Year (3)	1,312.5	1,312.5	1,312.5
# of ORs needed (4)	2.6	3.2	3.5
# of PRs	2	2	2
# of Procedures	1,042	1,276	1,436

- (1) The Average Case Time for Group 6 in the 2018 SMFP.
 (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
 (3) From the table in Step 5(b), page 59, in the 2018 SMFP.
 (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

In Section Q, the applicants provide the assumptions and methodology used to project utilization, which are summarized below.

Historical Data

The applicants identified the physicians who plan to utilize the new facility and analyzed their historical number of cases to determine the Compound Annual Growth Rate (CAGR) during CYs 2015-2017, as shown in the table below.

BROSC Physician Historical Utilization – CYs 2015-2017				
	2015	2016	2017	CAGR
# of Surgical Cases	3,801	3,870	4,672	10.9%

Projected Ambulatory Surgery Cases

In Section Q, the applicants state that to be conservative, they projected future growth of surgical cases from the selected physicians at one-fourth of their two-year CAGR, resulting in a growth rate of 2.7 percent ($10.9 \times 0.25 = 2.7$). The applicants then apply the projected 2.7 percent annual growth rate to their most recent full year of data and subsequent interim years and OYs, as shown in the table below.

BROSC Physician Projected Utilization – Interim and OYs 1-3						
	CY 2017	CY 2018	CY 2019	CY 2020 (OY 1)	CY 2021 (OY 2)	CY 2022 (OY 3)
# of Surgical Cases	4,672	4,799	4,929	5,063	5,201	5,342
Growth Rate	--	2.7%	2.7%	2.7%	2.7%	2.7%

Projected Ambulatory Surgery Cases Performed at Blue Ridge OSC

In Section Q, the applicants state that approximately 85 percent of the historical surgery cases performed by the selected physicians were performed in hospital-based settings. The applicants state that due to the benefits of performing surgeries in the new ASF, they project that 60 percent, 70 percent, and 75 percent of ambulatory surgery cases performed by the selected physicians will be performed at Blue Ridge OSC during OYs One, Two, and Three, respectively. The applicants state this shift in location for ambulatory surgery cases is supported by the following factors:

- The location of the proposed ASF, which will be close to the applicants’ existing clinic;
- Access to ASF pricing instead of hospital outpatient pricing;
- Less travel for patients;
- The setup and layout of the new ASF;
- The proposed ASF will provide more timely access to surgery; and
- The location of the proposed ASF in an area of Buncombe County where the population is increasing.

The applicants’ projections for the number of ambulatory surgical cases that will shift to the proposed ASF in the first three OYs are shown in the table below.

Blue Ridge OSC Cases – OYs 1-3 (CYs 2020-2022)			
	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
Total # of Cases	5,063	5,201	5,342
% Shift to ASF	60%	70%	75%
# of Cases at ASF	3,038	3,641	4,007

Totals may not foot due to rounding.

Physician Support

In Exhibit 19, the applicants provide letters of support from the BROSC physicians who intend to utilize Blue Ridge OSC. The letters also include a projection of the number of surgeries each physician projects to perform in the first operating year at Blue Ridge OSC. The physicians and their projections are shown in the table below.

BROSC Physician Utilization Projections OY 1 (CY 2020)	
Name	Projected # of Surgeries
Pamela Meliski	200
Peter Mangone	370
Robert Boykin	300
Werner Brooks	320
Angelo Cammarata	400
Stephen David	130
Tally Eddings	150
Michael Goebel	135
Mark Hedrick	450
John Hicks	75
Jay Jansen	260
James Karegeannes	30
Jason Lang	100
Edward Lilly	160
David Napoli	450
Aimee Riley	300
Total	3,830

Note: the information in this table was compiled by the Project Analyst directly from the letters of support from the physicians themselves and not from any parts of Sections C and Q.

In Section Q, the applicants state the letters of support from the physicians intending to utilize the proposed facility support their assumptions and methodology. The applicants state the projections by the physicians support the conservative nature of their assumptions and methodology.

Comments submitted to the Agency during the public comment period suggested the applicants do not support their projections of 60 percent, 70 percent, and 75 percent of cases transferring to Blue Ridge OSC in OYs One, Two, and Three, respectively. The Project Analyst notes the letters of support submitted by the physicians, whose historical utilization form the basis of the projections, together project to be able to perform a higher number of surgeries at that specific facility in its first OY. Thus, the Project Analyst determined that the use of the 60, 70, and 75 percent transfer rates in OYs One, Two, and Three, respectively, was reasonable and adequately supported.

Determine Number of ORs Needed in Third OY

The applicants multiply the number of surgery cases in the third OY by 68.6 minutes, the average case time for their assigned group (Group 6) in the 2018 SMFP, and divide it by 60 minutes to obtain the projected number of surgical hours for the third OY. The applicants then divide the projected number of surgical hours for the third OY by 1,312.5 hours per year, the average number of minutes an OR in Group 6 is operational each year, to determine the number of ORs needed. This process is shown in the table below.

Blue Ridge OSC OR Need – OY 3 (CY 2022)	
	OY 3 (CY 2022)
Projected # of Surgical Cases	4,007
Annual Minutes [# of Cases X 68.6 minutes (1)]	274,880
Total Hours (Minutes / 60 minutes per hour) (2)	4,581
Average Annual Operating Hours – Group 6 (3)	1,312.5
Number of ORs Needed (Annual Hours / Average Operating Hours) (4)	3.5

- (1) The Average Case Time for Group 6 in the 2018 SMFP.
- (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
- (3) From the table in Step 5(b), page 59, in the 2018 SMFP.
- (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

As shown in the table above, using the OR Need Methodology in Chapter 6 of the 2018 SMFP, the applicants show a need for 3.5 ORs in the third OY, which would be rounded to 4. This is consistent with 10A NCAC 14C .2103, which requires the applicants to demonstrate the need for the number of ORs they propose to develop, using the OR Need Methodology in the applicable SMFP in the third OY.

Projected utilization is reasonable and adequately supported for the following reasons:

- The applicants rely on their own historical data in projecting future utilization.

The applicants identify 16 physicians who are currently part of EmergeOrtho and who have recently performed outpatient surgeries on area residents. The applicants use the number of surgeries performed by only those physicians who provide letters of support to project future utilization. The applicants also use a fraction of their own historical growth rate to project future utilization, which adds to the reasonableness of their projections.

- The applicants use physician support letters to confirm the reasonableness of their projections.

The applicants provide signed support letters from each of the 16 physicians whose surgeries form the basis of utilization projections. The support letters also contain a projection of how many surgeries each physician could perform beginning in OY 1. The applicants do not rely on the projections in the letters to project utilization, but rely on those projections to demonstrate that their projected utilization is consistent with the number of surgeries the actual physicians planning to utilize the facility will perform.

- Use of the physician support letters is reasonable and adequately supported.

The physicians providing support letters are the same physicians whose actual cases form the basis of utilization projections. Each support letter states that the physician is “...excited to have the opportunity to participate in the development of a new ambulatory surgery center in Buncombe County.” It is thus reasonable to believe that those physicians intend to utilize the proposed facility. Additionally, each physician support letter provides information about the basis for the projected number of surgeries which supports those

projections. Each letter states that the basis for the projected number of surgeries is the physician’s historical experience performing these types of surgeries on area residents.

Procedures

The applicants also project the number of procedures that will be performed in the PRs. The applicants’ methodology and assumptions to project procedures is summarized as follows:

- The applicants begin with the number of procedures performed by their interventional physiatrist, Dr. Daniel Hankley, during the most recent full calendar year (CY 2017).
- The applicants assume those procedures will grow at a five percent growth rate through the interim years as well as the first three OYs.
- The applicants assume the number of procedures which will be performed at the new facility will shift at rates of 60 percent, 70 percent, and 75 percent in OYs One, Two, and Three, respectively – the same rate they use for projecting surgical cases.

The applicants’ projections are shown in the table below.

Projected Number of Procedures – BROSC/Blue Ridge OSC						
	Historical (CY 2017)	Interim (CY 2018)	Interim (CY 2019)	1st Full OY (CY 2020)	2nd Full OY (CY 2021)	3rd Full OY (CY 2022)
# of Procedures - BROSC	1,500	1,575	1,654	1,736	1,823	1,914
Growth Rate	--	5%	5%	5%	5%	5%
Shift in Procedures	--	--	--	60%	70%	75%
Total # of ASF Procedures	--	--	--	1,042	1,276	1,436
# of PRs	0	0	0	2	2	2

Comments submitted to the Agency during the public comment period suggested the applicants do not support their annual growth rate of five percent or their projections of 60 percent, 70 percent, and 75 percent of procedures transferring to Blue Ridge OSC in OYs One, Two, and Three, respectively. The Project Analyst notes the letter of support in Exhibit 19 submitted by Dr. Hankley, whose historical utilization forms the basis of the projections, projects to be able to perform over 1,000 procedures at that specific facility in its first OY. The Project Analyst also notes the Agency does not regulate and does not have performance standards for procedure rooms. Thus, the Project Analyst determined that the use of the five percent annual growth rate and the 60, 70, and 75 percent transfer rates in OYs One, Two, and Three, respectively, was reasonable and adequately supported.

Projected utilization is reasonable and adequately supported for the following reasons:

- There is a need determination in the 2018 SMFP for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area.

- The applicant adequately demonstrates which surgical services will be performed in the ORs and which ones will be performed in the PRs.
- The applicants rely on their own historical data in projecting future utilization.
- The applicants use physician support letters to confirm the reasonableness of their projections.
- Use of the physician support letters is reasonable and adequately supported.
- The applicants meet the performance standard promulgated in 10A NCAC 14C .2013(a).

Access

In Section C, page 49, the applicants state:

“All area residents, including low income persons, racial and ethnic minorities, women, handicapped persons, the elderly and other underserved groups, will have access to the proposed new ASC, as clinically appropriate. BROSC will not discriminate on the basis of race, ethnicity, age, gender, or disability.”

In Section L, page 103, the applicants project the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

Blue Ridge OSC Projected Payor Mix – OY 2 (CY 2021)		
Payor Source	% of Patients - ORs	% of Patients - PRs
Self-Pay	0.75%	1.95%
Charity Care	0.00%	0.00%
Medicare*	37.50%	47.46%
Medicaid*	5.79%	4.33%
Insurance*	48.28%	40.64%
Workers' Compensation	5.26%	4.50%
TRICARE	0.68%	0.54%
Other (VA & Other Gov't)	1.75%	0.58%
TOTAL	100.00%	100.00%

*Including any managed care plans

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments

- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicants adequately identify the population to be served.
- The applicants adequately explain why the population to be served needs the services proposed in this application.
- Projected utilization is reasonable and adequately supported.
- The applicants project the extent to which all residents, including underserved groups, will have access to the proposed services (payor mix) and adequately supports their assumptions.

SHP. The applicant proposes to develop a new multispecialty ASF with two ORs and three PRs. SHP, an LLC, is comprised of two members: Compass, the company that will manage the ASF, and Fletcher Hospital, Inc. d/b/a Park Ridge Health (which operates a hospital in Henderson County).

Patient Origin

On page 57, the 2018 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.” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area.

The following table illustrates projected patient origin.

WCSC– Projected Patient Origin				
County	ORs – 3rd Full FY – CY 2022		PRs – 3rd Full FY – CY 2022	
	Patients	% of Total	Patients	% of Total
Buncombe	2,145	68.1%	2,432	56.2%
Henderson	419	13.3%	1,082	25.0%
Madison	208	6.6%	208	4.8%
Yancey	142	4.5%	169	3.9%
Polk	38	1.2%	195	4.5%
Other	198	6.3%	242	5.6%
TOTAL	3,150	100.0%	4,327	100.0%

Source: Section C, page 29

In Section C, page 29, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section C, pages 30-38, the applicant first summarizes, then explains, the factors it believes support the need the population projected to utilize the proposed services has for the proposed services:

- The applicant summarizes the reasons it believes its proposal will best meet the needs of the population proposed to be served and states the sources and data it reviewed in projecting demand and meeting the needs of the population (page 30).
- **2018 SMFP:** The applicant states the 2018 SMFP shows a need for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area (page 31).
- **Physician requirements and support:** The applicant states there are 29 physicians who have already expressed interest in becoming credentialed at and perform surgeries and procedures at the proposed facility. The applicant states it will offer physicians efficiency and scheduling improvements; opportunities for future expansion if volume grows; and an opportunity to utilize the facility regardless of whether the physician is a part owner or not. The applicant provides a list of the physicians who have expressed interest in becoming credentialed at and performing surgeries and procedures at WCSC, along with the number of surgeries and procedures each projects to perform, and provides documentation in Exhibit C.4 (pages 31-33).
- **Area of patient origin population growth trends:** The applicant discusses population growth trends for what it identifies as the primary area of patient origin and the extended area of patient origin:
 - Primary area of patient origin trends: The applicant, citing data from NC OSBM, states the overall population of Buncombe, Madison, and Yancey counties grew by 6.1 percent between 2013 and 2018, and states NC OSBM projects the same area's population to increase by 5.7 percent between 2018 and 2023. The applicant states the fastest growing population segment is projected to be people over the age of 65, followed by people between the ages of 18-44 (page 34).
 - Extended area of patient origin trends: The applicant, citing data from NC OSBM, states the overall population of Buncombe, Henderson, Madison, Polk, and Yancey counties grew by 6.5 percent between 2013 and 2018, and states NC OSBM projects the same area's population to increase by 5.8 percent between 2018 and 2023. The applicant states the fastest growing population segment is projected to be people over the age of 65, followed by people between the ages of 18-44. The applicant cites articles referencing the area as a top place to retire in the United States. The applicant also states that the fastest growing age group, comprised of people age 65 and older, is 22.4 percent of the extended area's population, but is projected to be 45.2 percent of the cases performed at WCSC. The applicant further cites a journal article which states more than half of all surgical procedures are performed on patients who are older than 65 (pages 35-36).

- **Growth of ASF Industry:** The applicant cites multiple articles in industry publications which forecast increases in the growth of ASF utilization and highlight the trend of patients choosing ASFs for surgery over hospitals. The articles also discuss the effect of CMS changes to the list of procedures that can be performed in ASFs, as well as the technological advances which allow for minimally invasive procedures that help contribute to the growth of the industry. The applicant provides the articles in Exhibit C.4 (pages 37-38).

The information is reasonable and adequately supported for the following reasons:

- There is a need determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in the 2018 SMFP. The applicant is applying to develop two ORs in the Buncombe-Madison-Yancey multicounty OR planning area in accordance with the OR need determination in the 2018 SMFP.
- The applicant uses reasonable and clearly identified demographic data to make assumptions with regard to identifying the population to be served.
- The applicant makes reasonable statements and uses reasonable assumptions to demonstrate the need the population to be served has for the proposed services.

Projected Utilization

In Section Q, the applicant provides projected utilization as illustrated in the following table.

Projected Utilization – WCSC			
	1st Full FY (CY 2020)	2nd Full FY (CY 2021)	3rd Full FY (CY 2022)
# of ORs	2	2	2
# of Surgical Cases	2,370	3,150	3,150
Final Case Time (minutes) (1)	45.0	45.0	45.0
Total Surgical Hours (2)	1,777.5	2,362.5	2,362.5
Standard Hours per OR per Year (3)	1,312.5	1,312.5	1,312.5
# of ORs needed (4)	1.4	1.8	1.8
# of PRs	3	3	3
# of Procedures	3,258	4,327	4,327

- (1) The Average Case Time for Group 5 in the 2018 SMFP.
 (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
 (3) From the table in Step 5(b), page 59, of the 2018 SMFP.
 (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

In Section C, pages 44-46, the applicant provides the assumptions and methodology used to project utilization, which are summarized below.

Identify Historical Ambulatory Surgical Cases in Buncombe County Facilities, Calculate the CAGR, and Calculate Projected Buncombe County Ambulatory Surgical Cases Through 2022

On page 44, the applicant utilized 2014-2018 LRAs for facilities with ORs in Buncombe County to determine the historical number of ambulatory surgical cases performed in ORs in Buncombe County. The applicant states that it calculated the CAGR for the five year period for FYs 2013-2017, resulting in a CAGR of 1.9 percent. However, the applicant made a calculation error in its initial calculation of total outpatient surgical cases in Buncombe County. The actual number of surgical cases for FY 2013 is higher than what the applicant used in its calculations, which results in a CAGR of only 1.4 percent, not 1.9 percent.

On page 45, the applicant projects the total number of surgical cases in Buncombe County by applying the (incorrect) CAGR to the number of surgical cases for FY 2017 and then to each successive year.

The Project Analyst cannot determine how the applicant used the calculations on pages 44-45 or even if the calculations were used at all. The Project Analyst does not know why the applicant included the calculations on pages 44-45 since they were not used in projecting utilization.

Project WCSC Utilization From Physician Projections

In Exhibit C.4, the applicant provides letters of support from physicians who are interested in obtaining privileges at WCSC. The letters also include a projection of the number of surgeries the physician would be willing to perform at WCSC. The physicians who have written letters of support, their specialties, and their projections are shown in the table below.

WCSC Physician Letters of Support and Projections		
Name	Specialty	Projections
David Cobb (+3)*	OB/GYN	30
Sam Abrams	Orthopedic	250
Charles DePaolo	Orthopedic	450
Abby Maxwell	Orthopedic	
William Banks (+5)**	Podiatry	600
John Currens	Otolaryngology	425
Frank Melvin	Otolaryngology	295
Ronald Lane	Otolaryngology	310
Jason Roberts	Otolaryngology	510
Stephen Seal	Otolaryngology	341
Robert Moore	Otolaryngology	471
Theodore Rheney	Otolaryngology	460
Edward Lewis	Physiatry	50
Robert Laborde	Ophthalmology	300
Jonathan Fritz	Ophthalmology	500
Pooja Patel	Ophthalmology	350
Clayton Bryan	Ophthalmology	700
Raj Patel	Ophthalmology	160
Robert Park	Ophthalmology	230
Mark Joseph	Ophthalmology	900
Christina Choe	Ophthalmology	145
	Total	7,477

Note: the information in this table was compiled by the Project Analyst directly from the letters of support from the physicians themselves and not from any parts of Sections C and Q.

*The letter indicates that the physician and the other three physicians in the practice would perform up to 30 procedures per year.

**The letter indicates that the physician and the other five physicians in the practice would perform a total of 600 procedures per year.

Project OR and PR Utilization

On page 46, the applicant states it used the projected surgeries in the letters of support to project utilization of the ORs and PRs. The applicant states it assumes a six-month “ramp-up” period in the first OY. The applicant’s projections on page 46 are shown in the table below.

WCSC Projected Utilization – OYs 1-3 (CYs 2020-2022)			
ORs			
Specialty	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
OB/GYN	30	30	30
Orthopedics & Podiatry	975	1,300	1,300
ENT	1,365	1,820	1,820
Total Cases	2,370	3,150	3,150
PRs			
Specialty	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
Pain Management	50	50	50
ENT	744	992	992
Ophthalmology/Other Eye	2,464	3,285	3,285
Total Cases	3,258	4,327	4,327

Determine Number of ORs Needed During First Three OYs

On page 51, the applicant multiplies the number of surgery cases in each OY by 45 minutes, the average case time for the assigned group it would fall into (Group 5) in the 2018 SMFP and divides it by 60 minutes to obtain the projected number of surgical hours for each OY. The applicant then divides the projected number of surgical hours for each OY by 1,312.5 hours per year, the average number of minutes an OR in Group 5 is operational each year (per the 2018 SMFP), and obtains the utilization percentage per OR. The Project Analyst performed the final calculations to show the results in a manner consistent with the OR Need Methodology in the 2018 SMFP. This process is shown in the table below.

WCSC OR Need – OYs 1-3 (CYs 2020-2022)			
	OY 1 (CY 2020)	OY 2 (CY 2021)	OY 3 (CY 2022)
Projected # of Cases	2,370	3,150	3,150
Final Case Time (minutes) (1)	45.0	45.0	45.0
Total Surgical Hours (2)	1,777.5	2,362.5	2,362.5
Standard Hours per OR per Year (3)	1,312.5	1,312.5	1,312.5
# of ORs needed (4)	1.4	1.8	1.8

- 1) The Average Case Time for Group 5 in the 2018 SMFP.
- (2) Total Hours equals Surgical Cases multiplied by the Final Case Time, then divided by 60.
- (3) From the table in Step 5(b), page 59, of the 2018 SMFP.
- (4) # of ORs Needed equals Surgical Hours divided by the Standard Hours per OR per Year.

As shown in the table above, using the OR Need Methodology in Chapter 6 of the 2018 SMFP, the applicant shows a need for 1.8 ORs in the third OY, which would be rounded to 2. This would be consistent with 10A NCAC 14C .2103, which requires the applicant to demonstrate the need for the number of ORs it proposes to develop, using the OR Need Methodology in the applicable SMFP in the third OY.

However, projected utilization is not reasonable and adequately supported for the following reasons:

- The physician letters of support relied upon by the applicant do not adequately demonstrate that the projected number of surgical cases are reasonable and adequately supported. None of the letters provide any explanation of the basis for the projections. Therefore, utilization projections based solely on those support letters is not reasonable and adequately supported.
- Furthermore, the applicant does not provide any additional documentation to demonstrate that its projections are reasonable and adequately supported in some way other than the physician support letters. The Project Analyst was unable to find any other assumptions or any different methodology used to project utilization in the application as submitted. Pursuant to 10A NCAC 14C .0204, the applicant is not permitted to amend its application. The Agency must be able to find it conforming with the review criteria in N.C. Gen. Stat. §131E-183(a) based solely on the application as submitted.

- The applicant does not adequately explain how it determined which surgical cases would be performed in the ORs and which would be performed in the PRs. Each physician support letter projects that the physician can perform a certain number of either “*surgical procedures*” or “*outpatient surgical procedures.*” The letters do not give any indication as to how many procedures would be done in an OR versus a PR. Comments submitted to the Agency during the public comment period state that the applicant provides no information to support its numbers in this regard. In its response to those comments, the applicant states that its assumptions about which services would be performed in ORs versus PRs are based on Compass’ experiences in operating ASFs. However, the Project Analyst does not find that information to be persuasive since no information was provided in the application as submitted to explain how Compass’ experience operating ASFs makes them able to determine which types of surgical services that these physicians project to perform would be appropriately performed in a PR rather than an OR.

Access

In Section C, page 47, the applicant states:

“WCSC will not discriminate against any class of patient based on age, sex, religion, race, handicap, ethnicity, or ability to pay. WCSC will actively participate in both the Medicaid and Medicare programs. ... As part of WCSC’s commitment to serve all patients regardless of their ability to pay, it should be noted that one of the members of SHP, Park Ridge Health, operates a non-profit hospital that cares for all patients regardless of their ability to pay.”

In Section L, page 100, the applicant projects the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

WCSC Projected Payor Mix – CY 2021	
Payor Source	% of Patients
Self-Pay	10.3%
Medicare*	45.2%
Medicaid*	7.1%
Insurance*	34.1%
TRICARE	1.4%
Worker’s Compensation	1.9%
TOTAL	100.0%

*Including any managed care plans

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion because projected utilization is not reasonable and is not adequately supported.

- (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
OSCA

NA
BROSC
SHP

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County (also called OSCA) and combining them with the two ORs in the 2018 SMFP at a new location.

OSCA currently operates its ASF of the same name with its three existing ORs at 34 Granby Street in Asheville, in Buncombe County. The applicant proposes to relocate all three existing ORs to a new location on Nettlewood Drive in Asheville, in Buncombe County, where it will also develop two new ORs. Following completion of this project, all three existing ORs at the current facility will be delicensed.

In Section D, pages 56-57, the applicant explains why it believes the needs of the population presently utilizing the services to be relocated will be adequately met following completion of the project. On page 56, the applicant states:

“The physicians and patients will continue to have access to the three relocated ORs and the two additional proposed ORs at the new facility. The new multispecialty Asheville SurgCare with five licensed ORs will continue to offer orthopedic and podiatry surgery and pain management procedures as well as new surgical specialties. The proposed location in south Asheville is only 5 miles from the current facility location. As seen in the utilization projections, the new facility will have greater capacity to serve higher numbers of patients for the existing surgical specialties at OSCA plus added capacity to serve other new specialties.”

In Exhibit C.8, the applicant provides its charity care and financial policies as supporting documentation.

In Section D, page 60, the applicant states:

“The proposed project will relocate three existing ORs from OSCA to the new multispecialty Asheville SurgCare with a total of five ORs; this will improve access for low income persons, racial and ethnic minorities, women, handicapped persons, the elderly and other underserved groups. As compared to the existing facility, the scope of services at the proposed facility will provide greater access to more surgical specialties for patients of all payor categories. ...

Asheville SurgCare will not discriminate against anyone due to age, race, color, religion, ethnicity, gender, disability or ability to pay. The facility will be designed and constructed for use by handicapped persons. The facility design will be in compliance with ADA requirements and local, state, and federal building codes. The proposed project will obtain Medicare and Medicaid certification and accreditation in support of expanded patient access.”

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates:

- The needs of the population currently using the services to be relocated will be adequately met following project completion.
- The project will not adversely impact the ability of underserved groups to access these services following project completion.

BROSC. The applicants do not propose to reduce, eliminate, or relocate a facility or service. Therefore, Criterion (3a) is not applicable to the review of this application.

SHP. The applicant does not propose to reduce, eliminate, or relocate a facility or service. Therefore, Criterion (3a) is not applicable to the review of this application.

- (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
OSCA

NC
BROSC
SHP

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County (also called OSCA) and combining them with the two ORs in the 2018 SMFP at a new location.

In Section E, pages 62-63, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- **Maintaining the Status Quo:** The applicant states this proposal is not effective due to the condition of the building and the constraints that exist both within the building as well as with parking for patients outside the building. Therefore, maintaining the status quo is not an effective alternative.
- **Renovating and Expanding the Existing Building:** The applicant states with the size of the ORs being a major constraint, renovation would require converting extra space into additional OR space, but no such extra space exists. Additionally, the applicant states other upgrades which would be required to conform to building codes would make it difficult and disruptive to renovate the facility without shutting the facility down. Therefore, this is not an effective alternative.
- **Developing a Smaller Facility with Only Three Orthopedic ORs:** The applicants state that developing a new facility with the existing ORs and a single PR would not alleviate the capacity constraints that exist due to high utilization. The applicant further states that single specialty facilities are more vulnerable to changes in reimbursement and staffing changes, which would not be the most effective option. Therefore, this is not an effective alternative.

On pages 63-64, the applicant states its proposal is the most effective alternative because it provides a new multispecialty ASF at the same time that it replaces its aging facility and does so in a way that does not disrupt existing services. The applicant also states the new facility will support continued growth in ASF services in Buncombe County while also providing beneficial competition. The applicant further states this project is the most effective alternative because it will help achieve economies of scale which will result in cost savings to patients.

Comments submitted to the Agency during the public comment period suggest the applicant did not consider the alternative of relocating its existing facility without adding ORs, and the comments note that the Agency has approved applicants in past competitive reviews to develop new ASFs without new ORs. The Project Analyst notes that the applicant is not required to list every possible alternative, but instead to demonstrate that its chosen alternative is the least

costly or most effective. Additionally, the applicant does appear to have considered a similar alternative – developing a smaller facility with three orthopedic ORs – as discussed above. Further, utilization of the applicant’s existing facility is partly responsible for the present need determination. Finally, in other applications and reviews where the Agency allowed an applicant to develop a new ASF with only its existing complement of ORs, the applicant that was awarded a certificate of need for that option was not the most effective project in the comparative analysis. See the Comparative Analysis for further discussion of which applicant is the most effective.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the applicant demonstrates this proposal is its least costly or most effective alternative to meet the identified need for two additional ORs in the Buncombe-Madison-Yancey multicounty OR planning area. Therefore, the application is conforming to this criterion.

BROSC. The applicants propose to develop a new single specialty ASF with two ORs and two PRs in Buncombe County.

In Section E, pages 61-68, the applicants describe the alternatives considered and explain why each alternative is either more costly or less effective to meet the need than the alternative proposed in this application. The alternatives considered were:

- **Maintaining the Status Quo:** The applicants state this proposal is not effective because there is a need to expand access to ASFs in order to provide more cost effective services. The applicants state surgeons they are affiliated with performed over 4,600 surgeries in 2017 and 85 percent were in hospital based outpatient ORs, which is more costly to patients. Therefore, maintaining the status quo is not an effective alternative.
- **Pursuing a Joint Venture:** The applicants state they attempted this alternative in 2017 by reaching out to local hospitals. The applicants state that discussions stalled, and while they were later approached to discuss a joint venture, at that point the applicants were unable to change course in the process of completing this application. Therefore, pursuing a joint venture is not an effective alternative.
- **Developing an ASF in Another Location:** The applicants state that the relatively small populations in Madison and Yancey counties, compared to that of Buncombe County, makes locating an ASF in Madison or Yancey counties impractical. The applicants state

existing ORs in Buncombe County are all concentrated in the central part of the county, while the southern part of the county, with no ORs, has one-third of the total county population, and that part of the county is projected to grow at a faster rate than the rest of the county. Therefore, developing the ASF in another location is not an effective alternative.

- **Develop an ASF with No PRs:** The applicants state developing an ASF without PRs does not allow for the efficient rotation of procedures. The applicants also state that including two PRs maximizes the use of staff, resources, and economies of scale. Therefore, this is not an effective alternative.
- **Develop a Multispecialty ASF with PRs:** The applicants state this was not the most effective alternative because it would increase capital costs and OR turnover time could increase between changes involving different surgical specialties. Therefore, this is not an effective alternative.

On pages 66-67, the applicants state their proposal is the most effective alternative because it establishes a new single specialty ASF in the southern part of the county. The applicants also state it will be located near major thoroughfares, allowing for convenient patient access, and close to Henderson County. The applicants state many of BROSC's patients originate from southern Buncombe County and Henderson County. The applicants further state that developing the ASF will allow for design of the ORs to accommodate all modern orthopedic outpatient cases, which the applicants state is not currently possible in the existing outpatient ORs in Buncombe County.

However, the applicants do not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because the application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

SHP. The applicant proposes to develop a new multispecialty ASF with two ORs and three PRs.

In Section E, pages 60-66, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

- **Maintaining the Status Quo:** The applicant states this proposal is not effective because it does not address the need determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area. Therefore, maintaining the status quo is not an effective alternative.
- **Developing a Freestanding ASF Without Park Ridge Health:** The applicant states this proposal is not effective because it would not allow other venture partners to gain from the experience of Park Ridge Health, a hospital in Henderson County, including its established relationships with the area healthcare system, and the support services provided by area hospitals. Therefore, this is not an effective alternative.
- **Developing a Facility In Asheville:** The applicant states that existing ORs are already located in Asheville. The applicant also states adding a facility in an area with existing traffic congestion would only worsen the congestion and make it harder for patients to access the facility. Therefore, this is not an effective alternative.
- **Developing a Single Specialty ASF:** The applicant states this proposal is not effective because it would not allow the most patients to benefit from receiving services at a multi-specialty ASF. The applicant also states that since this is the first need determination in the area since 2002, developing a single-specialty ASF would not benefit the greatest number of patients. Therefore, this is not an effective alternative.
- **Developing an ASF with One OR:** The applicant states this proposal is not the most effective alternative because the number of projected surgeries requires more than one OR. The applicant also states that a single OR would be less efficient in terms of throughput and scheduling than an ASF with two ORs. Therefore, this is not an effective alternative.

On page 66, the applicant states its proposal is the most effective alternative because it provides a new multi-specialty ASF from a joint venture between an established hospital in the area, with existing relationships, and a company with experience in developing and managing ASFs. The applicant states this joint venture will help manage costs, ensure access to underserved populations, and lower costs for patients.

However, the applicant does not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need because the application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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
OSCA

NC
BROSC
SHP

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County and combining them with the two ORs in the 2018 SMFP at a new location.

Capital and Working Capital Costs

In Section Q, on Form F.1a, the applicant projects the total capital cost of the project, as shown in the table below.

Construction Costs	\$4,406,499
Fees	\$408,008
Medical Equipment	\$3,822,242
Miscellaneous Costs	\$602,224
Total	\$9,238,973

In Section Q, the applicant provides the assumptions used to project the capital cost.

In Section F, page 67, the applicant projects there will be no start-up costs or initial operating expenses, but budgets \$100,000 in contingency costs with regard to potential unforeseen costs.

On page 67, the applicant states:

“No start-up expenses are projected because the proposed project involves the relocation of the existing OSCA ORs that are licensed and operational and have net revenue that exceeds expenses.”

...

Asheville SurgCare budgets \$100,000 in working capital for contingency for any unforeseen operating costs that relate to the initial month of operation that may be capitalized in accordance with Generally Accepted Accounting Procedures.”

Availability of Funds

In Section F, page 65, the applicant states the entire capital costs of the proposed project will be funded through accumulated reserves or owner’s equity. In Section F, page 68, the applicant states that its contingency costs for working capital expenses will also be funded entirely through accumulated reserves or owner’s equity.

Exhibit F.2 contains a letter dated May 3, 2018 from the Chief Financial Officer of Surgery Partners, Inc., the majority owner of OSCA, committing \$9,238,973 in cash and cash equivalents to fund the development of this project. Exhibit F.2 also contains another letter from the Chief Financial Officer of Surgery Partners, Inc., dated May 7, 2018, committing \$100,000 in cash and cash equivalents for contingency costs.

Exhibit F.2 further contains the Consolidated Financial Statements for Surgery Partners, Inc., for the fiscal years ending December 31, 2017 and 2016. The statements show as of December 31, 2017, Surgery Partners, Inc. had \$174,914,000 in cash and cash equivalents.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.3, the applicant projects revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

OSCA Revenues and Operating Expenses			
	1st FY CY 2021	2nd FY CY 2022	3rd FY CY 2023
Total # of Cases (ORs and PRs)	6,849	7,016	7,187
Total Gross Revenues (Charges)	\$54,381,689	\$57,379,859	\$60,543,323
Total Net Revenue	\$13,601,862	\$14,351,760	\$15,143,000
Average Net Revenue per Case	\$1,986	\$2,046	\$2,107
Total Operating Expenses (Costs)	\$10,683,349	\$11,212,691	\$11,707,268
Average Operating Expense per Case	\$1,560	\$1,598	\$1,629
Net Income	\$2,918,513	\$3,139,069	\$3,435,733

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs, and charges. See Section Q 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates the capital costs are based on reasonable and adequately supported assumptions.
- The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
- The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

BROSC. The applicants propose to develop a new single specialty ASF with two ORs and two PRs in Buncombe County.

Capital and Working Capital Costs

In Section Q, on Form F.1a, the applicants project the total capital cost of the project, as shown in the table below.

Site Costs	\$3,107,478
Construction Costs	\$5,290,631
Fees	\$616,050
Medical Equipment	\$2,748,018
Finance-Related Costs	\$287,266
Miscellaneous Costs	\$569,309
Total	\$12,618,752

In Section F, page 69, and Section Q, the applicants provide the assumptions used to project the capital cost.

In Section F, pages 71-72, the applicants project that start-up costs will be \$255,000 and initial operating expenses will be \$445,000 for a total working capital of \$700,000. On page 71, and in the financial part of Section Q, the applicants provide the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section F, page 70, the applicants state how the capital cost will be funded, as shown in the table below.

Sources of Capital Cost Financing			
Type	Blue Ridge Outpatient Surgery Center, LLC	BRBJ Asheville.2, LLC	Total
Loans	\$3,120,327	\$9,498,426	\$12,618,752
Total Financing	\$3,120,327	\$9,498,426	\$12,618,752

In Section F, pages 72-73, the applicants state that the working capital needs of the project will be funded through a loan to Blue Ridge Outpatient Surgery Center, LLC.

Exhibit 17 contains a letter dated May 10, 2018 from a Vice President of First Citizens Bank, stating it is willing to consider financing a loan in the amount of \$3,820,327 (the \$3,120,327 capital cost and the \$700,000 working capital cost) for Blue Ridge Outpatient Surgery Center, LLC. Exhibit 17 also contains a similar letter, with the same date, from the same bank, and signed by the same person, stating it is willing to consider financing a loan in the amount of \$9,498,425 for BRBJ Asheville.2, LLC.

However, the applicants do not adequately demonstrate the availability of sufficient funds for the capital needs of the project because the applicants do not account for repayment of the loan to BRBJ Asheville.2, LLC in the application, as discussed below.

In Section Q, the applicants provide pro forma financial statements for Blue Ridge OSC. In Form F.3, a line item under Indirect Expenses lists “ASC Project Loan Interest” and in OY 1 that line item lists a \$172,048 expense. The applicants provide two amortization schedules for the amount of financing that Blue Ridge Outpatient Surgery Center, LLC is liable for. It is unclear why two schedules are provided when the financial documentation references a single loan; however, according to the amortization schedules provided by the applicants, as well as a single amortization schedule prepared by the Project Analyst (see the working papers), that amount roughly corresponds with what the first year’s interest payment would be for a loan of \$3,820,327, payable over seven years, at an annual interest rate of 4.9 percent.

The applicants do not provide an amortization schedule for the \$9,498,425 loan to be obtained by BRBJ Asheville.2, LLC. BRBJ Asheville.2, LLC is identified in Section A as a co-applicant, which signed the application, and not as an unrelated third party. An amortization schedule prepared by the Project Analyst (see the working papers) shows that in the first year of repayment, BRBJ Asheville.2, LLC would be responsible for a total loan payment of \$739,065.12 (\$488,653.85 of interest and \$290,411.27 of the principal balance). There are no line items in Form F.3, or anywhere else in the pro formas provided by the applicants, which account for that expense or explain how BRBJ Asheville.2, LLC will repay the loan.

In Form F.3, a line item under Indirect Expenses lists “Rental Expenses” of \$534,684 in the first year. In the assumptions for the pro formas, the applicants state that the cost of the annual facility rental is based on a price of \$34 per square foot (\$34 x 15,726 square feet = \$534,684).

However, that rental payment is insufficient to cover the amount of the first year’s loan payment that BRBJ Asheville.2, LLC would be responsible for (\$739,065.12 - \$534,684 = \$204,381.12). The applicants do not provide pro formas for BRBJ Asheville.2, LLC, or any other type of financial statement, such as a balance sheet or consolidated financial statements, which would adequately demonstrate the availability of sufficient funds for the portion of the capital costs that BRBJ Asheville.2, LLC would be obligated to pay off the loan for. Because the yearly rental payment for the building is insufficient to cover the obligation BRBJ Asheville.2, LLC would incur, and in the absence of any other type of financial documentation to demonstrate the availability of sufficient funds to cover the portion of the capital cost to be incurred by BRBJ Asheville.2, LLC, the applicants do not adequately demonstrate the availability of sufficient funds to cover the capital needs of the project.

Financial Feasibility

The applicants provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.3, the applicants project revenues will exceed operating expenses in the first three OYs of the project, as shown in the table below.

BROSC Revenues and Operating Expenses			
	1st FFY CY 2020	2nd FFY CY 2021	3rd FFY CY 2022
Total # of Cases (ORs and PRs)	4,080	4,917	5,443
Total Gross Revenues (Charges)	\$19,980,087	\$23,969,746	\$26,409,247
Total Net Revenue	\$6,740,051	\$8,086,934	\$8,911,119
Average Net Revenue per Case	\$1,652	\$1,645	\$1,637
Total Operating Expenses (Costs)	\$5,743,436	\$6,596,525	\$7,294,576
Average Operating Expense per Case	\$1,408	\$1,342	\$1,340
Net Income	\$996,616	\$1,490,409	\$1,616,543

However, the assumptions used by the applicants in preparation of the pro forma financial statements are not reasonable and adequately supported because the applicants do not adequately demonstrate the availability of sufficient funds for the capital and working capital needs of the project, as discussed above. Therefore, since projected expenses are based at least in part on the appropriate accounting of financing for loan repayment (i.e., capital needs), projected expenses are also questionable.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the following reasons:

- The applicants do not adequately demonstrate availability of sufficient funds for the capital needs of the proposal.
- The applicants do not adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

SHP. The applicant proposes to develop a new multispecialty ASF with two ORs and three PRs.

Capital and Working Capital Costs

In Section Q, on Form F.1a, the applicant projects the total capital cost of the project as shown in the table below.

Construction Costs	\$3,250,000
Fees	\$715,000
Medical Equipment	\$2,633,330
Miscellaneous Costs	\$834,134
Total	\$7,432,464

In Exhibit F.1, the applicant provides documentation to support the projection of the capital cost.

In Section F, page 70, the applicant projects that start-up costs will be \$403,664 and initial operating expenses will be \$896,336 for a total working capital of \$1,300,000. On page 70, and in Section Q, the applicant provides the assumptions and methodology used to project the working capital needs of the project.

Availability of Funds

In Section F, pages 68 and 71, the applicant states the entire capital and working capital costs of the proposed project will be funded through loans. Exhibit F.2 contains a letter dated May 8, 2018 from a Senior Vice President at First Citizens Bank, offering to consider providing a loan of up to \$7,500,000 for construction and development of the proposed facility and a loan of \$1,300,000 for the working capital needs of the proposed project. Exhibit F.2 also contains a letter dated May 2, 2018 from a Senior Vice President of Paragon Bank, offering to consider providing a loan of up to \$7,500,000 for construction and development of the proposed facility, and a revolving line of credit for up to \$1,500,000 for the working capital needs of the proposed project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.3 (labeled as Form F.4 by the applicant), the applicant projects revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

SHP Revenues and Operating Expenses			
	1st FY CY 2020	2nd FY CY 2021	3rd FY CY 2022
Total # of Cases (ORs and PRs)	5,628	7,477	7,477
Total Gross Revenues (Charges)	\$19,947,125	\$26,524,500	\$26,524,500
Total Net Revenue	\$9,335,017	\$12,409,783	\$12,409,783
Average Net Revenue per Case	\$1,659	\$1,660	\$1,660
Total Operating Expenses (Costs)	\$6,914,490	\$8,268,478	\$8,327,099
Average Operating Expense per Case	\$1,229	\$1,106	\$1,114
Net Income	\$2,420,527	\$4,141,305	\$4,082,684

However, the assumptions used by the applicant in preparation of the pro forma financial statements are not reasonable and adequately supported because projected utilization is questionable. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Therefore, since projected revenues and expenses are based at least in part on projected utilization, projected revenues and expenses are also questionable.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion because the applicant does not adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

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

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The 2018 SMFP includes an OR Need Determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area.

On page 57, the 2018 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.” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area.

According to Table 6A, on page 63 of the 2018 SMFP, there are 48 ORs in the Buncombe-Madison-Yancey multicounty OR planning area, allocated between three facilities: Mission Hospital (44 ORs), Orthopaedic Surgery Center of Asheville (3 ORs), and Asheville Eye Surgery Center (1 OR).

Operating Room Inventory – Buncombe-Madison-Yancey Multicounty Planning Area				
Facility	Inpatient ORs	Ambulatory ORs	Shared ORs	Total ORs
Mission Hospital	5*	9	30	44
Orthopaedic Surgery Center of Asheville	0	3	0	3
Asheville Eye Surgery Center	0	1	0	1
Total	5	13	30	48

Source: Table 6A, 2018 SMFP

*Excludes two dedicated C-Section ORs and one additional OR because Mission is a Level II Trauma Center.

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County and combining them with the two ORs in the 2018 SMFP at a new location. The applicant adequately demonstrates the need to develop the two additional ORs at the proposed Asheville SurgCare facility in Asheville, Buncombe County, based on the number of projected patients it proposes to serve.

In Section G, page 73, the applicant states that the proposed project will not result in unnecessary duplication of existing or approved services or facilities because its proposal is consistent with the need determination. On page 73, the applicant states:

“The operating room inventory for the service area is badly skewed by Mission Hospital’s market dominance with 100 percent of the inpatient OR capacity and 91 percent of the ambulatory / shared OR capacity. Orthopaedic Surgery Center of Asheville represents approximately 7 percent of the ambulatory/shared OR capacity and Asheville Eye Center holds approximately 2 percent of the ambulatory/shared

capacity. Both of the existing ambulatory surgical facilities offer a limited scope of surgical services based on their single specialty designations. Even so, the two existing ambulatory surgical facilities both achieved such high utilization as to trigger the need determinations for two additional operating rooms.”

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- There is a need determination in the 2018 SMFP for the proposed ORs.
- The applicant adequately demonstrates the need the population proposed to be served has for the existing and approved ORs.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

BROSC. The applicants propose to develop a new single specialty ASF with two ORs and two PRs in Buncombe County.

The applicants adequately demonstrate the need to develop two ORs at the proposed Blue Ridge OSC facility in Asheville, Buncombe County, based on the number of projected patients they propose to serve.

In Section G, page 79, the applicants state that the proposed project will not result in unnecessary duplication of existing or approved services or facilities because the proposed project demonstrates the need the population has for the proposed services. On page 79, the applicants state:

“...the proposed project will provide numerous benefits to local residents vis a vis quality, access, and cost effectiveness. For example, ASCs provide cost-effective care that save the patient, government, and third-party payors money. Because ASCs are highly specialized and function on a much smaller scale, they are able to provide services at a lower price than a full-service hospital. Approximately 85 percent of the ambulatory surgical cases performed by anticipated BROSC user physicians are currently being performed in hospital-based settings, thus these patients have the potential to benefit from the proposed ASC and its lower charge and cost structure.

Additionally, the proposed BROSC location will enhance geographic access in southern Buncombe County where there is a large and growing population.”

The applicants adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area for the following reasons:

- There is a need determination in the 2018 SMFP for the proposed ORs.
- The applicants adequately demonstrate the need the population proposed to be served has for the existing and approved ORs.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

SHP. The applicant proposes to develop a new multispecialty ASF with two ORs and three PRs.

In Section G, pages 77-79, the applicant explains why it believes the population projected to utilize the proposed ORs needs the proposed services. On page 77, the applicant states:

“The 2018 SMFP, page 72, identifies two providers within the Buncombe/Madison/Yancey OR service area with projected OR deficits greater to or equal to 0.50 ORs. This results in a service area OR deficit of two ORs.

...

SHP only proposed to develop two ORs in the Buncombe/Madison/Yancey OR service area and WCSC will be the only free-standing, non-hospital based, multi-specialty ASF in the service area.

Additionally, local community physicians have expressed a willingness to perform surgical and pain management cases at the ASF. The projected Year 3 annual surgical case volume of 3,150 surgical cases and 4,327 procedure room cases is both reasonable and attainable.”

However, the applicant does not adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the applicant’s projected utilization is not reasonable and adequately supported. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

- (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
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OSCA. In Section Q, Form H, the applicant provides current and projected staffing for the proposed services as illustrated in the following table.

OSCA Current and Projected Staffing				
Position	Current	Projected		
	As of 5/10/2018	1st FFY	2nd FFY	3rd FFY
Medical Records – Clerical	3.0	4.0	4.0	4.0
Registered Nurses	15.0	24.0	25.0	26.0
Surgical Technicians	4.0	7.0	8.0	8.0
Clinical Supervisor (RN)	1.0	1.0	1.0	1.0
Certified Central Sterile Techs	1.0	2.0	2.5	3.0
Administrator	2.0	2.0	2.0	2.0
Materials Management Techs	1.0	2.0	2.0	2.0
TOTAL	27.0	42.0	44.5	46.0

The assumptions and methodology used to project staffing are provided in Section Q. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.3, which is found in Section Q. In Section H, pages 76-77, the applicant describes the methods used to recruit or fill new positions and its existing training and continuing education programs. In Section H, page 78, the applicant identifies the current

medical director. In Exhibit H.4, the applicant provides a letter from the medical director expressing his support for the proposed project and indicating an interest in continuing to serve as medical director for the proposed services. In Section H, page 78, the applicant describes its physician recruitment plans. In Exhibit C.4, the applicant provides supporting documentation.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

BROSC. In Section Q, Form H, the applicants provide projected staffing for the proposed services as illustrated in the following table.

BROSC Projected Staffing			
	CY 2020	CY 2021	CY 2022
Medical Records – Clerical	0.75	1.00	1.00
Registered Nurses	10.10	11.60	13.10
Surgical Technicians	4.00	4.75	5.50
Central Sterile Technicians	1.40	1.65	1.90
Administrator	1.00	1.00	1.00
Assistant Administrator	1.00	1.00	1.00
Medical Director	1.00	1.00	1.00
Business Office Manager	1.00	1.00	1.00
Clerical/Registration	2.00	2.25	2.50
Medical Billing Clerk	1.40	1.65	1.90
TOTAL	23.65	26.90	29.90

The assumptions and methodology used to project staffing are provided in Section H, pages 81-82. Adequate costs for the health manpower and management positions proposed by the applicants are budgeted in Form F.3, which is found in Section Q. In Section H, pages 82-83, the applicants describe the methods used to recruit or fill new positions and their proposed training and continuing education programs. In Section H, page 84, the applicants identify the proposed medical director. In Exhibit 5, the applicants provide a letter from the proposed medical director indicating an interest in serving as medical director for the proposed services. In Section H, pages 84-85, the applicants describe their physician recruitment plans.

The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

SHP. In Section Q, Form H, the applicant provides projected staffing for the proposed services as illustrated in the following table.

SHP Projected Staffing			
Position	Projected		
	1st FFY	2nd FFY	3rd FFY
Registered Nurses	10.5	12.5	12.5
Licensed Practical Nurses	1.4	2.0	2.0
Surgical Technologists	4.0	5.0	5.0
Radiology Technologists	0.8	1.0	1.0
Sterile Supply Technicians	1.4	2.0	2.0
Director	1.0	1.0	1.0
Nursing Supervisor	1.0	1.0	1.0
Financial Supervisor	1.0	1.0	1.0
Business Office Support	4.1	5.2	5.2
TOTAL	25.2	30.7	30.7

Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.3 (labeled as Form F.4 by the applicant), which is found in Section Q. In Section H, pages 81-83, the applicant describes the methods used to recruit or fill new positions and its proposed training and continuing education programs. In Exhibit H.3, the applicant provides supporting documentation. In Section H, page 83, the applicant identifies the proposed medical director. In Exhibit H.4, the applicant provides a letter from the proposed medical director indicating an interest in serving as medical director for the proposed services. In Section H, pages 83-84, the applicant describes its physician recruitment plans. In Exhibit C.4, the applicant provides supporting documentation.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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.

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OSCA. In Section I, page 80, the applicant states the following ancillary and support services are necessary for the proposed services:

- Anesthesiology/CRNA Services
- Pathology
- Laboratory
- Portable X-ray
- Pharmacy Services
- Sterile Processing
- Patient Registration Billing
- Medical Records/Coding
- Administration
- Management Services
- Nursing Director
- Housekeeping

On pages 80-81, the applicant adequately explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I.1.

In Section I, pages 81-82, the applicant describes its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibits C.4, D.5, and I.2.

The applicant adequately demonstrates the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

BROSC. In Section I, page 86, the applicants state the following ancillary and support services are necessary for the proposed services:

- Business Office Services (Reception, Medical Records, etc.)
- Administration
- Surgical Services
- Medical Supply Services
- Dietary Services
- Laundry
- Maintenance
- Housekeeping
- Pharmacy
- Anesthesiology
- Pathology

On page 86, the applicants adequately explain how each ancillary and support service will be made available and provide supporting documentation in Exhibit 14.

In Section I, page 87, the applicants describe their proposed relationships with other local health care and social service providers and provide supporting documentation in Exhibits 12, 15, and 19.

The applicants adequately demonstrate the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

SHP. In Section I, page 86, the applicant states the following ancillary and support services are necessary for the proposed services:

- Billing, Accounts Payable, & General Accounting
- Business Office/Admissions
- Facility Management
- Human Resources
- Information Management
- Legal Services
- Materials Management
- Medical Records
- Planning and Marketing
- Insurance
- Purchasing
- Quality Management/Infection Control
- Risk Management/Utilization Review
- Scheduling
- Staff Education

On page 86, the applicant adequately explains how each ancillary and support service will be made available and provides supporting documentation in Exhibits A.9 and I.1.

In Section I, page 87, the applicant describes its proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibits C.4 and I.2.

The applicant adequately demonstrates the proposed services will be coordinated with the existing health care system.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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 – All Applications

None of the applicants project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, none of the applicants project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, this criterion is not applicable to this review.

- (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 – All Applications

None of the applicants are HMOs. Therefore, this criterion is not applicable to this review.

- (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.

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OSCA. In Section K, page 85, the applicant states the project involves constructing 23,312 gross square feet of new space. Line drawings are provided in Exhibit K.1. Comments submitted to the Agency during the public comment period state that the application has

discrepancies, reporting that the facility will be 22,683 square feet in some places and 23,312 square feet in other places. In Section K, the applicant states that 23,312 is the gross square footage. In Exhibit M.3, the document references 22,683 of rentable square feet. And Exhibit F.1 clearly states that the 23,312 gross square feet results in 22,683 of rentable square feet.

On pages 86-87, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal.

On page 87, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services.

On page 88, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

On pages 88-89, the applicant identifies the proposed site and provides information about the current owner and the availability of water, sewer, and waste disposal and power at the site.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the application is conforming to this criterion.

BROSC. In Section K, page 90, the applicants state that the project involves constructing 15,726 square feet of new space. Line drawings are provided in Exhibit 16.

On page 91, the applicants adequately explain how the cost, design, and means of construction represent the most reasonable alternative for the proposal and provide supporting documentation in Exhibit 16.

On page 91, the applicants adequately explain why the proposal will not unduly increase the costs to the applicants of providing the proposed services or the costs and charges to the public for the proposed services.

On pages 91-92, the applicants identify any applicable energy saving features that will be incorporated into the construction plans.

On pages 93-99, the applicants identify the proposed primary and secondary sites and provide information about the current owners, zoning and special use permits for the sites, and the

availability of water, sewer, and waste disposal and power at the sites. The applicants provide supporting documentation in Exhibits 3 and 16.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

SHP. In Section K, page 90, the applicant states that the project involves upfitting 11,530 square feet of space in a medical office building constructed by an unaffiliated entity. Line drawings are provided in Exhibit K.3.

On page 91, the applicant explains why it believes that the cost, design, and means of construction represents the most reasonable alternative for the proposal. The applicant states:

“The up fitting of the ASF will cost \$3.25 million and involves up fitting leased space within a newly constructed MOB in Arden.”

The Project Analyst does not know what the correlation is between the cost of the building and representing the most reasonable alternative to develop the project. However, the Project Analyst notes in Section E, pages 62-66, the applicant discusses why the project as proposed is the least costly or most effective alternative.

On page 91, the applicant explains why it believes the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services. The applicant states:

“...the project depreciation expense per case (OR and procedure room cases combined) is projected to be \$83 per case in Year 3.”

The Project Analyst is not sure what the statement about depreciation expense means or how it relates to this statutory criterion. Therefore, the Project Analyst determined the applicant does not adequately explain why it believes its proposal will not unduly increase costs to provide the proposed services or the costs and charges to the public for the proposed services.

On page 92, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

On pages 93-95, the applicant identifies the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer, and waste disposal and power at the site. Supporting documentation is found in Exhibit K.5.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

(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
OSCA

NA
BROSC
SHP

OSCA. In Section L, page 92, the applicant provides the historical payor mix during the last full fiscal year prior to submission of the application for the proposed services, as shown in the table below.

Asheville SurgCare Historical Payor Mix (10/1/2016 - 9/30/2017)	
Payor Source	% of Patients
Self-Pay	0.46%
Charity Care	0.00%
Medicare*	38.52%
Medicaid*	6.11%
Insurance*	47.55%
Workers' Compensation	6.16%
TRICARE	1.17%
Other	0.03%
TOTAL	100.00%

*Including any managed care plans

In Section L, page 92, the applicant provides the following comparison.

	% of Total Patients Served by the Facility during the Last Full FY	% of the Population of Buncombe County	% of the Population of Madison County	% of the Population of Yancey County
Female	56.3%	52.1%	50.4%	50.9%
Male	43.7%	47.9%	49.6%	49.1%
Unknown	0.0%	0.0%	0.0%	0.0%
64 and Younger	65.6%	80.9%	79.4%	75.4%
65 and Older	34.4%	10.1%	20.6%	24.6%
American Indian	0.1%	0.5%	0.5%	0.8%
Asian	0.1%	1.3%	0.4%	0.3%
Black or African-American	1.6%	6.4%	1.7%	0.1%
Native Hawaiian or Pacific Islander	0.0%	0.2%	0.1%	0.3%
White or Caucasian	97.1%	89.5%	96.1%	96.4%
Other Race	0.5%	2.0%	1.3%	1.0%
Declined / Unavailable	0.6%	0.0%	0.0%	0.0%

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents 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. Therefore, the application is conforming to this criterion.

BROSC. Neither the applicants nor any related entities own, operate, or manage an existing facility located in the service area. Therefore, Criterion (13a) is not applicable to the review of this application. However, in Section L, pages 100-101, the applicants provide the following comparison for reference.

	% of Total Patients Served by Applicants during CY 2017	% of the Population of Buncombe County
Female	53.0%	52.1%
Male	43.0%	47.9%
Unknown	0.0%	0.0%
64 and Younger	63.0%	80.9%
65 and Older	37.0%	19.1%
American Indian	0.0%	0.5%
Asian	0.0%	1.3%
Black or African-American	2.0%	6.4%
Native Hawaiian or Pacific Islander	0.0%	0.2%
White or Caucasian	88.0%	83.8%
Other Race	2.0%	8.4%
Declined / Unavailable	8.0%	0.0%

Source: Applicants, US Census Bureau

SHP. Neither the applicant nor any related entities own, operate, or manage an existing facility located in the service area. Therefore, Criterion (13a) is not applicable to the review of this application.

- (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
OSCA
BROSC
SHP

OSCA. Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 92, the applicant states it has no such obligation.

In Section L, page 93, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any similar facilities owned by the applicant or a related entity and located in North Carolina.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

BROSC. Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, pages 101-102, the applicants state they have no such obligation.

In Section L, page 102, the applicants state that during the last five years they are unaware of any patient civil rights access complaints which have been filed against any similar facilities owned by the applicants or a related entity and located in North Carolina.

Conclusion

The Agency reviewed the:

- Application

- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

SHP. Regarding any obligation to provide uncompensated care, community service, or access by minorities and persons with disabilities, in Section L, page 99, the applicant states it has no such obligation.

In Section L, page 99, the applicant states that during the last five years no patient civil rights access complaints have been filed against any similar facilities owned by the applicant or a related entity and located in North Carolina.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (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
OSCA
BROSC
SHP

OSCA. In Section L, page 93, the applicant projects the following payor mix for the proposed services during all three full fiscal years of operation following completion of the project, as shown in the table below.

Asheville SurgCare Projected Payor Mix (CYs 2021, 2022, & 2023)	
Payor Source	% of Patients
Self-Pay	2.7%
Charity Care	0.5%
Medicare*	46.2%
Medicaid*	5.0%
Insurance*	40.6%
Workers' Compensation	3.7%
TRICARE	0.8%
Other	0.5%
TOTAL	100.0%

*Including any managed care plans

As shown in the table above, during all three full fiscal years of operation, the applicant projects 2.7 percent of total services will be provided to self-pay patients, 0.5 percent to charity care patients, 46.2 percent to Medicare patients, and 5.0 percent to Medicaid patients.

On pages 94-95, the applicant provides the assumptions and methodology used to project payor mix during all three full fiscal years of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The applicant relies on its own historical data in projecting future utilization.
- The applicant accounts for potentially different historical payor mixes for surgical specialties it has not yet offered.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the application is conforming to this criterion.

BROSC. In Section L, page 103, the applicants project the following payor mix for the proposed services during the second full fiscal year of operation following completion of the project, as shown in the table below.

Blue Ridge OSC Projected Payor Mix (CY 2021)		
Payor Source	% of Patients - ORs	% of Patients - PRs
Self-Pay	0.75%	1.95%
Charity Care	0.00%	0.00%
Medicare*	37.50%	47.46%
Medicaid*	5.79%	4.33%
Insurance*	48.28%	40.64%
Workers' Compensation	5.26%	4.50%
TRICARE	0.68%	0.54%
Other (VA, other gov't)	1.75%	0.58%
TOTAL	100.00%	100.00%

*Including any managed care plans

As shown in the table above, during the second full fiscal year of operation, the applicants project 0.75 percent of OR services and 1.95 percent of PR services will be provided to self-pay patients, 37.5 percent of OR services and 47.46 percent of PR services will be provided to Medicare patients, and 5.79 percent of OR services and 4.33 percent of PR services will be provided to Medicaid patients.

On pages 103-104, the applicants provide the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported for the following reasons:

- The applicants rely on historical data to project future utilization.
- The applicants provide adequate documentation to demonstrate their projections are similar to historical payor mixes at other area facilities.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

SHP. In Section L, page 100, the applicant projects the following payor mix during the second full fiscal year of operation following completion of the project, as illustrated in the following table.

WCSC Projected Payor Mix – CY 2021	
Payor Source	% of Patients
Self-Pay	10.3%
Medicare*	45.2%
Medicaid*	7.1%
Insurance*	34.1%
TRICARE	1.4%
Worker's Compensation	1.9%
TOTAL	100.0%

*Including any managed care plans

As shown in the table above, during the second full fiscal year of operation, the applicant projects 10.3 percent of total services will be provided to self-pay patients, 45.2 percent to Medicare patients, and 7.1 percent to Medicaid patients. The applicant states it includes charity care in the self-pay category; however, because the applicant failed to provide separate information about its charity care as requested in the application, there is no meaningful way to discuss it here.

On page 100, the applicant provides the assumptions and methodology used to project payor mix during the second full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported because the applicant uses the historical payor mixes of physicians expected to perform surgeries at WCSC.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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
OSCA
BROSC
SHP

OSCA. In Section L, page 96, the applicant adequately describes the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

BROSC. In Section L, page 105, the applicants adequately describe the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

SHP. In Section L, page 103, the applicant adequately describes the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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
OSCA
BROSC
SHP

OSCA. In Section M, page 97, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibit M.2.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

BROSC. In Section M, page 107, the applicants describe the extent to which health professional training programs in the area will have access to the facility for training purposes and provide supporting documentation in Exhibit 13.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicants adequately demonstrate that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

SHP. In Section M, page 105, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibits M.1 and M.2.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately demonstrates that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming 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
OSCA

NC
BROSC
SHP

The 2018 SMFP includes an OR Need Determination for two ORs in the Buncombe-Madison-Yancey multicounty OR planning area.

On page 57, the 2018 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.” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area.

According to Table 6A, on page 63 of the 2018 SMFP, there are 48 ORs in the Buncombe-Madison-Yancey multicounty OR planning area, allocated between three facilities: Mission Hospital (44 ORs), Orthopaedic Surgery Center of Asheville (3 ORs), and Asheville Eye Surgery Center (1 OR).

Operating Room Inventory – Buncombe-Madison-Yancey Multicounty Planning Area				
Facility	Inpatient ORs	Ambulatory ORs	Shared ORs	Total ORs
Mission Hospital	5*	9	30	44
Orthopaedic Surgery Center of Asheville	0	3	0	3
Asheville Eye Surgery Center	0	1	0	1
Total	5	13	30	48

Source: Table 6A, 2018 SMFP

*Excludes two dedicated C-Section ORs and one additional OR because Mission is a Level II Trauma Center.

OSCA. The applicant proposes to develop a new multispecialty ASF with five ORs and two PRs by relocating its three existing ORs from its existing ASF in Buncombe County and combining them with the two ORs in the 2018 SMFP in a new location.

In Section N, pages 98-100, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost effectiveness, quality, and access to the proposed services. On page 98, the applicant states:

“Orthopaedic Surgery Center of Asheville and the proposed new Asheville SurgCare will be extremely focused on quality of care, patient satisfaction and cost effective services to patients in the service area that includes Buncombe, Madison and Yancey Counties. The proposed new multispecialty Asheville SurgCare will build on the track record of success that has maintained high utilization and excellent patient satisfaction at OSCA.”

On pages 63-64, the applicant states the new facility will support continued growth in ASF services in Buncombe County while also providing beneficial competition. The applicant further states this project will help achieve economies of scale which will result in cost savings to patients.

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates:

- The cost effectiveness of the proposal (see Sections F and Q of the application and any exhibits).
- Quality services will be provided (see Section O of the application and any exhibits).
- Access will be provided to underserved groups (see Section L of the application and any exhibits).

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

BROSC. The applicants propose to develop a new single specialty ASF with two ORs and two PRs in Buncombe County.

In Section N, pages 108-112, the applicants describe the expected effects of the proposed services on competition in the service area and discuss how any enhanced competition in the service area

will promote the cost effectiveness, quality, and access to the proposed services. On page 108, the applicants state:

“The proposed ASC project will promote cost-effectiveness, quality, and access to services via creation of a new ASC to better serve local residents, and therefore will promote competition in the proposed service area because it will enable BROSC to better meet the needs of EO/BRD’s existing patient population, and to ensure more timely provision of and convenient access to outpatient surgical services for all area residents.”

However, the applicants do not adequately demonstrate how the proposal will promote the cost effectiveness of the proposed services because the applicants do not adequately demonstrate how BRBJ Asheville.2, LLC would be able to repay the loan for its portion of the capital cost. The discussion regarding availability of funds and financial feasibility found in Criterion (5) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

SHP. The applicant proposes to develop a new multispecialty ASF with two ORs and three PRs.

In Section N, pages 107-111, the applicant describes the expected effects of the proposed services on competition in the service area and discusses how any enhanced competition in the service area will promote the cost effectiveness, quality, and access to the proposed services. On page 107, the applicant states:

“SHP proposes to operate a cost-effective alternative to performing ambulatory surgery procedures at the local hospital. With the rising demand for both inpatient and outpatient surgical services that is driven by a growing community, an aging population and an expanding physician base, SHP expects that competition with existing providers will remain robust. This proposed project will not hinder any existing provider’s ability to compete; rather, it will offer patients a convenient and cost-effective option for outpatient surgery. WCSC will be the only non-hospital based, free-standing multi-specialty ASF in the service area.”

However, the applicant does not adequately demonstrate how the proposal will promote the cost effectiveness of the proposed services because the applicant's projected utilization is not based on reasonable and adequately supported assumptions. The discussions regarding analysis of need and projected utilization found in Criterion (3) are incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above.

- (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
OSCA
BROSC
SHP

OSCA. In Section O, page 102, the applicant identifies the ASFs located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of three ASFs located in North Carolina.

In Section O, page 103, the applicant states that, during the 18 months immediately preceding the submittal of the application, there were no incidents related to quality of care that occurred in any of these facilities. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there were no incidents related to quality of care that occurred in any of these facilities. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at the three facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

BROSC. In Section O, page 114, the applicants identify the ASFs located in North Carolina owned, operated, or managed by the applicants or a related entity. The applicants identify a single ASF located in North Carolina (with another under development).

In Section O, page 115, the applicants state that, during the 18 months immediately preceding the submittal of the application, there were no incidents related to quality of care that occurred in that facility. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there were no incidents related to quality of care that occurred in that facility. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at the existing facility, the applicants provide sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

SHP. In Section O, page 115, the applicant identifies the ASFs located in North Carolina owned, operated, or managed by the applicant or a related entity. The applicant identifies a total of two ASFs located in North Carolina.

In Section O, page 116, the applicant states that, during the 18 months immediately preceding the submittal of the application, there were no incidents related to quality of care that occurred in either of these facilities. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, there were no incidents related to quality of care that occurred in either of these facilities. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at both facilities, the applicant provides sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

- (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
OSCA
BROSC

NC
SHP

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

10A NCAC 14C .2103 PERFORMANCE STANDARDS

- (a) *A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program, or to add a specialty to a specialty ambulatory surgical program shall demonstrate the need for the number of proposed operating rooms in the facility that is proposed to be developed or expanded in the third operating year of the project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.*
- C- **OSCA.** This proposal would increase the number of ORs at OSCA. The applicant projects sufficient surgical cases and hours to demonstrate the need for two proposed ORs at OSCA in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.
- C- **BROSC.** BROSC proposes to establish a new single specialty ASF with two ORs and two PRs. The applicants project sufficient surgical cases and hours to demonstrate the need for the two proposed ORs at Blue Ridge OSC in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.
- NC- **SHP.** SHP proposes to establish a new multispecialty ASF with two ORs and three PRs. The applicant projects sufficient surgical cases and hours to demonstrate the need for the two proposed ORs at WCSC in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. However, the applicant does not adequately demonstrate that its projections are reasonable and adequately supported. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Therefore, the application is not conforming to this Rule.
- (b) *A proposal to increase the number of operating rooms (excluding dedicated C-section operating rooms) in a service area shall demonstrate the need for the number of proposed operating rooms in addition to the existing and approved operating rooms in*

the applicant's health system in the third operating year of the proposed project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.

- C- **OSCA.** This proposal would increase the number of ORs in the Buncombe-Madison-Yancey multicounty OR planning area. OSCA currently has three ORs at the sole existing facility in its health system and proposes to add two more for a total of five ORs in its health system. The applicant projects sufficient surgical cases and hours to demonstrate the need for all five existing and proposed ORs in the OSCA health system in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.
- C- **BROSC.** This proposal would increase the number of ORs in the Buncombe-Madison-Yancey multicounty OR planning area. BROSC proposes to establish a new single specialty ASF with two ORs and two PRs. The proposed single specialty ASF, Blue Ridge OSC, would be the only facility in the applicants' health system. The applicants project sufficient surgical cases and hours to demonstrate the need for both proposed ORs in the BROSC health system in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.
- NC- **SHP.** This proposal would increase the number of ORs in the Buncombe-Madison-Yancey multicounty OR planning area. SHP proposes to establish a new multispecialty ASF with two ORs and three PRs. The proposed multispecialty ASF, WCSC, would be the only facility in the applicant's health system. The applicant projects sufficient surgical cases and hours to demonstrate the need for both proposed ORs at WCSC in the third OY of the project based on the Operating Room Need Methodology in the 2018 SMFP. However, the applicant does not adequately demonstrate that its projections are reasonable and adequately supported. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference. Therefore, the application is not conforming to this Rule.
- (c) *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- None of the applicants are proposing to develop a dedicated C-section OR. Therefore, this Rule is not applicable to this review.

(d) *An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty area 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 1,312.5 hours per operating room per year; and*

-C- **OSCA.** In Section C, page 52, the applicant cites Table 6A of the 2018 SMFP, on page 63, which shows that the only existing ASF in the Buncombe-Madison-Yancey multicounty OR planning area that currently offers orthopedic surgical services is utilized in excess of 1,312.5 hours per OR per year, as shown in the table below.

Buncombe-Madison-Yancey Multicounty Planning Area ASFs				
	ORs	Annual Hours Total	Annual Hours per OR	Annual OR Standard Hours
OSCA	3	5,278.0	1,759.3	1,312.5

-NA- **BROSC.** The applicants are not proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty area to a specialty ambulatory surgical program. Therefore, this Rule is not applicable to the review of this application.

-NA- **SHP.** The applicant is not proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty area to a specialty ambulatory surgical program. Therefore, this Rule is not applicable to the review of this application.

(2) *demonstrate the need in the third operating year of the project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.*

-C- **OSCA.** In Section Q, the applicant adequately demonstrates the need it has for all five ORs by the end of the third OY. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.

-NA- **BROSC.** The applicants are not proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty area to a specialty ambulatory surgical program. Therefore, this Rule is not applicable to the review of this application.

-NA- **SHP.** The applicant is not proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty

area to a specialty ambulatory surgical program. Therefore, this Rule is not applicable to the review of this application.

- (e) *The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.*
- C- **OSCA.** In Section Q, the applicant documents the assumptions and provides data supporting the methodology for its utilization projections. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.
- C- **BROSC.** In Section Q, the applicants document the assumptions and provide data supporting the methodology for their utilization projections. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.
- NC- **SHP.** In Section C, the applicant provides the assumptions and data to support the methodology for its utilization projections. However, the applicant does not adequately document its assumptions or provide adequate data to support its methodology. The discussion regarding utilization found in Criterion (3) is incorporated herein by reference.

COMPARATIVE ANALYSIS

Pursuant to N.C. Gen. Stat. §131E-183(a) (1) and the 2018 State Medical Facilities Plan, no more than two new or additional ORs may be approved in this review for the Buncombe-Madison-Yancey multicounty OR planning area. Because the three applications in this review collectively propose six new ORs (two ORs each), not every application to develop ORs can be approved. 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(s) should be approved to develop the new ORs.

Conformity with Review Criteria

BROSC and **SHP** are not conforming with all applicable statutory and regulatory review criteria as discussed throughout the Findings. Therefore, the applications submitted by **BROSC** and **SHP** are not approvable.

OSCA is conforming with all applicable statutory and regulatory review criteria as discussed throughout the Findings.

Therefore, the application submitted by **OSCA** is the most effective alternative with respect to conformity with statutory and regulatory review criteria.

Geographic Accessibility

The 2018 SMFP identifies a need for two additional ORs in the Buncombe-Madison-Yancey multicounty OR service area. All three applications propose to develop two new ORs in southern Buncombe County (all within five miles of each other).

Therefore, with regard to geographic accessibility, **OSCA**, **BROSC**, and **SHP** are all equally effective alternatives.

Service to Residents of the Service Area

On page 57, the 2018 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.*” Figure 6.1, on page 62, shows Buncombe County is part of the Buncombe-Madison-Yancey multicounty OR planning area. Thus, the service area for this facility consists of Buncombe, Madison, and Yancey counties. Facilities may also serve residents of counties not included in their service area. Generally, the application projecting to serve the highest percentage of Buncombe-Madison-Yancey multicounty OR planning area residents is the more effective alternative with regard to this comparative factor since the need determination is for two additional ORs to be located in this multi-county service area.

Percent of Buncombe-Madison-Yancey Multicounty OR Planning Area Residents – OY 3 (OR Cases Only)	
Applicant	% of Buncombe-Madison-Yancey Multicounty OR Planning Area Residents
OSCA	55.1%
BROSC	41.1%
SHP	79.2%

Source: Section C.3 (all applications)

As shown in the table above, **SHP** projects to serve the highest percentage of Buncombe-Madison-Yancey multicounty OR planning area residents during the third OY. Therefore, with regard to projected service to Buncombe-Madison-Yancey multicounty OR planning area residents, **SHP** is the most effective alternative. However, **SHP’s** application is not approvable for the reasons discussed elsewhere in the findings. Thus, the application submitted by **OSCA** is the most effective alternative.

Physician Support

OSCA operates an existing ASF in Buncombe County (Asheville SurgCare). Exhibit C.4 contains letters of support from surgeons who have either performed surgeries at Asheville SurgCare or who have expressed their intent to utilize the facility.

BROSC is proposing to develop a new ASF in Buncombe County. Exhibit 19 contains letters of support from physicians projecting to perform surgeries at Blue Ridge OSC.

SHP is proposing to develop a new ASF in Buncombe County. Exhibit C.4 contains letters of support from physicians expressing their intent to utilize the new WCSC.

Comments received by the Agency during the public comment period suggest that the Agency should count the individual number of letters of support as an indication of which application is the most effective alternative. The Agency does not find that the mere number of physician support letters is a meaningful measure to use to determine which application is the most effective alternative with regard to physician support for a proposal. Just counting letters says nothing about the persuasiveness of those letters.

Therefore, with regard to physician support, **OSCA**, **BROSC**, and **SHP** are all equally effective alternatives. However, the applications submitted by **BROSC** and **SHP** are not approvable for the reasons discussed elsewhere in the findings.

Patient Access to New Provider

In the Buncombe-Madison-Yancey multicounty OR planning area, there are only three facilities with ORs: Mission Hospital, **OSCA**, and Asheville Eye Center. Mission Hospital is a hospital and both **OSCA** and Asheville Eye Center are freestanding single specialty ambulatory surgical facilities. There are currently 48 ORs in the Buncombe-Madison-Yancey multicounty OR planning area. Mission Hospital currently has 44 ORs, **OSCA** has three ORs, and Asheville Eye Center has one OR. **OSCA** is the only existing facility in the OR planning area that is part of this review. **OSCA** wants to relocate

its existing three ORs to a new location, convert from a single specialty ASF to a multispecialty ASF, and develop the two ORs in the 2018 SMFP.

If **OSCA's** application is approved, **OSCA** would be the only provider of multispecialty ORs in an ASF in the Buncombe-Madison-Yancey multicounty OR planning area.

Approval of either **BROSC** or **SHP**, neither of which are owned directly or indirectly by an existing provider of OR services in the Buncombe-Madison-Yancey multicounty OR planning area, would introduce an alternative provider of OR services and introduce an alternative ASF for OR services in the Buncombe-Madison-Yancey multicounty OR planning area.

Therefore, with regard to providing patients in the Buncombe-Madison-Yancey multicounty OR planning area with access to an alternative provider of outpatient OR services, the proposals submitted by **BROSC** and **SHP** are the most effective alternatives. However, the applications submitted by **BROSC** and **SHP** are not approvable for the reasons discussed elsewhere in the findings.

Patient Access to Lower Cost Surgical Services

There are currently 48 ORs in the Buncombe-Madison-Yancey multicounty OR planning area. Mission Hospital currently has 44 ORs, **OSCA** has three ORs, and Asheville Eye Center has one OR. ORs can be licensed either under a hospital license or a freestanding ASF that does not operate under a hospital license. Based on the applications, written comments, and responses to comments and statements made at the public hearing, many, but not all, outpatient surgical services can either be performed in a hospital based OR (either a shared OR or a dedicated outpatient OR) or in a non-hospital based OR (ASF); however, the cost to the patient for that same service will often be higher in a hospital based OR or, conversely, less expensive if received in a non-hospital based OR.

OSCA is an existing ASF offering outpatient OR surgical services.

BROSC is a proposed ASF which would offer outpatient OR surgical services.

SHP is a proposed ASF which would offer outpatient OR surgical services.

Therefore, as to patient access to low cost outpatient surgical services, **OSCA**, **BROSC**, and **SHP** are all equally effective alternatives. However, the applications submitted by **BROSC** and **SHP** are not approvable for the reasons discussed elsewhere in the findings.

Patient Access to Multiple Services

OSCA is a single specialty facility, currently providing orthopedic services, but proposes a multispecialty ASF, additionally providing podiatry, ophthalmology, plastic surgery, pain management, and urology services, which equals a total of six services.

BROSC proposes a single specialty ASF projecting only orthopedic services. In their comments submitted to the Agency during the public comment period, the applicants list several pages worth of treatment for injuries and conditions they claim are services that they provide. The Project Analyst notes that every service listed by the applicants is a type of orthopedic service.

SHP proposes a multispecialty ASF providing ophthalmology, surgical retina services, podiatry services, orthopedic cases, surgery of the hand, plastic surgery, urology, and gynecology, which equals eight services.

Therefore, with regard to providing patients the Buncombe-Madison-Yancey multicounty OR planning area with access to more types of services, **OSCA** and **SHP** are the most effective alternatives since they propose multispecialty ASFs. However, **SHP's** application is not approvable for the reasons discussed elsewhere in the findings.

Access by Underserved Groups

Projected Charity Care

The following table shows each applicants' projected charity care to be provided in the third OY for each applicant(s) by projected dollars, number of cases, and percent of total cases per OR and PR. The Project Analyst uses the data for ORs and PRs for the latest OY where data was available for all applicants (OY 3).

Projected Charity Care – OY 3						
Applicant	Cases (ORs & PRs)	% of Total Cases	Gross Revenue	Cases per OR/PR	% of Total Cases per OR/PR	Gross Revenue per OR/PR
OSCA	36	0.05%	\$302,724	5.14	0.01%	\$43,246
BROSC	58	1.07%	\$213,466	14.50	0.27%	\$53,367
SHP*	105	1.40%	\$457,801	21.00	0.28%	\$91,560

Source: Forms F.3 and F.4, all applications

*SHP lists additional cases and revenue under its ophthalmology service line. According to Form F.4 (labeled Form F.5 by the applicant), it will perform 664 ophthalmology procedures for a total gross revenue of \$1,658,925. However, the applicant lists a charge amount in Form F.5 (labeled Form F.6 by the applicant). The applicant does not specify whether that charge is the result of a discount for charity care or self-pay. The application form provided separate line items in the pro formas for charity care and for self-pay patients; since the applicant declined to separate its charity care ophthalmology patients from its self-pay ophthalmology patients, the Project Analyst made the decision to exclude those cases from consideration. That decision did not affect the outcome of this comparative factor.

As shown in the table above, **SHP** projects to provide the highest number of charity care cases, the highest amount of gross revenue dollars, and the highest percentage of total cases, as well as the highest amounts of each category as divided by the number of ORs and PRs during the third OY following project completion. However, **SHP's** application is not approvable for the reasons discussed elsewhere in the findings. It would thus appear that **BROSC's** application is the most effective alternative; however, **BROSC's** application is also not approvable for the reasons discussed elsewhere in the findings.

Furthermore, there are differences in the types of services proposed by the applicants. **OSCA** and **SHP** would be multispecialty facilities, performing multiple types of services which may have different payor mixes for each type of service, whereas **BROSC** would be a single specialty facility, which limits its payor mix to the single surgical specialty it would offer. The differences in the types of services proposed may impact the averages shown in the table above. Thus, the result of this analysis is inconclusive.

Projected Medicare

The following table shows each applicants’ projected total number of cases and percent of total number of cases to be provided to Medicare recipients in the third OY following completion of each of the proposed projects, based on the information provided in the applicants’ pro forma financial statements.

Projected Medicare Cases – OY 3					
	Total Cases	Medicare Cases	% of Total Cases	% of Gross Revenue	% of Net Revenue
OSCA	7,187	3,324	46.25%	46.24%	41.60%
BROSC	5,443	2,183	40.11%	38.01%	28.19%
SHP	7,477	3,381	45.22%	43.66%	37.33%

Source: Form F.4, all applications

As shown in the table above, **OSCA** projects the highest percentage of cases for Medicare recipients, the highest percentage of Medicare revenue compared with gross revenue, and the highest percentage of Medicare revenue compared with net revenue. However, there are differences in the types of services proposed by the applicants. **OSCA** and **SHP** would be multispecialty facilities, performing multiple types of services which may have different payor mixes for each type of service, whereas **BROSC** would be a single specialty facility, which limits its payor mix to the single surgical specialty it would offer. The differences in the types of services proposed may impact the averages shown in the table above. Thus, the result of this analysis is inconclusive.

Projected Medicaid

The following table shows each applicants’ projected total number of cases and percent of total number of cases to be provided to Medicaid recipients in the third OY following completion of each of the proposed projects, based on the information provided in the applicants’ pro forma financial statements.

Projected Medicaid Cases – OY 3					
	Total Cases	Medicaid Cases	% of Total Cases	% of Gross Revenue	% of Net Revenue
OSCA	7,187	356	4.95%	4.95%	3.81%
BROSC	5,443	294	5.40%	5.71%	4.14%
SHP	7,477	531	7.10%	7.93%	5.08%

As shown in the table above, **SHP** projects the highest percentage of cases for Medicaid recipients, the highest percentage of Medicaid revenue compared with gross revenue, and the highest percentage of Medicaid revenue compared with net revenue. However, **SHP’s** application is not approvable for the reasons discussed elsewhere in the findings. It would thus appear that **BROSC’s** application is the most effective alternative; however, **BROSC’s** application is also not approvable for the reasons discussed elsewhere in the findings.

Furthermore, there are differences in the types of services proposed by the applicants. **OSCA** and **SHP** would be multispecialty facilities, performing multiple types of services which may have different payor mixes for each type of service, whereas **BROSC** would be a single specialty facility, which limits its payor mix to the single surgical specialty it would offer. The differences in the types of services proposed may impact the averages shown in the table above. Thus, the result of this analysis is inconclusive.

Projected Average Net Revenue per Case

The following table shows the projected net revenue per case in the third OY for each of the applicants, based on the information provided in the applicants’ pro forma financial statements. Generally, the application proposing the lowest average net revenue per case is the more effective alternative with regard to this comparative factor to the extent the average reflects a lower cost to the patient or third party payor.

Average Net Revenue per Case – OY 3			
Applicant	Total # of Cases	Net Revenue	Average Net Revenue per Case
OSCA	7,187	\$15,143,000	\$2,107
BROSC	5,443	\$8,911,119	\$1,637
SHP	7,477	\$12,409,783	\$1,660

As shown in the table above, **BROSC** projects the lowest average net revenue per case in the third OY. However, **BROSC’s** application is not approvable for the reasons discussed elsewhere in the findings. It would thus appear that **SHP’s** application is the most effective alternative; however, **SHP’s** application is also not approvable for the reasons discussed elsewhere in the findings.

Furthermore, there are differences in the types of services proposed by the applicants. **OSCA** and **SHP** would be multispecialty facilities, performing multiple types of services which may have different net revenues for each type of service, whereas **BROSC** would be a single specialty facility, which limits its net revenue to the single surgical specialty it would offer. The differences in the types of services proposed may impact the averages shown in the table above. Thus, the result of this analysis is inconclusive.

Projected Average Operating Expense per Case

The following table shows the projected average operating expense per case in the third OY for each of the applicants, based on the information provided in the applicants’ pro forma financial statements. Generally, the application proposing the lowest average operating expense per case is the more effective alternative with regard to this comparative factor to the extent it reflects a more cost effective service which could also result in lower costs to the patient or third party payor.

Average Operating Expense per Case – OY 3			
Applicant	Total # of Cases	Operating Expenses	Average Operating Expense per Case
OSCA	7,187	\$11,707,268	\$1,629
BROSC	5,443	\$7,294,576	\$1,340
SHP	7,477	\$8,327,099	\$1,114

As shown in the in the table above, **SHP** projects the lowest average operating expense per case in the third OY. However, **SHP’s** application is not approvable for the reasons discussed elsewhere in the findings. It would thus appear that **BROSC’s** application is the most effective alternative; however, **BROSC’s** application is also not approvable for the reasons discussed elsewhere in the findings.

Furthermore, there are differences in the types of services proposed by the applicants. **OSCA** and **SHP** would be multispecialty facilities, performing multiple types of services which may have different

types of expenses for different types of service, whereas **BROSC** would be a single specialty facility, which limits its expenses to the single surgical specialty it would offer. The differences in the types of services proposed may impact the averages shown in the table above. Thus, the result of this analysis is inconclusive.

SUMMARY

For the comparative analysis factors listed below, the outcome was determined to be **inconclusive** with regard to all three applications:

- Access by Underserved Groups (Charity Care, Medicare, and Medicaid)
- Projected Average Net Revenue per Case
- Projected Average Operating Expense per Case

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

- Geographic Accessibility
- Physician Support
- Patient Access to Low Cost Outpatient Surgical Services

For the comparative analysis factor listed below, **OSCA** was determined to be the **most** effective alternative:

- Conformity with Review Criteria
- Service to Buncombe-Madison-Yancey Multicounty OR Planning Area Residents

For the comparative analysis factor listed below, **OSCA** was determined to be an **equally** effective alternative:

- Patient Access to Multiple Surgical Specialties

For the comparative analysis factors listed below, **OSCA** was determined to be the **least** effective alternative:

- Access to Alternative Providers

For the comparative analysis factor listed below, **BROSC** was determined to be an **equally** effective alternative:

- Access to Alternative Providers

For the comparative analysis factors listed below, **BROSC** was determined to be the **least** effective alternative:

- Conformity with Review Criteria
- Patient Access to Multiple Surgical Specialties
- Service to Buncombe-Madison-Yancey Multicounty OR Planning Area Residents

For each of the comparative analysis factors listed below, **SHP** was determined to be an **equally** effective alternative:

- Access to Alternative Providers
- Patient Access to Multiple Surgical Specialties

For the comparative analysis factor listed below, **SHP** was determined to be the **least** effective alternative:

- Conformity with Review Criteria
- Service to Buncombe-Madison-Yancey Multicounty OR Planning Area Residents

The following table lists the comparative factors and states which applicant is the most effective alternative with regard to that particular comparative factor. Note: the comparative factors are listed in the same order they are discussed in the Comparative Analysis, which should not be construed to indicate an order of importance.

Comparative Factor	OSCA	BROSC	SHP
Conformity with Review Criteria	Most Effective	Least Effective	Least Effective
Geographic Accessibility	Equally Effective	Equally Effective	Equally Effective
Service to Residents of the Service Area	Most Effective	Least Effective	Least Effective
Physician Support	Equally Effective	Equally Effective	Equally Effective
Patient Access to New Provider	Least Effective	Equally Effective	Equally Effective
Patient Access to Lower Cost Surgical Services	Equally Effective	Equally Effective	Equally Effective
Patient Access to Multiple Surgical Specialties	Equally Effective	Least Effective	Equally Effective
Access by Underserved Groups			
Projected Charity Care	Inconclusive	Inconclusive	Inconclusive
Projected Medicare	Inconclusive	Inconclusive	Inconclusive
Projected Medicaid	Inconclusive	Inconclusive	Inconclusive
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive

CONCLUSION

All of the applications are individually conforming to the need determination in the 2018 SMFP for two additional ORs in the Buncombe-Madison-Yancey multicounty OR planning area. However, 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 by the Healthcare Planning and Certificate of Need Section (Agency). The Agency determined that the application submitted by **OSCA (Project I.D. #B-11514-18)** is the most effective alternative proposed in this review for the development of two additional ORs in the Buncombe-Madison-Yancey multicounty OR planning area and is approved as conditioned below. The approval of any other application would result in the approval of ORs in excess of the need determination in the 2018 SMFP. Moreover, both **BROSC** and **SHP** did not conform to all statutory criteria and thus cannot be approved. The **BROSC** and **SHP** applications are determined to be less effective alternatives and are denied.

The application submitted by Orthopaedic Surgery Center of Asheville, LP is approved, subject to the following conditions.

- 1. Orthopaedic Surgery Center of Asheville, LP shall materially comply with all representations made in the certificate of need application.**
- 2. Orthopaedic Surgery Center of Asheville, LP shall develop Asheville SurgCare, a new multispecialty ambulatory surgical facility, by developing the two operating rooms in the 2018 SMFP, developing two procedure rooms, and relocating the three existing operating rooms from Orthopaedic Surgery Center of Asheville.**
- 3. Upon completion of the project, Asheville SurgCare shall be licensed for no more than five operating rooms and two procedure rooms and shall be considered a multispecialty ambulatory surgical program.**
- 4. Orthopaedic Surgery Center of Asheville, LP shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section F of the application and that would otherwise require a certificate of need.**
- 5. Asheville SurgCare shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care, or a comparable accreditation authority within two years following licensure of the facility.**
- 6. For the first three years of operation following completion of the project, Asheville SurgCare shall not increase charges more than 5% of the charges projected in Section Q of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**
- 7. The procedure rooms shall not be used for procedures that should be performed only in an operating room based on current standards of practice.**
- 8. Procedures performed in the 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.**
- 9. Upon project completion, Orthopaedic Surgery Center of Asheville, LP, shall take the steps necessary to delicense the three existing operating rooms at Orthopaedic Surgery Center of Asheville such that Orthopaedic Surgery Center of Asheville (License # AS0038) shall no longer be licensed as an ambulatory surgical facility.**
- 10. Orthopaedic Surgery Center of Asheville, LP shall 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.**
- 11. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need,**

Orthopaedic Surgery Center of Asheville, LP shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:

- a. Payor mix for the services authorized in this certificate of need.**
- b. Utilization of the services authorized in this certificate of need.**
- c. Revenues and operating costs for the services authorized in this certificate of need.**
- d. Average gross revenue per unit of service.**
- e. Average net revenue per unit of service.**
- f. Average operating cost per unit of service.**

12. Orthopaedic Surgery Center of Asheville, LP shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.