

## PETITION

### **Petition for an Adjusted Need Determination for Two Additional Operating Rooms in Johnston County in the 2023 State Medical Facilities Plan**



#### **Petitioner**

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#### **Statement of Requested Adjustment**

EmergeOrtho respectfully petitions the State Health Coordinating Council (SHCC) to include an adjusted need determination in the 2023 State Medical Facilities Plan (SMFP) for two additional operating rooms in the Johnston County operating room (OR) service area.

#### **Background**

EmergeOrtho is the largest physician-owned orthopedic practice in North Carolina. EmERGEOrtho's medical team includes over 270 highly-trained orthopedic specialists and physicians, as well as advance practice providers. Our subspecialty orthopedic teams offer advanced expertise in conditions of the bones, muscles, and joints, and our subspecialty orthopedic services are currently offered in five regions throughout North Carolina. In the

Triangle Region, EmergeOrtho operates two clinics located in Johnston County, specifically in Clayton and in Smithfield. Historically, EmergeOrtho has served a significant number of surgical patients from Johnston County. During the 12-month period of June 1, 2021 through May 31, 2022, EmergeOrtho performed over 1,700 outpatient surgical procedures on Johnston County residents. Based on its extensive experience providing healthcare services in Johnston County, EmergeOrtho considers that there is a great need for improved local access to surgical services for residents of Johnston County.

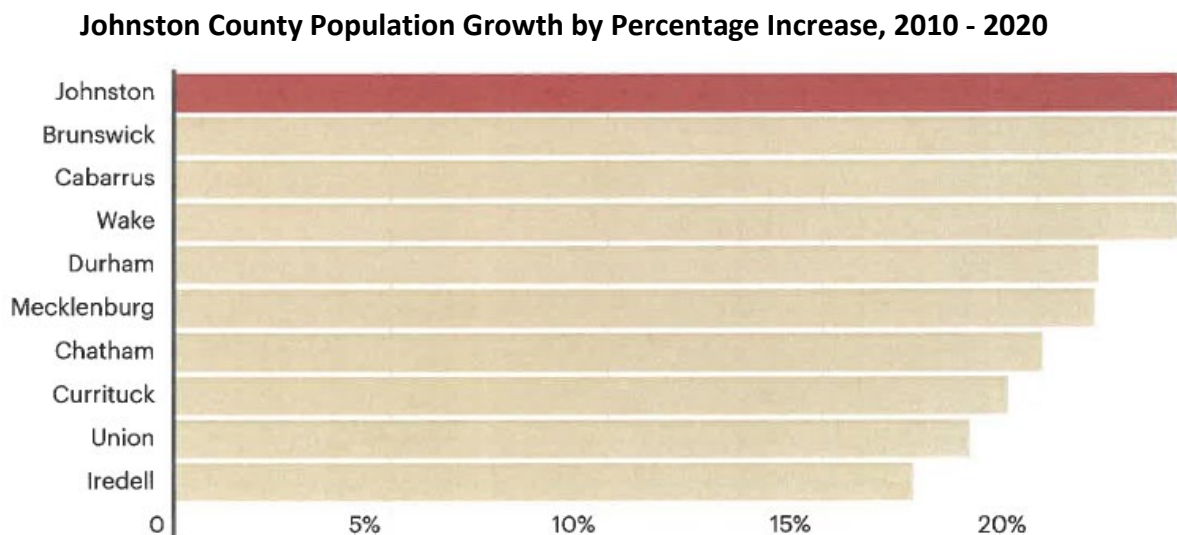
### Reasons Supporting the Requested Adjustment

Several important factors support the need for additional operating rooms in Johnston County, including:

1. Population growth and aging;
2. Outpatient surgical utilization and outmigration;
3. Lack of competition and no ASC.

### Population Growth and Aging in Johnston County

Johnston County has been a rapidly growing county for many years. The chart below shows that between 2010 and 2020 no other North Carolina county grew at a higher percentage increase than Johnston County.



Source: North Carolina Office of State Budget and Management

Johnston County is rapidly changing. A March 2022 article in the Triangle Business Journal<sup>1</sup> (TBJ), labeled Johnston County as the Triangle's "Land of Opportunity." As Wake County has become highly crowded and expensive, many people have chosen to reside where there are cheaper options, with Johnston County at the forefront. The Johnston County population boom began during the 1990s as improved roads (I-40 and I-95) better connected Johnston County. Road building is continuing, with several new interstates scheduled to open in and around Johnston County. These include completion of the southern loop of I-540, conversion of U.S. Highway 70 from Johnston County to Morehead City into the new I-42, and future conversion of U.S. Highway 421 from Greensboro to Johnston County into the new I-685).

According to the TBJ article,

*"between 2010 and 2020, the number of homes in Johnston County increased 24.6%, according to U.S. Census data. That growth rate was number 1 in the state. Much more housing is in the pipeline too. Greenfield Communities purchased 230 acres with plans to building 850 new homes near Wilson's Mills. And hometown developer RiverWild is working on several Clayton communities, including Ashcroft Section Two (772 homes), Academy Point (255 homes), and Riverwood Golf Section Two (726 homes)."*

Illustrated in the table below is the rapid increase in population of Johnson County over the most recent four years, and a projection of the 2027 projected county population growth and how this compares to North Carolina population growth during the same period of time.

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<sup>1</sup> [https://www.bizjournals.com/triangle/news/2022/03/18/johnston-county-nc-growth-development-new-projects.html?utm\\_source=st&utm\\_medium=en&utm\\_campaign=EC&utm\\_content=ra&ana=e\\_ra\\_EC&j=28364632&senddate=2022-07-13](https://www.bizjournals.com/triangle/news/2022/03/18/johnston-county-nc-growth-development-new-projects.html?utm_source=st&utm_medium=en&utm_campaign=EC&utm_content=ra&ana=e_ra_EC&j=28364632&senddate=2022-07-13)

### Johnston County Population Growth by Age Cohort

Year	0-17	18-44	45-64	65+	Johnston County Total	North Carolina Total
2019	50,453	73,829	58,277	28,551	211,110	10,381,670
2020	51,050	76,507	60,150	30,016	217,723	10,456,593
2021	51,551	79,060	61,905	31,459	223,975	10,535,205
2022	51,936	81,550	63,641	32,950	230,077	10,631,667
2027 Projected	54,287	91,710	69,570	41,166	256,733	11,184,448
5-Yr CAGR	0.89%	2.38%	1.80%	4.55%	2.22%	1.02%
Absolute Growth	2,351	10,160	5,929	8,216	26,656	552,781

Source: North Carolina Office of State Budget and Management, Vintage 2021

As the table portrays, the Johnston County population is growing at a much faster rate than the overall North Carolina population, with a projected 5-year compound annual growth rate (CAGR) of 2.22%, which is more than twice the projected population growth rate compared to the overall North Carolina average of 1.02%.

Additionally, the three age cohorts that are growing at the highest rate, ages 18-44, 45-64, and 65+, are those that typically more highly utilize surgical services. The 65+ older resident cohort often require frequent healthcare service as their quality of life deteriorates with aging. The 18-44 age cohort and even the 45-64 age group are the most physically active among all age groups, opting for physical fitness activities, outdoor adventure, and other physical activity. Unfortunately, being more active does make people more susceptible to injuries that may require ambulatory surgical services.

This projected population growth shows that over the next five years, the Johnston County population will increase by nearly 27,000 residents (which by itself is a greater population total than 26 North Carolina counties). Thus, more operating rooms will be needed as the Johnston County population continues to rapidly increase. Healthcare providers will be increasingly attracted to this county as the need for healthcare services expands.

Ambulatory Surgery Utilization in Johnston County

The following table portrays the recent history of ambulatory surgery cases performed in Johnston County.

**Johnston County Ambulatory Surgery Cases, FY2017 – FY2021**

Year	Ambulatory Cases
2017	5,191
2018	5,525
2019	5,463
2020	5,410
2021	6,296
4-Yr CAGR	3.86%

Sources: 2019 – Proposed 2023 SMFPs

As the table shows, Johnston County ambulatory surgery cases have increased during the past five years, with a compound annual growth rate of 3.86%.

The need for additional Johnston County operating rooms is even more urgent considering that with regard to surgical services, Johnston County residents have access to only one licensed hospital, UNC Health Johnston, and no local ambulatory surgery centers. In addition to its rapid population growth, Johnston County is already one of the most populous counties in North Carolina, ranked 12<sup>th</sup> of 100 North Carolina counties. The table below lists the North Carolina counties ranked #8 - 15 in respect to population size, and thus comparable in population to Johnston County. The table lists each county, its current population, and the number of ambulatory surgery centers located within that county.

### Comparison of ASCs in Similar Sized North Carolina Counties

County	2022 Population	# of ASCs
Union	247,058	2
New Hanover	230,587	3
Gaston	231,941	2
Cabarrus	236,706	2
<b>Johnston</b>	<b>230,077</b>	<b>0</b>
Onslow	208,825	0
Pitt	170,273	1
Iredell	194,835	4

Sources: North Carolina Office of State Budget and Management, Vintage 2021; 2022 SMFP

Despite being one of the most populous North Carolina counties, and one of the fastest growing, Johnston County has no ambulatory surgery centers, while all but one of the other counties of similar population each enjoy the benefit of at least one, two, or even three of those facilities. This is further evidence for the need for an adjusted need petition for Johnston County operating rooms.

#### Outpatient Surgery Outmigration

Further evidence of this lack of an ASC is found in the Division of Health Service Regulation (DHSR) Patient Origin Report, which shows that many Johnston County residents are leaving Johnston County to obtain ambulatory surgical services. The following table shows that during FY2021, only 40.26% of Johnston County residents who had outpatient surgery obtained the surgery within Johnston County. In fact, more Johnston County residents (4,677) traveled to Wake County for ambulatory surgery than remained in the county (4,541). This is certainly problematic, a result that is inconsistent with the SMFP Access Basic Principle.

## FY2021 Johnston County Ambulatory Surgery Patient Origin Report

### Johnston

Wake	4677	41.47%
Johnston	4541	40.26%
Wayne	583	5.17%
Durham	455	4.03%
Orange	382	3.39%
Harnett	227	2.01%
Wilson	118	1.05%
Pitt	71	0.63%
Moore	69	0.61%
Cumberland	58	0.51%
Nash	22	0.20%

Thursday, June 30, 2022

Source: DHSR 2022 Ambulatory Surgery Patient Origin Report by County of Origin

Preserving the status quo would cause Johnston County to remain a less attractive destination for healthcare services, even among county residents, and prolong the inconvenience to residents of having to travel outside the county to obtain more cost-effective ambulatory surgery. This status quo does not adhere to SMFP goals to increase quality of care and access to affordable surgical services for North Carolina residents. The proposed OR adjusted need would directly address this deficiency, as it would enable a healthcare provider to obtain a certificate of need to develop an ASC within Johnston County, which would undoubtedly attract Johnston County residents to stay in their own county. Travel is a burden for patients and their caregivers, especially transportation post-surgery. Also, the elderly population does not like to travel at night or in bad weather conditions. Such driving concerns impact where (or if) a patient decides to receive care. Also, during this time of high inflation, travel costs are at record highs, and travel costs should certainly be considered when analyzing the most cost-efficient ways to provide healthcare services.

### Lack of Competition

Acceptance of the proposed adjustment would enable competition in ambulatory surgical services, another priority of the SMFP. UNC Health Johnston is currently the only provider with

a licensed facility to provide outpatient surgeries. A 2023 need determination for two additional operating rooms would allow a new healthcare provider to enter the county and develop a freestanding ambulatory surgery center. For example, EmergeOrtho, as an experienced surgical services provider, could enhance competition in Johnston County by augmenting the ambulatory surgical services it currently offers in Wake and Durham counties, and promoting improved patient access to quality, cost-effective, and accessible ambulatory surgery. Competition would also motivate each Johnston County provider to outperform other surgery providers in order to continue to attract and retain physician referrals and patients. Approval of this OR adjusted need petition would enable a provider such as EmergeOrtho to respond to continuing ambulatory surgery demand, and provide timely surgical services. Development of a new Johnston County ASC would enable EmergeOrtho to compete more effectively for serving Johnston County residents in terms of enhancing patient convenience, improving access to cost-effective surgical services, and increasing geographic access to ambulatory surgical services. This would be a convenient and valuable alternative licensed surgical facility.

The SMFP values competition because it is a way to effectively reduce costs of healthcare. Costs may rise and ultimately be billed to patients due to inefficiencies that a health provider has chosen not to address. This may occur because there is no pressure for the health service provider to improve and innovate since there is no other local facility that patients could turn to for their healthcare needs. Johnston County is located in a populous, central part of the state with demographics that demand access to healthcare services; surgical services would benefit from added competition than Johnston County.

### **Adverse Effects on Johnston County Healthcare Consumers**

Approval of this petition will result in enhanced access to local surgical services; to the contrary, non-approval of this petition would have an adverse impact on Johnston County residents. As previously described, within in Johnston County, residents currently have only one option for access to surgical services: at a UNC Health Johnston facility, where all the operating rooms are hospital-based. The status quo will result in ongoing surgical scheduling limitations at UNC Health Johnston. And costs and charges are much higher in a hospital setting than in a freestanding, non-hospital-based ASC setting. Because of these factors, referring providers would continue to consider sending patients out of Johnston County for outpatient surgery. And Johnston County residents would continue to be forced to travel to Wake County or pay a significantly higher price for their necessary outpatient surgical procedures.



## **Alternatives to this Petition**

EmergeOrtho considered two alternatives to submitting this adjusted need petition:

- Maintain the status quo
- Request a larger need determination

Maintaining the status quo is not an acceptable alternative. Waiting for a future SMFP need determination for additional Johnston County operating rooms means an uncertain timetable, and would unnecessarily delay an opportunity to provide the growing Johnston County population with enhanced local access to surgical services, and in particular, access to an ambulatory surgery center conveniently located within Johnston County. As previously described, Johnston County's population is large, growing and aging. Johnston County stands out among North Carolina counties of similar population, in that Johnston County currently has no ASCs. This of course has resulted in a high outmigration pattern among Johnston County residents needing ambulatory surgery, with many having to travel to Wake County. Also, Johnston County currently lacks competition in surgical services. The need for additional ORs in Johnston County is now.

Alternatively, EmurgeOrtho could have petitioned for more than two operating rooms. However, EmurgeOrtho considers that two operating rooms is sufficient to meet the Johnston County need at this time. Two operating rooms would enable development of an efficient and cost-effective ambulatory surgery center.

## **Evidence of no Unnecessary Duplication of Health Resources in the Service Area**

Approval of this petition would not result in unnecessary duplication of health resources in the area. Johnston County currently only has one provider with licensed operating rooms, and all these ORs are hospital based. Johnston County does not have an ambulatory surgery center. The projected population growth for Johnston County, as previously shown in this petition, as well as historical growth in surgical services for Johnston County residents, indicates a need for additional operating rooms.

## **Consistency with Basic Principles of the SMFP**

### *Safety and Quality*

In the SMFP, the Safety and Quality Basic Principle includes the following statements:

*“priority should be given to safety, followed by clinical outcomes, followed by satisfaction. . . As experience with the application of quality and safety metrics grows, the SHCC should regularly review policies and need methodologies and revise them as needed to address any persistent and significant deficiencies in safety and quality in a particular service area.”*

An additional two ORs in Johnston County would improve upon the safety and quality of surgical care available locally in Johnston County. One of the beneficial aspects of competition is to promote the highest level of quality of care, including patient satisfaction. Without the benefit of competition, and continuing the status quo of a monopoly situation in Johnston County, Johnston County patients will continue to leave the area when surgical services are not available or accessible, or if safety and quality are not at the highest standard.

Additional ORs located in an ASC setting in Johnston County will enable local patients to obtain specialty outpatient surgical care closer to home. ASCs are well-recognized for providing high quality, safe patient care at lower cost to patients and payors. Ambulatory surgical centers are required to meet certain standards determined by the federal government to ensure patient safety and satisfaction, including steps to reduce infection rates. Because ASCs specialize in the procedures they perform, they are able to concentrate on patient safety and the patient experience, and have an excellent record of safety and quality outcomes for patients. Just like in hospital operating rooms, the surgeons, nurses and medical professionals in ASCs follow a specific set of protocols and procedures that consistently lead to excellent results for surgical patients. When it comes to the emphasis placed on patient safety, there is no difference between a hospital and a surgery center.

In this instance, safety and quality will be improved while also allowing for expanded access to care and reducing costs for Johnston County residents in their own community. Without the proposed adjusted need determination, there will be no opportunity for the foreseeable future to introduce competition and the associated beneficial impact on safety and quality in Johnston County.

## Access

In the SMFP, the Access Basic Principle includes the following statements:

*“Equitable access to timely, clinically appropriate and high-quality health care for all the people of North Carolina is a foundational principle for the formulation and application of the North Carolina State Medical Facilities Plan. Barriers to access include . . . geography . . . The formulation and implementation of the Plan seeks to reduce all of these types of barriers to timely and appropriate access. . . . The SHCC planning process will promote access to an appropriate spectrum of health services at a local level, whenever feasible, under prevailing quality and value standards.”*

Additional OR capacity is needed in Johnston County to provide sufficient access to surgical services for EmergeOrtho’s patients, and to meet the projected growth in service area population previously described. EmergeOrtho is an important healthcare provider in Johnston County, yet EmergeOrtho surgical patients have no local ASC; EmergeOrtho patients must seek surgical services at facilities owned by other health care providers. EmergeOrtho care givers often hear patients express frustration that there has never been an ASC located in Johnston County, and of course historically, many Johnston County residents have left the county to seek outpatient surgery options, primarily in Wake County.

Currently, UNC Health Johnston controls 100 percent of the existing operating rooms in Johnston County. There are limitations with scheduling and staffing at the hospital. The hospital has chronic, unresolved nursing and CRNA staffing issues that have limited OR availability and block time. This shortage dates back to the pre-COVID era, and was certainly exacerbated by the COVID pandemic. Productivity is diminished by these limitations. At the UNC Health Johnston hospitals, surgical volume is much lower than at EmergeOrtho’s Triangle Outpatient Surgery Center in Wake County, due to slower room turnover, and the general inefficiencies inherent to a hospital.

Also, EmergeOrtho patients needing outpatient surgery must seek surgery at facilities outside EmergeOrtho. This creates disruptions in the continuity of care. Approval of this petition will provide an opportunity for EmergeOrtho to apply for OR capacity that would improve access to care for residents of Johnston County by eliminating barriers and hardships associated with changing medical providers.

## Value

In the SMFP, the Value Basic Principle includes the following statements:

*“The SHCC defines health care value as the maximum health care benefit per dollar expended. . . Cost per unit of service is an appropriate metric . . . Long-term enhancement of health care value will result from a State Medical Facilities Plan that promotes a balance of competition and collaboration and encourages innovation in health care delivery. The SHCC encourages the development of value-driven health care.”*

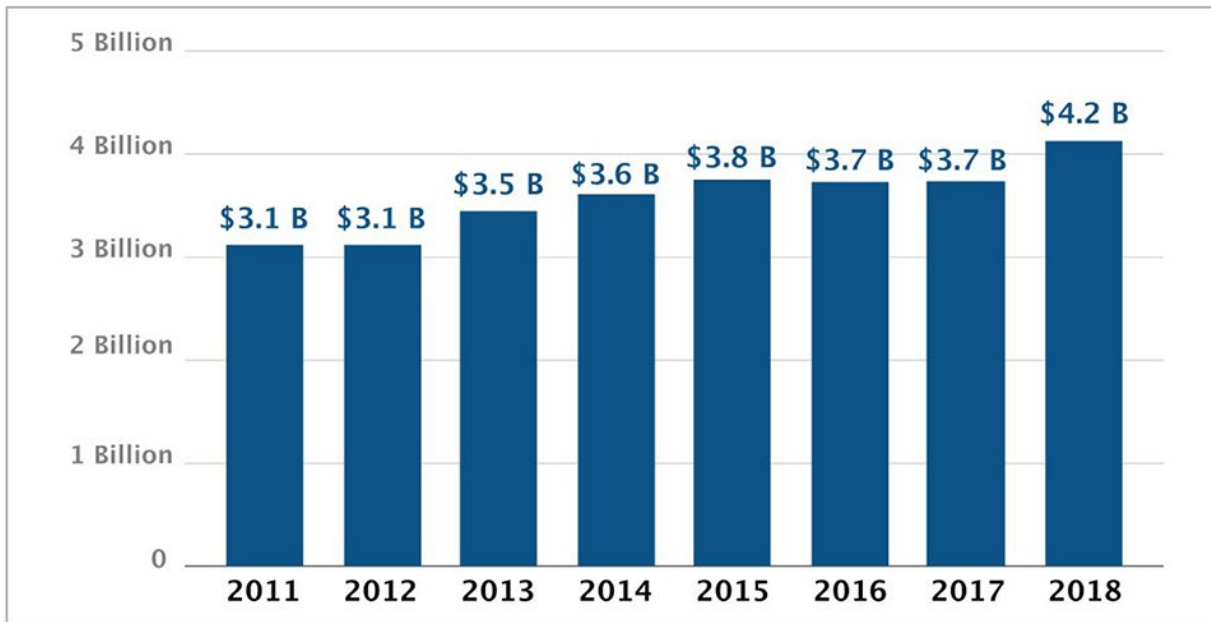
Even in today’s divisive political environment, there is at least one important area of consensus among policymakers: the threat posed by rising health care costs to both the national economy and the federal and state governments’ balance sheets. This concern is particularly acute in the Medicare program, where costs are expected to continue to rise dramatically. Burgeoning health care costs are certain to be near the top of policymakers’ agenda for years to come.

The proposed adjusted need determination for additional ORs will enhance value. As previously discussed, costs and charges are much lower in a freestanding, non-hospital-based ASC setting than a hospital outpatient department. Freestanding surgical centers are more cost effective for insurance companies and for patients because they do not have the higher overhead costs of hospitals. In fact, the cost of a procedure at a surgical center is typically 45-60 percent less than the same procedure in a hospital setting, thus benefiting patients, insurers, and taxpayers. In particular, in the experience of EmergeOrtho physicians and administrators, outpatient surgery patients do not want hospital rates, and/or are directed by insurance companies to ASC locations. Contemporary elective surgery patients are much more price competitive, and are shopping for the best value. With ASCs now demonstrating quality results equivalent to those in hospital surgery departments, these patients are thus primarily seeking the lowest deductible possible for their outpatient surgery.

With more than 5,900 Medicare-certified facilities in the United States, ASCs perform an estimated 22.5 million procedures each year. The cost to both Medicare and the patient is lower in ASCs than in hospital outpatient surgery departments. On average, Medicare saves more than \$4.2 billion annually when surgical procedures are performed at ASCs instead of hospital outpatient departments (HOPDs). An analysis of actual Medicare claims data released in 2020 by health economics and policy consulting company KNG Health Consulting, LLC, shows that ASCs reduced Medicare costs by \$28.7 billion from 2011 through 2018 and projects that ASCs can be expected to reduce Medicare costs by an additional \$73.4 billion from 2019 to

2028. In 2018 alone, that analysis shows, and as portrayed in the following table, Medicare savings tied to ASCs totaled \$4.2 billion.<sup>2</sup>

**Annual Medicare Savings Generated by Ambulatory Surgery Centers in the United States**



Accordingly, patient co-pays are also significantly lower when care is received in an ASC. Likewise, Medicaid and other insurers benefit from lower prices for services performed in the ASC setting. Private insurance companies tend to save similarly, which means employers also incur lower health care costs when employees utilize ASC services. For this reason, both employers and insurers are continuing to explore ways to incentivize the movement of patients and procedures to the ASC setting. In 2016, Healthcare Bluebook™, a national provider of quality and cost data for healthcare services, analyzed commercial medical-claims data, and found that U.S. health care costs are reduced by more than \$38 billion per year due to the availability of ASCs as an alternative, high quality setting for outpatient procedures. The study also concluded that ASC patients' out-of-pocket costs are reduced by more than \$5 billion annually through lower deductible and coinsurance payments.<sup>3</sup>

The Medicare Payment Advisory Commission (MedPAC) states in its March 2021 Medicare Payment Policy report, *"The volume of services provided to Medicare beneficiaries in ASCs has*

<sup>2</sup> Reducing Medicare Costs by Migrating Volume from Hospital Outpatient Departments to Ambulatory Surgery Centers, King Health Consulting LLC, Ambulatory Surgery Center Association, October 2020

<sup>3</sup> <https://www.ascassociation.org/asca/aboutus/pressroom/2016/ascs-reduce-outpatient-surgery-costs-for-commercially-insured-patients-by-38-billion-annually>

*increased. Access to ASCs may be beneficial to patients and physicians compared with HOPDs, the provider type most similar to ASCs. For patients, ASCs can offer more convenient locations, shorter waiting times, and easier scheduling relative to HOPDs. ASCs offer physicians more control over their work environment and specialized staff.”<sup>4</sup>*

With healthcare expenses always a concern for patients and payors, and with outmigration for outpatient surgical procedures increasing for Johnston County residents, patients should be provided the opportunity to receive affordable care closer to home in an ASC setting. By adding an adjusted need determination for two ORs in Johnston County in the 2023 SMFP, an opportunity would be created for development of a new ASC to help drive access to more cost-effective ambulatory surgical care.

## **Summary**

Based on the information provided in this petition, EmergeOrtho believes that approval of this petition to add an adjusted need determination for two additional operating rooms in Johnston County is in the best interests of Johnston County residents. The county population is growing and aging rapidly, county residents do not currently have local access to non-hospital-based surgical services, and thousands of Johnston County residents are traveling outside the county to obtain outpatient surgery. Also, Johnston County lacks competition in the surgical services marketplace. Costs and charges are much lower in a freestanding, non-hospital-based ASC setting than a hospital outpatient department. Additional operating rooms in Johnston County will not result in unnecessary duplication, and is supportive of the quality, access and value Basic Principles of the State Medical Facilities Plan.

EmergeOrtho appreciates the thoughtful consideration of the State Health Coordinating Council to this petition, and urges its approval.

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<sup>4</sup> [https://www.medpac.gov/wp-content/uploads/import\\_data/scrape\\_files/docs/default-source/reports/mar21\\_medpac\\_report\\_to\\_the\\_congress\\_sec.pdf](https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/mar21_medpac_report_to_the_congress_sec.pdf)