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**August 31, 2010 Comments from Novant Health, Inc.
Regarding Cotswold Surgery Center, LLC CON Application
for a Single Specialty Ophthalmology Ambulatory Surgical Center
(Project I.D. # F-8545-10)
Submitted July 15, 2010 for August 1, 2010 Review**

In accordance with N.C.G.S. Section 131E-185(a1)(1), Novant Health, Inc. submits the following comments regarding the CON Application of Cotswold Surgery Center, LLC for a Single Specialty Ophthalmology Ambulatory Surgical Center (Project I.D. # F-8545-10).

I. Introduction

The following four CON applications were submitted on July 15, 2010 in response to the need determination identified in the *2010 State Medical Facilities Plan (2010 SMFP)* for a single-specialty ambulatory surgery center demonstration project with two surgical operating rooms in the Mecklenburg-Union-Cabarrus Service Area:

- F-8543-10: University Surgery Center, LLC proposes to develop a \$4.8 million specialty ambulatory surgical facility in Charlotte in which to perform orthopedic surgery.
- F-8545-10: Cotswold Surgery Center, LLC proposes to develop a \$3.3 million specialty eye ambulatory surgical facility in Charlotte.
- F-8550-10: Randolph Surgery Center, LLC proposes to renovate approximately 14,000 square feet at the Carolinas Surgery Center in Charlotte, an existing surgical center, for \$1.3 million. Randolph Surgery Center proposes two operating rooms dedicated to ear, nose, and throat surgical procedures. Randolph Surgery Center, LLC is a joint venture between Carolinas HealthCare System and Charlotte Eye, Ear Nose & Throat Associates.
- F-8552-10: Cabarrus Orthopaedic Surgery Center Holdings, LLC proposes to develop a \$6.2 million surgery center in Kannapolis dedicated to orthopedic surgery.

II. Cotswold Surgery Center CON Project Description

A. *Project Description*

Cotswold Surgery Center proposes to develop a 9,463 square foot¹ single-specialty ambulatory surgery demonstration project with two surgical operating rooms and one procedure room at 135 South Sharon Amity, Charlotte, zip code 28211, Mecklenburg County². The surgery center will be located on the second floor of the existing Cotswold medical office building of Horizon Eye Care.³

There are two co-applicants for the single specialty ambulatory surgery ophthalmology demonstration project with two surgical operating rooms in the Mecklenburg-Union-Cabarrus

¹CON Application F-8545-10 at page 154.

²CON Application F-8545-10 at page 154.

³CON Application F-8545-10 at page 154.

Service Area reflected in Section I of the CON Application submitted by Cotswold Surgery Center. For the purposes of these Comments in Opposition, the two co-applicants are referenced as Cotswold Surgery Center (CSC).

Horizon Investment Company, LLC (Horizon Investment) will up-fit a portion of its existing second floor to ambulatory surgical facility specifications, and lease that space to Cotswold Surgery Center, LLC (CSC) to operate the proposed ophthalmic surgery center.⁴

CSC projects that the proposed single specialty ambulatory surgery demonstration project will become operational on January 1, 2012.

B. Cotswold Surgery Center Applicants

Co-Applicant, Horizon Investment, is owned by fifteen ophthalmologists and doctors of optometry. Co-Applicant, Cotswold Surgery, which will operate the proposed ophthalmic surgical center, is owned by eleven ophthalmologists. Individual physician ownership of the CSC is shown in the following table.

Individual Physician Owners: Horizon Investment and Cotswold Surgery

Horizon Investment, LLC – Owner and Lessor of building in which Cotswold Surgery Center will be located	Cotswold Surgery Center, LLC – Lessee and Operator of Surgery Center
Fredrick H.D. Weidman, MD	Fredrick H.D. Weidman, MD
Paul G. Galentine, MD	
Lewis R. Gaskin, MD	Lewis R. Gaskin, MD
Judy D. Hustead, MD	
Joseph H. Krug, Jr, MD	Joseph H. Krug, Jr, MD
Mark L. Malton, MD	Mark L. Malton, MD
Stephen A Daugherty, MD	Stephen A Daugherty, MD
David L. Smith, MD	David L. Smith, MD
Royce R. Syracuse, MD	Royce R. Syracuse, MD
David N. Ugland, MD	David N. Ugland, MD
Steven D. Friedman, OD	
Marc D. James, OD	
Paul E. Marvin, OD	
John F. Gillis, MD	
Steven K. Johnson, OD	
	Miriam R. Ridley, MD
	Gerald B. Rosen, MD
	Strutha C. Rouse, II, MD
Total = 15 ophthalmologists and optometrists	Total = 11 ophthalmologists

Source: CON Application F-8545-10 at page 19

⁴CON Application F-8545-10 at page 17.

The eleven ophthalmologists who own Cotswold Surgery Center, LLC are in practice with Horizon Eye Care, PA.⁵ There are twenty-one ophthalmologists and optometrists in practice with Horizon Eye Care, PA.⁶

C. Project Cost and Financing

Total project cost for the proposed project is \$3,270,323. CSC will obtain a loan from Wells Fargo, NA in the amount of \$1,242,186 to pay for equipment and other miscellaneous project costs⁷. Horizon Investment will obtain a loan from Wells Fargo, NA in the amount of \$1,523,625.⁸ The remaining funds will come from \$300,000 in accumulated reserves and \$200,000 in owners' equity⁹.

Included in Exhibit 5 are the necessary financing letters and a financing letter from Wells Fargo, NA indicating the bank's intent to provide a line of credit to \$900,000 to cover the estimated \$833,000 working capital start up.¹⁰

IV. CON Review Criteria

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

G.S. 131E-183 (1)

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

A. SMFP Policy GEN-3 – Basic Principles

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

"A certificate of need applicant applying to develop or offer a new institutional health service for with there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to

⁵CON Application F-8545-10 at page 22.

⁶<http://www.horizoneye.com/index.cfm/fuseaction/site.physicians/action/list.cfm>

⁷CON Application F-8545-10 at page 133

⁸CON Application F-8545-10 at page 133-134.

⁹CON Application F-8545-10 at page 133.

¹⁰CON Application F-8545-10 at page 144.

services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan, as well as addressing the needs of all the residents in the service area. [Emphasis added]

As discussed in detail in the context of Criterion (3) below, CSC failed to adequately demonstrate the quantitative and qualitative need for the project, and therefore failed to document how its projected volumes incorporate the Basic Principles in meeting the need identified in the 2010 SMFP for a single specialty ambulatory surgery demonstration project in the Mecklenburg-Union-Cabarrus Service Area. Consequently, the Application is not conforming to Policy GEN-3, and does not conform to Criterion (1).

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

As discussed in detail in the context of Criterion (3) below, surgical volume is overstated. As a result, the projected utilization is unreasonable and cannot be used to justify the proposed two single specialty ambulatory operating rooms in Mecklenburg County. Therefore, the Application is non-conforming to Criterion (1).

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

G.S. 131E-183 (3)

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

A. Cotswold Surgery Center Has Failed to Document the Need for the Proposed Project.

On page 88-89, CSC present a table showing the location and volume of “cases” performed in 2009 by Horizon Eye surgeons. It is reasonable to assume that the reference to “Horizon Eye surgeons” is to the eleven owners of CSC, and not the entirety of the twenty-one surgeons in practice with Horizon Eye.

The table on pages 88-89 is shown in the following table. There is no title provided by CSC. From the context in which they are presented, it is reasonable to assume that “cases” are outpatient ophthalmic cases performed in licensed operating rooms at the facilities listed in the following table.

Facility	Cases
Presbyterian Hospital – Main	1,689
Charlotte Surgery Center	340
Iredell Memorial Hospital	144
Presbyterian Hospital - Huntersville	138
CMC – University	94
Iredell Surgical Center	53
Carolinas Surgery Center	42
CMC – Main	25
East Lincoln Surgery Center	18
Presbyterian Same Day Surgery Center	16
SouthPark Surgery Center	13
Presbyterian Hospital Matthews	2
Orthopaedic Hospital	1
Total	2,575

Source: CON Application F-8545-10 at pages 88-89

On page 89, CSC states “[t]here will be a shift in patient volume primarily from Presbyterian – Main where most of the outpatient ophthalmic surgeries are conducted [...]].”

The previous table and statement by CSC are very informative.

First, the eleven owners of CSC are credentialed to perform surgery, and on the medical staff of eleven existing surgical facilities in Mecklenburg County, all but one of those facilities is located in Charlotte. They appear to have a wide array of options in terms of the surgical venues where they can choose to practice in Charlotte, including hospitals and freestanding ambulatory centers.

Second, the eleven owners of CSC have been “accorded the quality and risk respect that the nature of the surgery deserves for treatment of eye disease and [...] allowed to perform surgery in licensed and accredited operating rooms [...].”¹¹ They have not been “relegat[ed] to a procedure room in a licensed facility.”¹² Procedures appropriately performed in a procedure room are so performed; whereas, surgical cases appropriately performed in a licensed surgical operating room are so performed.

¹¹ CON Application F-8545-10 at page 61.

¹² CON Application F-8545-10 at page 61.

On pages 69-70, CSC examines outpatient/ambulatory ophthalmic case utilization of surgical facilities in Mecklenburg, Union, and Cabarrus County in fiscal years 2008 and 2009 reported in the Annual License Renewal Applications. CSC acknowledges that “[...] ophthalmic surgeries have declined between the two years in the region, resulting from the recession and postponed elective surgeries until an economic recovery is clear.”

On page 91, CSC provides historical and interim period outpatient surgery volume for the eleven owners of CSC at “Region ORs.” It is reasonable assume that the reference to “Region ORs” is to the surgical facilities listed in a table on pages 88-89. The table on page 91 of the CSC CON Application is shown below.

	Prior Full YR 1/1/08 – 12/31/08	Last Full YR 1/1/09- 12/31/09	Interim Full YR 1/1/10- 12/31/10	Interim Full YR 1/1/11- 12/31/11
	Region ORs	Region ORs	Region ORs	Region ORs
# of OP Surgical Cases	2,450	2,575	2,766	2,810

Source: CON Application F-8545-10 at page 91

The previous table shows that CSC expects that the eleven owners of CSC will **increase** their outpatient ophthalmic surgeries performed licensed and accredited operating rooms in “Region ORs,” which include eleven existing surgical facilities in Mecklenburg County, all but one of those facilities is located in Charlotte.

The magnitude of the projected increase is quite optimistic. CSC projects that the eleven owners of CSC will increase their productivity approximately 15% (2,810/2450), performing 360 more outpatient ophthalmic surgeries in CY 2011 than in CY 2008.

Implicit in the CSC projected volume increase is an assumption that there will be open surgical slots for the eleven owners of CSC. CSC could not project reasonably to increase their surgical volume when there is no available operating room capacity.

In its application, CSC states that its surgeons have difficulty to finding available operating rooms in existing Charlotte surgical facilities. The data discussed above seems to be at odds with this assessment by CSC.

B. “Community Ophthalmologists” Surgery Volume should not be Included in Projected Surgery Volume

On page 55, CSC make clear their plan for the proposed CSC:

[i]nitially 11 surgeons will utilize the planned ophthalmic operating suites. Nine other ophthalmologists are desiring to perform surgery in the new center. Each of these community physicians will be subject to the By-Laws and surgical criteria for privileges to the ASC. See listing of surgeons in Section I.12 and Section III. 19b) showing expected utilization. **[Emphasis added.]**

On page 64, CSC states that:

Horizon Eye **could efficiently use all time** between 8am and 5pm, five days per week. **[Emphasis added.]**

On page 127, CSC seems to change direction and states:

[i]nitially 11 ophthalmologists plus the 8 community ophthalmologists are expected to perform surgery at the planned Cotswold Surgery facility. [...]
The three groups consisting of eight ophthalmologists have provided written support of their intent to operate in CSC. **[Emphasis added.]**

CSC identifies the following eight ophthalmologists:

Eight Community Ophthalmologists

Physician	Practice
William Branner, MD	Charlotte Ophthalmology Center for Sight
Briggs Cook, MD	Charlotte Ophthalmology Center for Sight
Boyd Vaziri, MD	Charlotte Ophthalmology Center for Sight
Brandon Whiteside, MD	Charlotte Ophthalmology Center for Sight
Max Greenman, MD	Greenman Eye Associates, PLLC
Herb Greenman, MD	Greenman Eye Associates, PLLC
David Greenman, MD	Greenman Eye Associates, PLLC
Charles Blotnick, MD	Mecklenburg Eye Associates

Source: CON Application F-8545-10 at page 94

If Horizon Eye surgeons alone plan to fully utilize the proposed ophthalmologic surgery center, as stated on page 64, then there would be no available time for the additional eight community physicians. It is important to recognize that none of the three groups consisting of eight ophthalmologists are associated with Horizon Eye or CSC. CSC list **only eleven ophthalmologists** on the “Active Medical Staff Chart” on page 128. Those **eleven ophthalmologists** are the eleven owners of CSC.

While the letters from community physicians may indicate a “desire” on the part of the eight community ophthalmologists, as a practical matter, there may not be sufficient time to perform all the Horizon Eye surgeon's cases, plus additional surgeons' cases at the proposed CSC.

On page 63, CSC set forth the number of surgical cases by Project Year expected to be performed by the eight community physicians at CSC. It is based on an assumption that 25% of the “850 surgeries pledged [for] 2012” (213 cases) will be performed at CSC. CSC then grew 213 cases in Project Year by 1.5% per year to project the number of cases in Project Years 2 (217 cases) and 3 (221 cases). On page 63, CSC provide the following table to show their assumptions.

	4 Ophthalmologists Charlotte Ophthalmology Center for Sight	2 Ophthalmologists Greenman Eye Associates	1 Ophthalmologist Mecklenburg Eye Associates	Totals
Surgeries, 2009	2,636	1,000	300	3,936
Surgeries pledged 2012	300	400	150	850
Considered in Projections:				
Yr 1				213
Yr 2 growth 1.5%				217
Yr 3 growth 1.5% (25% of 850 year 1)				221

Source: CON Application F-8545-10 at page 63

Given the representation of CSC on page 55 and lack of available time for the eight community ophthalmologists' surgical cases at the proposed CSC, it is not reasonable for CSC to include the "surgeries pledged" in projections for CSC.

The following table shows projected utilization of CSC without "surgeries pledged" by the eight community ophthalmologists.

**Projected Utilization of Cotswold Surgery Center
without "Pledged Surgeries" by Eight Community Ophthalmologists**

	1/12-12/12	1/13-12/13	1/14-12/14
Total Surgery Cases	2,511	2,551	2,592
"Surgeries Pledged" by 8 Community Ophthalmologists	850		
Assumption: 25% of "Surgeries Pledged" by 8 Community Ophthalmologists will be performed at Cotswold Surgery Center	213	217	221
Adjusted Total Surgery Cases	2,299	2,334	2,371
Weighted Surgery Cases	3,448	3,501	3,557
ORs Needed at 1,872/Hrs per Year	1.8	1.9	1.9

Source: CSC CON Application

As shown in the previous table, projected utilization declines which will impact the financial projections for the proposed CSC project.

C. "Most Frequent Surgical Procedures in SC" – Information May Not be Relevant to the Proposed Single Specialty Demonstration Project in Mecklenburg County, North Carolina

On page 61, as part of CSC's description of the need for a Single Specialty Demonstration Project in the Charlotte Area, CSC offers the following:

- "[D]ata for York and Lancaster Counties for 2008 (two service area counties for the proposed CSC), most current year available showing that cataract extraction was the top procedure in both counties."
- A "comparison for the entire state of SC for the top 50 surgical procedures for 1997, 2003 and 2008 and the data show that cataract extraction has moved from number 7 in 1997 to number 5 in 2003 and number 3 in 2008."

CSC submitted a CON Application to meet a need in the *2010 SMFP* for a Single Specialty Demonstration Project in the Charlotte Area of North Carolina, which is defined as Mecklenburg-Cabarrus-Union Counties.

The information about South Carolina and York and Lancaster Counties in particular, is simply information. It is not data that is relevant to the requirement that each applicant demonstrate a need for the proposed project, which in this case is an ophthalmic surgery center in Mecklenburg County.

G.S. 131E-183 (4)

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

The proposed project is in response to the 2010 Demonstration Project for a Two Operating Room Specialty Surgical Center in Mecklenburg, Union and Cabarrus Counties. Eye surgery is not the most highly utilized outpatient surgical specialty in the SMFP-defined, three-county greater Charlotte Service Area for a demonstration specialty ambulatory surgery center. There are two other surgical specialties with more surgical volume in the three-county area than Ophthalmology. These two outpatient surgical specialties with greater surgical volumes are: Orthopedics and General Surgery. Among the competing CON Applications filed on July 15, 2010 for the Charlotte area Demonstration Project Surgery Center, are two CON applications for Orthopedics, for the Agency's consideration.

**Outpatient Surgery By Specialty
Mecklenburg, Union, Cabarrus Counties**

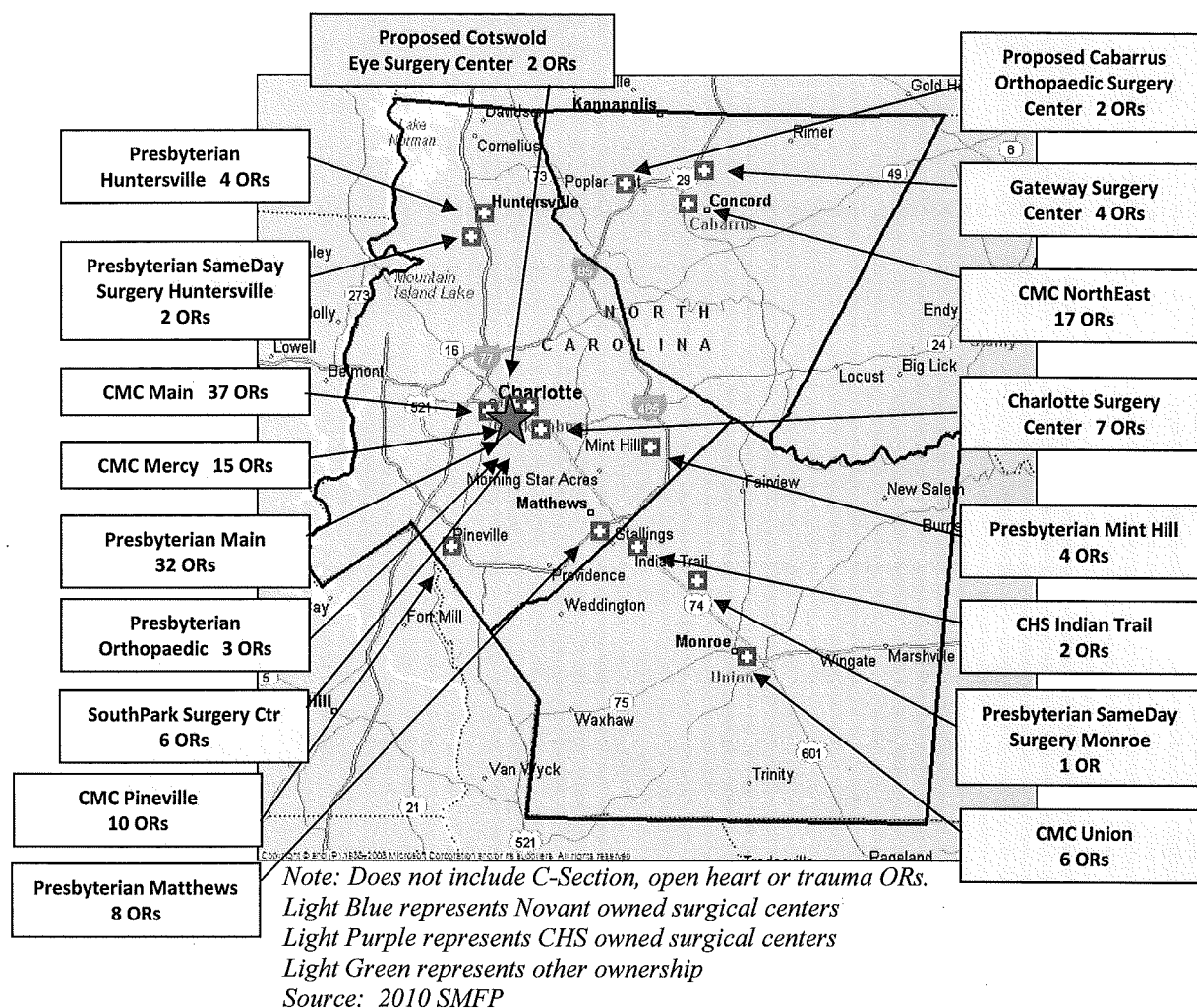
Specialty	Surgical Volume FFY 2009	Percent of Total Outpt Surgery
Orthopedics	23,694	23.0%
General Surgery	20,945	20.3%
Ophthalmology	17,239	16.7%
ENT	12,849	12.4%
All Other	28,502	27.6%
Total	103,229	100.0%

Source: CSC CON Application page 81

As shown in the previous table, there were more orthopedic outpatient surgical procedures in the three-county region than eye outpatient surgical procedures in FFY 2009. SouthPark Surgery Center, a freestanding multi-specialty ambulatory surgery with a large volume of eye surgical cases, and only one other specialty, could be considered a "specialty eye surgical center." This suggests there may be no need for a second dedicated eye specialty surgical center in central Mecklenburg County.

A second alternative not considered by CSC is location. As illustrated following map, CSC will be located in downtown Charlotte next to many existing surgical facilities. In fact, the location of the CSC eye surgery center is less than five miles and 8 minutes from the existing Presbyterian Hospital. Furthermore, CSC, to support the need for the two new CSC ORs at its new eye surgery center, proposes to relocate the majority of cases from Presbyterian Main to CSC. This is surely the very definition of unnecessary duplication and an alternative that is neither cost effective or most effective.

Existing and Approved Surgical Facilities Mecklenburg, Cabarrus and Union Counties



As shown in the previous map, 100 of the existing and CON-approved operating rooms in the three-county area are located in central Mecklenburg County. An additional 22 operating rooms are located in southern Mecklenburg County and 6 more in northern Mecklenburg County. Cabarrus County has 23 operating rooms, and Union has 9 operating rooms. CHS Indian Trail surgery center in Union County is a new 2-OR freestanding surgical center under construction. In addition, in southern Mecklenburg County, OrthoCarolina and Presbyterian Healthcare received CON approval to partner in the development of a two operating room single specialty orthopedic ambulatory surgery center, Matthews Surgery Center, to serve residents of southern Mecklenburg County and Union Counties.

As a result, Cabarrus County provides the most reasonable location for the proposed single specialty surgery center; a location with a rapidly growing population, which is centrally located, and has the least impact on existing providers. Furthermore, Cabarrus County is the most

reasonable location for any additional operating rooms in the SMFP Defined Service Area when considering the impact of two new operating rooms on existing surgical facilities. Furthermore, in both Mecklenburg and Union Counties, payors and patients have choices since surgical services are offered by more than one provider; currently in Cabarrus County, there is only one provider of surgical services (CMC-NE) and thus, less choice for payors and patients.

**Operating Room Utilization of Existing Surgical Facilities
in Cabarrus, Mecklenburg and Union Counties - FFY 2009**

County	Weighted Surgical Hours Performed at Surgical Facilities in County	Number of Operating Rooms in County (excluding C-Section and Open Heart)	Total OR Capacity (Capacity of one OR = 2,340 Hours)	Percent Utilization
Cabarrus	34,434	21	49,140	70.1%
Mecklenburg	210,975	137	320,580	65.8%
Union	13,425	10	23,400	57.4%
Total	258,834	168	393,120	65.8%

Source: COSC CON Application, Exhibit 2, Table 16

As shown in the previous table, total operating room utilization in Cabarrus County, for surgical providers, is greater than total surgical utilization at facilities in either Mecklenburg or Union County. In addition, utilization of the only freestanding ambulatory surgery center in Cabarrus County exceeded 95% in FFY 2009.

For these reasons, the CSC CON Application does not conform to Criterion (4).

G.S. 131E-183 (5)

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

As discussed above in the context of Criterion (3), surgical case volume projections are unreasonable and overstated. CSC used those surgical case volume projections as the basis for CON Pro Forma Forms B through E. Therefore, financial projections are unreliable.

For these reasons, the Application does not conform to Criterion (5).

G.S. 131E-183 (6)

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

If ever there were a proposed project that will result in unnecessary duplication of existing health service capabilities and facilities, it is the proposed Cotswold Surgery Center. On page 27, CSC states that:

[r]oughly 82% of the surgeons' cases that were performed in a hospital last year (see Section III 1.(a) Step 10), [...], are expected to begin to shift to the new CSC at the end of the next year, 2011, to begin a full year of operations on January 1, 2012.

Remaining cases were performed in an ambulatory surgery facility.

It is clear that the CSC simply proposes to shift outpatient/ambulatory ophthalmic surgery cases performed by the eleven ophthalmologist-owners of the proposed CSC in existing surgical operating rooms in Mecklenburg County primarily, to the proposed CSC in Mecklenburg County.

- Cotswold Surgery Center will be located 3.0 miles/5 minutes¹³ from Presbyterian Main.
- Presbyterian Main has a new six operating room ambulatory surgery center under development. Presbyterian SDSC Downtown (licensed under the Presbyterian Hospital license) is expected to become operational in 2012.
- Cotswold Surgery Center proposes to perform eye surgical cases in two ambulatory surgical operating rooms - SouthPark Surgery Center performs eye surgical cases in six ambulatory surgical operating rooms.
- In Project Year 1, 70.5% of the ambulatory eye surgical volume to be performed at Cotswold Surgery Center will be shifted from Presbyterian Hospital – another 3.6% of Cotswold Surgery Center volume will be shifted from Novant Health-hospitals and ambulatory surgery centers – for a total of 74.1% of Cotswold Surgery Center volume in Project Year 1.

Lastly, as shown in the map included in the Comments regarding Criterion 4, there are 100 existing and approved surgical operating rooms at CHS hospitals and ambulatory surgery centers, located in central Mecklenburg County, the proposed location of Cotswold Surgery Center.

CSC has not carried their burden under Criterion (6) to demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

For these reasons, the Application does not conform to Criterion (6).

G.S. 131E-183 (13)

The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and members of the medically underserved groups, such as medically

¹³Microsoft MapPoint

indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those identified in the State Health Plan as deserving of priority.

Charity Care Policy Comparison

CSC's proposed Charity Care Policy is less generous than the Charity Care policies of Novant Health:

- The Horizon Eye/Cotswold Surgery Center Charity Care Policy is also a Sliding Scale Charity Care Policy; this policy provides for a 100% discount off charges for patients with a household income of 100% FPL or less; and this policy provides for a 20% discount of surgery center charges for patients with household incomes of less than 180% of FPL
- The Novant Charity Care Policies for Cabarrus Orthopaedic Surgery Center, provide, with the completion of a one-page form, for 100% discount of all surgery center charges for patients with household less than 300% of the Federal Poverty Level, while CMC's Charity Program only covers patients up to 180% of the FPL; in addition, this Charity Care Policy does not require the equity value of property to be included in the determination of a patient's annual household income; finally, an independent third party that reviewed Charity Care Policies in North Carolina health system, characterized this same Novant Charity Care Policy as among the most generous in North Carolina

Access for Medically Underserved Populations: Medicare and Medicaid

CSC proposes to offer the highest payor mix percentage Medicare (based on Net Revenue) to its patients. This is based on information provided by each of the applicants in their CON Applications and CON Application Pro Forma financial projections.

Provider	Medicare % of Net Revenue Project Year 2
Randolph Surgery Center-ENT Mecklenburg County	13.0%
Cotswold Surgery Center-Eye Mecklenburg County	47.3%
University Surgery Center-Orthopedics Mecklenburg County	34.0%
Cabarrus Orthopedic Surgery Center-Orthopedic Cabarrus County	24.72%

Thus, CSC is comparatively superior to the other applicants in terms of access for the Medicare population, which Criterion (13) identifies as a medically underserved population.

CSC proposes to offer the lowest payor mix percentage Medicaid (based on Net Revenue) to its patients. This is based on information provided by each of the applicants in their CON Applications and CON Application Pro Forma financial projections.

Provider	Medicaid % of Net Revenue Project Year 2
Randolph Surgery Center-ENT Mecklenburg County	6.0%
Cotswold Surgery Center-Eye Mecklenburg County	3.8%
University Surgery Center-Orthopedics Mecklenburg County	10.0%
Cabarrus Orthopaedic Surgery Center-Orthopedic Cabarrus County	12.0%

Thus, CSC is comparatively inferior to the other applicants in terms of access for the Medicaid population, which Criterion (13) identifies as a medically underserved population.

For these reasons, the Application does not conform to Criterion (13) and is comparatively inferior to the other applications on access for medically underserved populations.

VI. Conclusion

The CON Application submitted by CSC fails to conform to CON Statutory Review Criteria (1), (3), (4), (5) and (6) as reflected in N.C.G.S. Section 131E-183. The project fails to sufficiently justify the need for the proposed single specialty eye ambulatory surgery demonstration project in the Mecklenburg-Union-Cabarrus Service Area.