

## ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

### FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: July 21, 2020

Findings Date: July 21, 2020

Project Analyst: Celia C. Inman

Team Leader: Gloria C. Hale

Project ID #: G-11895-20

Facility: North Elam Ambulatory Surgery Center

FID #: 200291

County: Guilford

Applicants: The Moses H. Cone Memorial Hospital  
North Elam Ambulatory Surgery Center, LLC

Project: Develop a new, separately licensed freestanding ASF on the Wesley Long campus by re-licensing five existing licensed hospital-based ORs at Wesley Long Surgery Center on the Cone Health license

### 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.

CA

The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC, collectively referred to as “the applicant”, proposes to develop a new, separately licensed freestanding ambulatory surgical facility (ASF) through the reorganization and the re-licensing of five existing hospital-based operating rooms (ORs) at Wesley Long Surgery Center (WLSC) on the Wesley Long Hospital (Wesley Long) campus. The ASF will be known as North Elam Ambulatory Surgery Center (North Elam ASC).

## **Need Determination**

The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2020 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

## **Policies**

There is one policy in the 2020 SMFP applicable to the review.

*Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 31 of the 2020 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 are required to submit a plan of 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.”*

The proposed capital expenditure for this project is greater than \$5 million. In Section B.3, page 12, the applicant explains why it believes the application is consistent with Policy GEN-4, stating:

*“North Elam Ambulatory Surgery Center, LLC and Cone Health will develop and implement an Energy Efficiency and Sustainability plan for the proposed project that conforms to or exceeds the energy efficiency and water conservation standards incorporated in the latest editions of the NC State Building Codes. The plan shall not adversely affect patient or resident health, safety, or infection control.”*

The applicant provides a written statement, as provided by the architect, of its plan to assure improved energy efficiency and water conservation in Exhibit B.4. 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, subject to Condition (8) of Criterion (4).

- (2) Repealed effective July 1, 1987.
- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

### C

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

The Moses H. Cone Memorial Hospital and its subsidiaries are collectively referred to as Cone Health. Per its 2020 License Renewal Application (LRA), Cone Health's License #H0159 includes the following facilities with licensed operating rooms (ORs):

Facility	Dedicated Inpatient ORs	Shared Inpt/Amb ORs	Dedicated Ambulatory ORs	Total Surgical ORs
Moses Cone Hospital	4	16	0	20
Wesley Long Hospital	0	10	0	10
Women’s Hospital*	0	7[3]	0	7[3]
Moses Cone Surgery Center	0	0	8	8
Wesley Long Surgery Center	0	0	5	5
<b>Total Cone Health License #H0159</b>	<b>4</b>	<b>33[29]</b>	<b>13</b>	<b>50[46]</b>

\*Pursuant to Project ID #G-11104-15, Cone Health will delicense four of the seven licensed shared ORs at Women’s Hospital and the total number of ORs upon completion of that project will be as shown in [brackets] above.

Note: Cone Health’s OR inventory includes one trauma OR, which is excluded from its adjusted planning inventory in the SMFP.

The following table displays the complement of ORs upon the completion of the proposed project.

Facility	Dedicated Inpatient ORs	Shared Inpt/Amb ORs	Dedicated Ambulatory ORs	Total Surgical ORs
North Elam Ambulatory Surgery Center (ASF)	0	0	5	5
<b>Cone Health License #H0159</b>				
Moses Cone Hospital	4	16	0	20
Wesley Long Hospital	0	10	0	10
Women’s Hospital*	0	7[3]	0	7[3]
Moses Cone Surgery Center	0	0	8	8
Wesley Long Surgery Center	0	0	0	0
<b>Total Cone Health License #H0159</b>	<b>4</b>	<b>33[29]</b>	<b>8</b>	<b>45[41]</b>
<b>Total Moses Cone System ORs Upon Proposed Project Completion</b>	<b>4</b>	<b>33[29]</b>	<b>13</b>	<b>50[46]</b>

\*Pursuant to Project ID #G-11104-15, Cone Health will delicense four of the seven licensed shared ORs at Women’s Hospital and the total number of ORs upon completion of that project will be as shown in [brackets] above.

Note: Cone Health’s OR inventory includes one trauma OR, which is excluded from its adjusted planning inventory in the SMFP.

In Section C.1, page 14, the applicant states that North Elam ASC will provide outpatient surgical services including, but not limited to, orthopedic, gynecology, urology, and general surgery; as such, the ASC will be a multispecialty ambulatory surgical program as defined at §131E-176.15a, “a formal program for providing on a same-day basis surgical procedures for at least three of the following specialty areas: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedic, or oral surgery.” The applicant further states that the number of operating rooms on the Cone Health Wesley Long Hospital campus will not change and the ASF ORs will remain in the same medical office building (MOB) space owned by Cone Health, with renovations made to ensure that the ASF is separated from the hospital-based departments as required.

In Section C.1, page 14, the applicant states that though The Moses H. Cone Memorial Hospital is currently the sole member of North Elam Ambulatory Surgery Center, LLC, the establishment of the ASF as a separate legal entity allows for future physician investment through Cone Health's physician-led clinically integrated accountable care organization (ACO), Triad HealthCare Network (THN). The applicant further states that North Elam ASC will be managed and staffed by Cone Health through a management services agreement.

### **Patient Origin**

On page 51, the 2020 SMFP states, "*An operating room's 'service area' is the service area in which the operating room is located. The operating room service areas are the single or multicounty groupings shown in Figure 6.1.*" In Figure 6.1, page 57 of the 2020 SMFP, Guilford and Caswell counties are shown as a multicounty operating room service area. Thus, the service area for this application is Guilford and Caswell counties. Facilities may also serve residents of counties not included in the service area.

In Section C.2, page 17, the applicant states that North Elam ASC is not an existing surgical facility and therefore has no historical patient origin. The applicant provides the historical patient origin data for Wesley Long Surgery Center's five operating rooms (which will form the new ASF) for the last full fiscal year (FY), FY2019, as summarized in the table below.

**WLSC Historical Patient Origin  
 FY2019  
 10/1/2018-9/30/2019**

<b>County</b>	<b>Patients</b>	<b>% of Total</b>
Guilford	1,486	72.1%
Rockingham	214	10.4%
Randolph	137	6.7%
Forsyth	62	3.0%
Alamance	46	2.2%
Davidson	16	0.8%
Caswell	11	0.5%
Stokes	11	0.5%
Chatham	4	0.2%
Wake	4	0.2%
Lee	3	0.1%
Buncombe	2	0.1%
Catawba	2	0.1%
Durham	2	0.1%
Montgomery	2	0.1%
Surry	2	0.1%
Yadkin	2	0.1%
Alexander	1	0.0%
Bladen	1	0.0%
Cabarrus	1	0.0%
Davie	1	0.0%
Edgecombe	1	0.0%
Granville	1	0.0%
Mitchell	1	0.0%
New Hanover	1	0.0%
Richmond	1	0.0%
Stanly	1	0.0%
Other States	44	2.1%
<b>Total</b>	<b>2,060</b>	<b>100.0%</b>

Source: Cone Health internal data, Application, page 17

The applicant provides the projected patient origin for the first three full fiscal years at North Elam ASC on page 18, as summarized below.

**North Elam ASC Projected Patient Origin**

County	FY2023		FY2024		FY2025	
	# of Patients	% of Total	# of Patients	% of Total	# of Patients	% of Total
Guilford	2,321	72.1%	2,583	72.1%	2,875	72.1%
Rockingham	334	10.4%	372	10.4%	414	10.4%
Randolph	214	6.7%	238	6.7%	265	6.7%
Forsyth	97	3.0%	108	3.0%	120	3.0%
Alamance	72	2.2%	80	2.2%	89	2.2%
Davidson	25	0.8%	28	0.8%	31	0.8%
Caswell	17	0.5%	19	0.5%	21	0.5%
Stokes	17	0.5%	19	0.5%	21	0.5%
Chatham	6	0.2%	7	0.2%	8	0.2%
Wake	6	0.2%	7	0.2%	8	0.2%
Lee	5	0.2%	5	0.1%	6	0.2%
Buncombe	3	0.1%	3	0.1%	4	0.1%
Catawba	3	0.1%	3	0.1%	4	0.1%
Durham	3	0.1%	3	0.1%	4	0.1%
Montgomery	3	0.1%	3	0.1%	4	0.1%
Surry	3	0.1%	3	0.1%	4	0.1%
Yadkin	3	0.1%	3	0.1%	4	0.1%
Alexander	2	0.0%	2	0.0%	2	0.0%
Bladen	2	0.0%	2	0.0%	2	0.0%
Cabarrus	2	0.0%	2	0.0%	2	0.0%
Davie	2	0.0%	2	0.0%	2	0.0%
Edgecombe	2	0.0%	2	0.0%	2	0.0%
Granville	2	0.0%	2	0.0%	2	0.0%
Mitchell	2	0.0%	2	0.0%	2	0.0%
New Hanover	2	0.0%	2	0.0%	2	0.0%
Richmond	2	0.0%	2	0.0%	2	0.0%
Stanly	2	0.0%	2	0.0%	2	0.0%
Other States	69	2.1%	76	2.1%	85	2.1%
<b>Total</b>	<b>3,218</b>	<b>100.0%</b>	<b>3,581</b>	<b>100.0%</b>	<b>3,986</b>	<b>100.0%</b>

Source: Application, page 18

Percentages and totals may not calculate/sum due to rounding

In Section C, page 18, the applicant provides the assumptions and methodology used to project operating room patient origin, stating that historical data at WLSC, the hospital-based surgery center where the existing ORs are located, was used as the basis for the projection. The applicant states that it does not expect the proposal to impact patient origin.

The applicant's assumptions are reasonable and adequately supported based on the following:

- Cone Health operates the five existing ORs as hospital-based outpatient ORs in the same service area.
- The applicant bases projected patient origin on the existing ORs' historical patient origin.

### **Analysis of Need**

In Section C.4, pages 19-27, the applicant discusses the need the patients projected to use the ORs have for the proposed project. On page 19, the applicant states that the specific need for the project is based on the following factors:

- Demand for ambulatory surgery services (pages 19-21),
- Need for a Cone Health ASF in Guilford County (pages 21-25), and
- Growth and aging of Guilford County population (pages 25-27 and Exhibit C.4-2).

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

- The applicant provides reasonable information, including changes in payment and technology, that have caused an increased demand for outpatient surgery in freestanding ASFs.
- The applicant provides reasonable information that Cone Health currently provides only inpatient and hospital outpatient department operating rooms in Guilford County and is unable to provide access to a freestanding multispecialty ASF in Guilford County that can meet the full scope of its patients' needs. The applicant states:

*“The proposed project will allow Cone Health and its THN partners to refer their patients to a site of care under their control, which is carefully managed to provide the highest quality care at the lowest cost.”*

- The applicant uses clearly cited and reasonable historical and demographic data to make the assumptions with regard to the Guilford County population to be served, their aging, and the need for the proposed services.
- The applicant provides reasonable information to support Guilford County's residents' need for access to high quality freestanding ASF services; and cites reasonable data demonstrating the cost-effectiveness of the proposal.

### *Projected Utilization*

In Section Q Form C Utilization, the applicant provides the projected utilization, as summarized in the following table.

**Projected Operating Room Utilization  
 Form C Utilization As Provided by Applicant**

<b>Operating Rooms</b>	<b>1<sup>st</sup> Full FY FY2023</b>	<b>2<sup>nd</sup> Full FY FY2024</b>	<b>3<sup>rd</sup> Full FY FY2025</b>
Dedicated Ambulatory ORs	5	5	5
Outpatient Surgical Cases	3,218	3,581	3,986
Outpatient Surgical Case Time*	71.2	71.2	71.2
Outpatient Surgical Hours	3,818	4,250	4,730
Group Assignment*	6	6	6
Standard Hours per OR per Year*	1,312	1,312	1,312
Total Surgical Hours/Standard Hours Per OR per Year	2.9	3.2	3.6

\*Applicant uses the surgical case time, group assignment and standard hours per OR per year as provided in the 2020 SMFP, pages 54-55, and Section C of the application.

In Section Q Form C Utilization – Assumptions and Methodology, the applicant provides the assumptions and methodology used to project operating room utilization, as summarized below:

- The proposed project will begin operation on October 1, 2022; therefore, FY2023 is the first full fiscal year of operation.
- Calculate the historical WLSC OR utilization growth rate and three-year compound annual growth rate (CAGR), as summarized below:

<b>Operating Rooms</b>	<b>FY2017</b>	<b>FY2018</b>	<b>FY2019</b>	<b>FY2020*</b>	<b>CAGR</b>
Dedicated Ambulatory ORs	5	5	5	5	
Outpatient Surgical Cases	1,693	1,803	2,060	2,334	
Annual Percentage Growth		6.5%	14.3%	13.3%	
Three-year CAGR					11.3%

Source: Cone Health internal data

\*Annualized based on data from October to January

- Using the applicant’s historical 11.3% three-year CAGR projected forward results in the projected utilization as provided in Form C Utilization.
- Cone Health states that it believes the projected specialty mix for North Elam ASC will be consistent with the historical mix at WLSC, where non-eye and non-ENT cases represent more than 50 percent of the total cases; thus the proposed facility is assumed to be a Group 6 facility. However, the applicant notes that WLSC’s actual case time for 2019 was 102.0 minutes per case, which would be a projected third year 6,776 surgical hours and demonstrate the need for 5.2 ORs, as opposed to the 3.6 ORs needed using the methodology for projected utilization for new facilities in the OR application.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant projects future utilization at North Elam ASC based upon the historical utilization at WLSC, using its three-year CAGR of 11.3%, which the applicant states is reasonable based upon the following:

- The three-year CAGR is less than the historical growth rate for FY2019 and FY2020.
- The historical growth rate in FY2019 and FY2020 occurred prior to the proposed conversion to a lower cost, freestanding setting, which will improve access for patients and physicians compared to the hospital-based facility, which the applicant states supports continued volume growth.
- Population projections and demographics.
- Physician support letters in Exhibit C.4-1.

### Access

In Section C, page 32, the applicant discusses access to the proposed services. The applicant states:

*“Cone Health is a private, not-for-profit organization established to serve the community by providing high quality, affordable, and comprehensive health care services to all patients, regardless of their economic status. Cone Health does not discriminate against low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, or other underserved persons, including the medically indigent, the uninsured and the underinsured. In general, the health services of Cone Health are available to any patient in need without restriction of any kind. Cone Health’s well-established community education and screening programs are available to the general public and ensure adequate access to Cone Health services for medically underserved persons. Cone Health is the sole member of North Elam Ambulatory Surgery Center, LLC and will manage the proposed ASF. As such, North Elam ASC will follow similar guidelines and will not discriminate against low-income persons, racial and ethnic minorities, women, handicapped persons, the elderly, or any other underserved groups.”*

In Section L.3, page 65, the applicant projects the payor mix during the third full fiscal year of operation following completion of the project, as summarized in the following table.

**North Elam ASC  
FY2025**

<b>Payor Source</b>	<b>Entire Facility and ORs</b>
Self-Pay	3.9%
Charity Care^	0.0%
Medicare*	32.7%
Medicaid*	9.4%
Insurance*	51.8%
Other (Workers Compensation, TRICARE)	2.1%
<b>Total</b>	<b>100.0%</b>

\*Including any managed care plans.

^Cone Health's internal data does not include Charity Care as a payor source for patients.

The projected payor mix is reasonable and adequately supported based on the following:

- The applicant states that it bases the projection on historical payor sources at WLSC for FY2019.
- The applicant states that it reasonably expects projected payor mix for North Elam ASC to be consistent with the historical experience at WLSC because it expects to serve the patients historically served by WLSC.

**Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- 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.

- (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.

NA

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus. The proposed project does not reduce, relocate, or eliminate any ORs from the Wesley Long campus, therefore Criterion (3a) is not applicable to this review.

- (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.

CA

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

In Section E.2, pages 40-41, the applicant describes the alternatives 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:

1. Maintain the status quo – the applicant states that under the status quo, the surgical facility would continue to stay under the hospital’s license and charge structure and would have no opportunity for physician ownership. The status quo would prevent the possibility of reduced charges to patients and third-party payors through the establishment of a lower charge structure. For these reasons, Cone Health rejected this alternative.
2. Implement the ASF at another location or as a newly built facility – the applicant states it immediately rejected this alternative as cost-prohibitive given that the proposed project can be developed using existing ORs and space on the Cone Health Wesley Long Hospital campus. In addition, given the breadth of healthcare services available at Wesley Long Hospital, the ASF can serve higher acuity patients and patients will be able to conveniently access existing ancillary and support services on that campus.
3. Reduce the number of operating rooms at the proposed facility – the applicant states that it considered the alternative of reducing the number of ORs as it did in an effort to “right-size” services at Women’s Hospital. However, the applicant states that it determined that the existing five ORs are needed and projected to be well-utilized; therefore, this alternative was rejected.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the identified need for the following reasons:

- the applicant demonstrates that maintaining the status quo will not allow Cone Health to provide lower charge, freestanding surgical services,

- the applicant demonstrates that moving the ORs to a new space is a more costly and less effective alternative than providing the proposed services in the same space on the Wesley Long Hospital campus,
- the applicant provides adequate documentation regarding the need for the development of the proposed project, including all related costs, and
- the data cited is reasonable and supports the assumptions made with regard to the least costly or most effective alternative for development of the proposed project.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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. Therefore, the application is approved subject to the following conditions:

- 1. The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC shall materially comply with all representations made in the certificate of need application.**
- 2. The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC shall develop a freestanding multispecialty ambulatory surgical facility by re-licensing no more than five hospital-based operating rooms from Wesley Long Surgery Center on the Cone Health Wesley Long Hospital campus.**
- 3. Upon project completion, North Elam Ambulatory Surgery Center shall be licensed for no more than five operating rooms.**
- 4. The Moses H. Cone Memorial Hospital shall take the necessary steps to delicense the Wesley Long Surgery Center's five operating rooms on the Cone Health License #H0159. The Cone Health License #H0159 shall have a total of 41 operating rooms upon completion of this project and Project ID #G-11104-15 (delicense four of seven licensed shared ORs at Women's Hospital).**
- 5. The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**
- 6. North Elam Ambulatory Surgery Center 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.**

- 7. For the first three years of operation following completion of the project, The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC 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.**
  - 8. The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC 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.**
  - 9. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC 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.**
  - 10. The Moses H. Cone Memorial Hospital and North Elam Ambulatory Surgery Center, LLC 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.**
- (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

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

### **Capital and Working Capital Costs**

In Section Q Form F.1a Capital Cost, the applicant states the total capital cost for the proposed project is projected to be as follows:

#### **North Elam ASC Capital Cost**

<b>Cost Category</b>	<b>Projected Capital Cost</b>
Construction/Renovation	\$6,385,048
Architect/Engineering Fees	\$510,800
Medical Equipment	\$470,197
Furniture	\$158,181
Consultant Fees	\$191,551
<b>TOTAL CAPITAL COST</b>	<b>\$7,715,777</b>

Source: Section Q, Form F.1a of the application.

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

In Section F.3, page 44, the applicant states that start-up costs are expected to be \$732,663 and initial operating expenses are estimated to be \$1,098,994, for a total working capital requirement of \$1,831,657. Exhibit F.1 contains the architect's letter documenting the construction cost of \$6,385,048 and architect/engineering fees of \$510,800.

### **Availability of Funds**

In Section F.2, page 42, the applicant shows that The Moses H. Cone Memorial Hospital will fund the proposed project with accumulated reserves.

Exhibit F.2-1 contains a letter from Cone Health's Chief Financial Officer documenting The Moses H. Cone Memorial Hospital's plans to use accumulated cash reserves to fund capital costs at \$7,715,777 and working capital costs estimated up to \$2,000,000. The availability of the funds is reflected in The Moses H. Cone Memorial Hospital and Affiliates 2019 Audited Consolidated Financial Statements provided in Exhibit F.2-2, showing cash and cash equivalents of \$43,644,000; current assets of \$456,944,000; and a net position of \$1,766,961,000. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

**Financial Feasibility**

The applicant provides pro forma financial statements for the first three full fiscal years of operation following completion of the project. In the pro forma financial statements, Form F.2 Revenues and Net Income, the applicant projects that total proposed revenues will exceed operating expenses in each of the first three full fiscal years of operation.

**Projected Revenue and Expenses  
 North Elam ASC**

	<b>PY1 FY2023</b>	<b>PY2 FY2024</b>	<b>PY3 FY2025</b>
Total OR Cases	3,218	3,581	3,986
Total Gross Revenue (Charges)	\$47,305,095	\$54,228,357	\$62,164,861
Adjustment to Revenue	\$34,391,309	\$39,424,594	\$45,194,517
Total Net Revenue	\$12,913,786	\$14,803,763	\$16,970,344
Average Net Revenue per Case	\$4,013	\$4,134	\$4,257
Total Operating Expenses	\$9,565,036	\$10,464,571	\$11,825,100
Operating Expense per Case	\$2,972	\$2,922	\$2,967
<b>Net Income (Loss)</b>	<b>\$3,348,751</b>	<b>\$4,339,192</b>	<b>\$5,145,244</b>

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

- the applicant adequately demonstrates that the capital and working capital costs are based on reasonable and adequately supported assumptions,
- the applicant adequately demonstrates availability of sufficient funds for the capital and working capital needs of the proposal, and
- 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.

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

C

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

On page 51, the 2020 SMFP states, “An operating room’s “service area” is the service area in which the operating room is located. The operating room service areas are the single or multicounty groupings shown in Figure 6.1.” In Figure 6.1, page 57 of the 2020 SMFP, Guilford and Caswell counties are shown as a multicounty operating room service area. Thus, the service area for this application is Guilford and Caswell counties. Facilities may also serve residents of counties not included in the service area.

The following table identifies the existing and approved inpatient (IP), outpatient (OP), and shared operating rooms located in Guilford County, and the inpatient and outpatient case volumes for each provider, from pages 62 and 74 of the 2020 SMFP. Caswell County has no ORs.

	IP ORs	OP ORs	Shared ORs	Excluded C-Sec, Trauma, Burn	CON Adjust-ments	IP Surgery Cases	OP Surgery Cases	Group
Greensboro Specialty Surgical Center	0	3	0	0	0	0	1,304	6
Surgical Center of Greensboro	0	13	0	0	0	0	13,806	6
High Point Surgery Center	0	6	0	0	0	0	4,424	6
Premier Surgery Center	0	2	0	0	0	0	9	6
High Point Regional Health	3	0	8	-1	0	3,064	2,602	4
Valleygate Dental Surgery Ctr of the Triad	0	2	0				57	6
Surgical Eye Center	0	4	0				2,892	5
Piedmont Surgical Center	0	2	0				652	6
Kindred Hospital-Greensboro	0	0	1			261	16	4
Cone Health	4	13	33	-1	-4	13,289	15,957	2
<b>Total Guilford County ORs</b>	<b>7</b>	<b>45</b>	<b>42</b>	<b>-2</b>	<b>-4</b>			

Source: 2020 SMFP, pages 62 and 74

In Section G, page 49, the applicant explains why it believes the proposal would not result in the unnecessary duplication of existing or approved health service capabilities or facilities in the proposed service area. The applicant states:

*“The proposed project will not result in any unnecessary duplication of the existing or approved facilities that provide the same services and are located in the service area because the five operating rooms to be reorganized into a new limited liability company are existing and are proposed to be well utilized, as demonstrated in Form C Methodology and Assumptions. There will be no change to the number of operating rooms as a result of the proposed project. Thus, the proposed project will not result in any unnecessary duplication of services; rather, the proposed reorganization of the*

*existing operating room capacity on the Cone Health Wesley Long Hospital campus will enhance access to existing resources in Guilford County.”*

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:

- the applicant adequately demonstrates that the proposed project will not increase the number of ORs in Guilford County, and
- the applicant adequately demonstrates that the existing five operating rooms are needed in addition to the other existing ORs in the service area.

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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.

- (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

In Section Q Form H Staffing, the applicant provides projected full-time equivalent (FTE) positions for the proposed services, as summarized in the following table.

**Projected FTE Positions**

<b>Position</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
Registered Nurses	11.2	11.2	14.0
Surgical Technicians	9.0	9.0	11.0
Aides/Orderlies	1.0	2.0	2.0
Administrator	1.0	1.0	1.0
Director of Nursing	1.0	1.0	1.0
Business Office	4.0	4.0	4.0
<b>TOTAL</b>	<b>27.2</b>	<b>28.2</b>	<b>33.0</b>

In Section Q Form H Assumptions, the applicant provides the assumptions and methodology used to determine staffing needs. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.3 Operating Costs. In Section H.2, pages 51-53, the applicant describes Cone Health’s experience and process for recruiting and retaining staff and its proposed training and continuing education programs.

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

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.

### C

In Section I.1, page 54, the applicant states that the following ancillary and support services are most typically necessary for the proposed services:

- laboratory tests,
- diagnostic imaging,
- pathology,
- anesthesia, and
- patient reception, medical records, billing and insurance, housekeeping and maintenance

In Section I.1(b), page 54, the applicant explains how the necessary services will be made available. Exhibit I.1-1 contains a letter from the Cone Health Chief Operating Officer documenting that all ancillary services necessary to support the proposed facility will be provided as needed. Exhibit I.1-2 contains a letter from the Chief Financial Officer for Anesthesiology Consultants of North Carolina documenting the group's intent to provide anesthesia services for North Elam ASC. The applicant states that support services not provided through the lease agreement will be provided through a management agreement with Cone Health.

On page 55, the applicant states that Cone Health is a regional referral center for healthcare and therefore is involved with a wide range of local community and area healthcare providers, including, but not limited to, hospice and home care providers, critical care transport, and health educational professionals. The applicant further states:

*“Cone Health, including North Elam ASC, will continue to retain and enhance its relationships with these local healthcare and social service providers.”*

The applicant adequately demonstrates that necessary ancillary and support services will be made available and that 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

The applicant does not 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, the applicant does not 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, Criterion (9) 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

The applicant is not an HMO. Therefore, Criterion (10) 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.

### C

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

In Section K, page 58, the applicant states that the project involves renovating 12,781 square feet of existing space within the MOB housing the ORs on the Wesley Long campus. Exhibit C.1-2 contains line drawings.

On page 58, the applicant adequately explains how the cost, design and means of construction represents the most reasonable alternative for the proposal and provides supporting documentation in Section Q and Exhibits C.1-2 and F.1.

On page 59, 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 and provides supporting documentation in Section Q.

On page 59, the applicant refers to Exhibit B.4 to identify any applicable energy saving features that will be incorporated into the construction plans. The architect's letter states that the project will comply with the "*GEN-4: Energy Efficiency and Sustainability for Health Service Facilities requirement*" and lists strategies that "*will be evaluated to ensure compliance*". In Section B, page 12, the applicant states that it will "*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*".

On pages 59-60, the applicant identifies the ASF as being in the same building as the existing MOB on the Wesley Long campus, which Cone Health owns and will lease to the applicant to develop North Elam ASC and provides supporting documentation in Exhibit C.1-2.

- (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

In Section L, pages 62-64, the applicant states that the proposed ASF is not an existing facility but for informational purposes, provides data regarding the medically underserved's use of the existing five WLSC ORs during the last full calendar year (CY2019), as summarized in the tables below.

**Wesley Long Surgery Center  
 FY2019**

Payor Source	Entire Facility and ORs
Self-Pay	3.9%
Charity Care^	0.0%
Medicare*	32.7%
Medicaid*	9.4%
Insurance*	51.8%
Other (Workers Compensation, TRICARE)	2.1%
<b>Total</b>	<b>100.0%</b>

\*Including any managed care plans.

^Cone Health's internal data does not include Charity Care as a payor source for patients.

	Percentage of the Population of WLSC Patients	Percentage of the Population in the Service Area*
Female	53.3%	52.7%
Male	46.8%	47.3%
Unknown	0.0%	0.0%
64 and Younger	68.7%	84.8%
65 and Older	31.3%	15.2%
American Indian	0.2%	0.8%
Asian	1.4%	5.4%
Black or African-American	25.2%	35.1%
Native Hawaiian or Pacific Islander	0.0%	0.1%
White or Caucasian	67.4%	56.2%
Other Race	4.5%	2.4%
Declined/Unavailable	1.3%	0.0%

\*The percentages can be found online using the United States Census Bureau's QuickFacts which is at: <https://www.census.gov/quickfacts/fact/table/US/PST045218> . Just enter in the name of the county.

The applicant states:

*“The table above shows percentages of underserved populations served by Wesley Long Surgery Center. It does not show the percentage of the population in the service area in need of the services offered at the facility. Specifically, the available population data by age, race and gender does not include information on the number of elderly, minorities, women or handicapped persons that need health services provided at the facility. For example, the elderly utilize health services at a higher rate than the younger population, thus the percentage of elderly patients at Wesley Long Surgery Center is higher than the percentage of the population.”*

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

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.

- (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;

NA

The applicant states that the proposed ASF is not an existing facility and therefore has no past performance; however, for informational purposes, the applicant provides the past performance of WLSC on pages 62-64, as summarized in Criterion 13(a) above.

In Section L, page 64, the applicant states that during the last five years no patient civil rights access complaints have been filed against Cone Health or any related entity.

- (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

In Section L, page 65, the applicant projects the following payor mix for the proposed services during FY2025, the third full fiscal year of operation following completion of the project, as summarized in the table below.

**North Elam ASC  
FY2025**

<b>Payor Source</b>	<b>Entire Facility and ORs</b>
Self-Pay	3.9%
Charity Care^	0.0%
Medicare*	32.7%
Medicaid*	9.4%
Insurance*	51.8%
Other (Workers Compensation, TRICARE)	2.1%
<b>Total</b>	<b>100.0%</b>

\*Including any managed care plans.

^Cone Health's internal data does not include Charity Care as a payor source for patients.

As shown in the table above, during the third full fiscal year of operation, the applicant projects 3.9% of total services will be provided to self-pay patients, 32.7% to Medicare patients and 9.4% to Medicaid patients.

In Section L, page 65, the applicant provides the assumptions and methodology used to project payor mix during the first three full fiscal years of operation following completion of the project, stating that it bases projections on the historical payor sources that utilized the five ORs at WLSC.

Exhibit C.8-1 includes Cone Health's non-discrimination, charity, and financial assistance policies.

The projected payor mix is reasonable and adequately supported for the following reasons:

- the projected payor mix is based on the historical payor mix of patients utilizing the existing five ORs, and
- the applicant adequately demonstrates that medically underserved populations will have access to the proposed services.

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

In Section L, page 66, the applicant adequately describes the range of means by which patients will have access to the proposed services.

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

In Section M, page 67, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes. The applicant lists the professional training programs it affiliates with on pages 67-68. The applicant states:

*“Each of the training programs listed above will continue to have access to clinical training opportunities throughout Cone Health, including training at the proposed ASF as appropriate.”*

**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

The applicant proposes to re-license five existing hospital-based ORs at the Wesley Long Surgery Center to develop North Elam ASC, a new, separately licensed freestanding ASF at the same location on the Wesley Long campus.

On page 51, the 2020 SMFP states, “An operating room’s “service area” is the service area in which the operating room is located. The operating room service areas are the single or multicounty groupings shown in Figure 6.1.” In Figure 6.1, page 57 of the 2020 SMFP, Guilford and Caswell counties are shown as a multicounty operating room service area. Thus, the service area for this application is Guilford and Caswell counties. Facilities may also serve residents of counties not included in the service area.

The following table identifies the existing and approved inpatient, outpatient, and shared operating rooms located in Guilford County, and the inpatient and outpatient case volumes for each provider, from pages 62 and 74 of the 2020 SMFP. Caswell County has no ORs.

	IP ORs	OP ORs	Shared ORs	Excluded C-Section, Trauma, Burn	CON Adjustments	IP Surgery Cases	OP Surgery Cases	Group
Greensboro Specialty Surgical Center	0	3	0	0	0	0	1,304	6
Surgical Center of Greensboro	0	13	0	0	0	0	13,806	6
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Premier Surgery Center	0	2	0	0	0	0	9	6
High Point Regional Health	3	0	8	-1	0	3,064	2,602	4
Valleygate Dental Surgery Ctr of the Triad	0	2	0				57	6
Surgical Eye Center	0	4	0				2,892	5
Piedmont Surgical Center	0	2	0				652	6
Kindred Hospital-Greensboro	0	0	1			261	16	4
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<b>Total Guilford County ORs</b>	<b>7</b>	<b>45</b>	<b>42</b>	<b>-2</b>	<b>-4</b>			

Source: 2020 SMFP, pages 62 and 74

In Section N, pages 69-72 of the application, 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.

With regard to competition in the service area, on page 69, the applicant states:

*“The proposed project is expected to enhance competition in the service area by promoting cost effectiveness, quality, and access to ambulatory surgery services.”*

With regard to cost effectiveness, on page 69, the applicant states:

*“The proposed project will provide cost containment for surgical procedures. . . . In a freestanding ASF, there are no other hospital-based expenses allocated to surgery services; the only expenses are those generated directly by services provided by the ASF. . . . For all payors, the proposed lower charge structure will increase the affordability of the services offered in the facility, and policies will ensure that even those without a third-party payor have access to needed services.”*

With regard to quality, on page 70, the applicant states:

*“As the manager of the proposed facility, Cone Health is committed to providing excellent, high quality healthcare.”*

With regard to access, on pages 71-72, the applicant states:

*“The proposed project will increase access to timely, clinically appropriate and high quality surgical services in Guilford County.*

*. . .*

*Since North Elam ASC will be managed by Cone Health, the ASF will utilize existing Cone Health policies related to access which ensure that the facility will provide services to all persons in need of medical care, regardless of race, color, religion, disability, or source of payment. Cone Health facilities have historically demonstrated a commitment to ensuring equitable access to patients and will continue to provide such access upon completion of the proposed project.”*

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 C, F, N and Q of the application and any exhibits)
- Quality services will be provided (see Sections C, N, and O of the application and any exhibits)
- Access will be provided to underserved groups (see Sections C, L and N of the application and any exhibits)

### **Conclusion**

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was 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.

- (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

In Section Q Form A Facilities, the applicant provides a listing of the entities in North Carolina that are owned and/or operated by Cone Health and provide surgical services, including The Moses H. Cone Hospital, Wesley Long Hospital, Women's Hospital, Moses Cone Surgery Center, and Wesley Long Surgery Center, which are under hospital license #H0159. The list also includes Alamance Regional Medical Center, Annie Penn Hospital, LeBauer Endoscopy Center and Greensboro Specialty Surgical Center.

In Section O.3, page 73, the applicant states that each of the health care facilities currently owned and operated by Cone Health and listed in Section Q Form A Facilities has continually maintained all relevant licensure, certification, and accreditation for the 18 months preceding the submission of this application.

According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, no Cone Health related facilities have been cited for violations involving immediate jeopardy during the 18 months immediately preceding submission of the application through the date of this decision. 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 all Cone Health facilities, the applicant provided 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.

NA

The applicant does not propose to increase the number of operating rooms in the service area, therefore, the criteria and standards for surgical services and operating rooms do not apply.