

ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: July 24, 2020

Findings Date: July 24, 2020

Project Analyst: Mike McKillip

Team Leader: Gloria C. Hale

Project ID #: J-11900-20

Facility: University of North Carolina Hospitals

FID #: 923517

County: Orange

Applicant: University of North Carolina Hospitals at Chapel Hill

Project: Develop 3 additional ORs on the Chapel Hill campus pursuant to the need determination in the 2020 SMFP for a total of 54 ORs upon completion of this project and Project ID#s: J-11644-18 (add 2 in Chapel Hill), J-11646-18 (add 2 in Hillsborough) and J-11695-19 (add 1 in Chapel Hill)

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

C

University of North Carolina Hospitals at Chapel Hill (hereinafter referred to as UNC Hospitals or “the applicant”) proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan.

Need Determination

On December 19, 2019, the Agency issued a memorandum which amended the 2020 State Medical Facilities Plan (SMFP) to include a need determination for three additional operating

rooms in the Orange County Operating Room Service Area pursuant to Policies GEN-1 and GEN-2. The applicant does not propose to develop more operating rooms than are determined to be needed in the Orange County service area.

Policies

There are two policies in the 2020 SMFP applicable to this review: Policy GEN-3: Basic Principles, and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy GEN-3

Policy GEN-3, on pages 30-31 of the 2020 SMFP, states:

“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”

Promote Safety and Quality

The applicant describes how it believes the proposed project will promote safety and quality in Section B.3 (a) and (d), pages 10-14, Section N.2(b), pages 78-79; Section O, pages 81-82; and referenced exhibits. The information provided by the applicant is reasonable and supports the determination that the applicant’s proposal will promote safety and quality.

Promote Equitable Access

The applicant describes how it believes the proposed project will promote equitable access in Section B.3 (b) and (d), pages 11-14, Section C.8, pages 38-39; Section L, pages 69-73; Section N.2(c), pages 79-80; and referenced exhibits. The information provided by the applicant is reasonable and supports the determination that the applicant’s proposal will promote equitable access.

Maximize Healthcare Value

The applicant describes how it believes the proposed project will maximize healthcare value in Section B.3 (c) and (d), pages 13-14; Section N.2(a), pages 77-78; and referenced exhibits. The information provided by the applicant with regard to its efforts to maximize healthcare value is reasonable and supports the determination that the applicant’s proposal will maximize healthcare value.

The applicant adequately demonstrates how its proposal incorporates the concepts of quality, equitable access, and maximum value for resources expended in meeting the facility need as identified by the applicant. Therefore, the application is consistent with Policy GEN-3.

Policy GEN-4

Policy GEN-4, 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 is 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.4, pages 14-15, the applicant describes the project’s plan to improve energy efficiency and conserve water. The applicant adequately demonstrates that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

- The applicant does not propose to develop more operating rooms than are determined to be needed in the service area.
 - The applicant adequately demonstrates that the proposal is consistent with Policy GEN-3 and Policy GEN-4 for the following reasons:
 - The applicant adequately documents how the project will promote safety and quality in the delivery of operating room services in Orange County;
 - The applicant adequately documents how the project will promote equitable access to operating room services in Orange County; and
 - The applicant adequately documents how the project will maximize healthcare value for the resources expended.
 - The applicant adequately demonstrates that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation.
- (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

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan. The applicant states that two of the three proposed operating rooms will be located in renovated space in the hospital’s “*annex suite*” and one of the proposed operating rooms will be located in renovated space on the fourth floor of the hospital. In Section C.1, pages 17-18, the applicant describes the project as follows:

“UNC Hospitals currently operates a total of 40 operating rooms at UNC Hospitals Main Campus (including three dedicated C-section rooms, one operating room for Level I trauma, and one operating room for burn ICU, which are excluded from the adjusted planning inventory in the 2020 SMFP Operating Room Methodology, for a total adjusted inventory of 35 operating rooms at UNC Hospitals Main Campus). Pursuant to a CON-exempt project (Exhibit C.1-1), UNC Hospitals is currently developing a replacement surgical tower on its Main Campus, which will be connected to the Main Campus hospital building. The exempt surgical tower project involves the replacement and relocation of 24 existing operating rooms from the main hospital building to the replacement surgical tower. Four of the 24 operating rooms to be replaced will be relocated from UNC Hospitals’ OR annex suite, which is located on the second floor of the main hospital building....

As shown on the project line drawings in Exhibit C.1-2, the annex suite currently houses five licensed operating rooms, labeled OR 18 through 22. Four of the five

operating rooms – ORs 18 through 21 – are undersized and not compliant with the latest space requirements for licensure. These four operating rooms will be relocated, as part of the previously discussed CON-exempt project to the new surgical tower where they will be replaced and right-sized to meet current standards, leaving these four spaces vacant in the annex suite. OR 22, which is larger and compliant with current space requirements, will remain in place and is not included in the scope of the proposed project. As shown on the second floor renovation plan in Exhibit C.1-2, with this project, UNC Hospitals proposes to backfill two of the vacated operating rooms (labeled OR 18 and 19 on the demolition plan) in the annex in order to develop two of the three new operating rooms (labeled OR 1 and OR 2 on the renovation plan) proposed in this application pursuant to the 2020 SMFP need determination.

As shown on the project line drawings in Exhibit C.1-2, the fourth floor currently houses five licensed operating rooms, labeled OR 29 through 33. All five of the operating rooms are undersized and not compliant with the latest space requirements for licensure. The previously discussed CON-exempt project included the relocation of these five operating rooms to the new surgical tower to be replaced and right-sized to meet current standards, leaving these five spaces vacant on the fourth floor. As noted previously, following resolution of the 2018 and 2019 need determinations, UNC Health was approved to develop one operating room in the annex suite at UNC Hospitals Main Campus. UNC Hospitals will develop the operating room awarded following resolution of the 2019 need determination on the fourth floor (shown as OR 31 on the fourth floor renovation plan) instead of the annex as originally proposed, which has been approved pursuant to a Material Compliance Request (Exhibit C.1-3). As such, OR 31 on the fourth floor is not included in the scope of this proposed project. As shown on the fourth floor renovation plan in Exhibit C.1-2, with this project, UNC Hospitals proposes to backfill one of the vacated operating rooms (labeled OR 30) on the fourth floor in order to develop the third of the three new operating rooms proposed in this application pursuant to the 2020 SMFP need determination.”

Patient Origin

N.C.G.S. §131E-176(24a) states: “Service area means the area of the State, as defined in the State Medical Facilities Plan or rules adopted by the Department, which receives services from a health service facility.” On page 51, the 2020 SMFP states, “An operating room’s ‘service area’ is the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.” In Figure 6.1, page 57 of the 2020 SMFP, Orange County is shown as a single-county operating room service area. Thus, the service area for this facility consists of Orange County. Facilities may also serve residents of counties not included in their service area.

In Sections C.2 and C.3, pages 20-25, the applicant provides the historical (FY2019) patient origin for the operating rooms on the UNC Hospitals Main Campus, and the projected patient origin for the first three full fiscal years of operation (FY2024-FY2026) of the proposed project, as shown in the following tables:

**Historical Patient Origin
 UNC Hospitals Main Campus Operating Rooms FY2019**

COUNTY	LAST FULL FY (7/1/18 – 6/30/19)	
	# PATIENTS	% OF TOTAL
Wake	3,603	13.3%
Orange	2,823	10.5%
Alamance	1,910	7.1%
Cumberland	1,900	7.0%
Durham	1,480	5.5%
Chatham	1,455	5.4%
Lee	987	3.7%
Johnston	910	3.4%
Robeson	744	2.8%
Harnett	735	2.7%
Moore	644	2.4%
Guilford	593	2.2%
Other*	9,211	34.1%
Total	26,995	100.0%

*Counties and other states included in the “Other” category are shown in the tables on pages 20-22 of the application.

**UNC Hospitals Main Campus Operating Rooms
 Projected Patient Origin**

COUNTY	1 st Full FY FY2024		2 nd Full FY FY2025		3 rd Full FY FY2026	
	# Pts	% of Total	# Pts	% of Total	# Pts	% of Total
Wake	3,933	13.3%	4,031	13.3%	4,133	13.3%
Orange	3,082	10.5%	3,159	10.5%	3,238	10.5%
Alamance	2,085	7.1%	2,137	7.1%	2,191	7.1%
Cumberland	2,074	7.0%	2,126	7.0%	2,179	7.0%
Durham	1,616	5.5%	1,656	5.5%	1,698	5.5%
Chatham	1,588	5.4%	1,628	5.4%	1,669	5.4%
Lee	1,077	3.7%	1,104	3.7%	1,132	3.7%
Johnston	933	3.2%	1,018	3.4%	1,044	3.4%
Robeson	812	2.8%	832	2.8%	853	2.8%
Harnett	802	2.7%	822	2.7%	843	2.7%
Moore	703	2.4%	721	2.4%	739	2.4%
Guilford	647	2.2%	664	2.2%	680	2.2%
Other*	10,117	34.3%	10,307	34.1%	10,565	34.1%
Total	29,469	100.0%	30,205	100.0%	30,964	100.0%

*Counties and other states included in the “Other” category are shown in the tables on pages 22-25 of the application.

In Section C.3(b), page 25, the applicant states that the projected patient origin is based on the historical patient origin for surgical services at UNC Hospitals Main Campus. The applicant’s assumptions are reasonable and adequately supported.

Analysis of Need

In Section C.4, pages 25-34, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below:

- The historical and projected growth and aging of the Orange County service area population (pages 29-30).
- The historical growth in surgical cases performed at UNC Hospitals, particularly for higher acuity patients with more complex surgical procedures that require longer surgical case times (pages 30-32).
- The need to address the existing capacity constraints at the UNC Hospitals Main Campus (pages 32-34).

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

- The applicant provides reasonable and adequately supported information to support its assertions regarding the growth and aging of the Orange County service area population.
- The applicant provides historical data to support its assumptions regarding the projected utilization of UNC Hospital's surgical service and the capacity constraints at UNC Hospitals Main Campus.

Projected Utilization

In Section Q, the applicant provides utilization projections for UNC Health Care's existing, approved and proposed operating rooms at its Orange County surgical facilities, which include UNC Hospitals (both the Chapel Hill and Hillsborough campuses) and the North Chapel Hill Surgery Center, through the first three operating years of the proposed project, as discussed below.

UNC Hospitals

In Section Q, Form C, the applicant provides projected utilization of the existing, approved and proposed operating rooms at UNC Hospitals (including the Main Campus in Chapel Hill and the Hillsborough campus) during the first three full fiscal operating years of the proposed project, as illustrated in the following table.

Projected UNC Hospitals Utilization

Operating Rooms	Year 1 FY2024	Year 2 FY2025	Year 3 FY2026
Operating Rooms	49	49	49
Inpatient Surgical Cases	15,287	15,476	15,667
Outpatient Surgical Case	19,152	19,843	20,560
Total Surgical Cases	34,439	35,319	36,227
Inpatient Surgical Case Times	237	237	237
Outpatient Surgical Case Times	139	139	139
Inpatient Surgical Hours	60,384	61,130	61,885
Outpatient Surgical Hours	44,369	45,970	47,630
Total Surgical Hours	104,753	107,100	109,515
Group Assignment	1	1	1
Standard Hours per OR per Year	1,950	1,950	1,950
Total Surgical Hours/Standard Hours Per OR per Year	53.7	54.9	56.2

Source: Section Q, Form C.

In Section Q, the applicant provides the assumptions and methodology used to project utilization. Specifically, the applicant states projected utilization of the hospital’s operating rooms is based on the assumption that inpatient surgical case volumes will increase by an average annual growth rate of 1.2 percent, based on the historical growth rates for inpatient surgical case volumes from FY2018 to FY2020. The applicant assumes outpatient surgical case volumes will increase at an average annual growth rate of 3.7 percent through the first three operating years of the proposed project based on the historical growth rates for outpatient surgical case volumes from FY2018 to FY2020. The applicant states,

“Based on a conservative use of its SFY 2018 to 2020 annual growth rate of 1.2 percent for inpatient cases and 3.7 percent for outpatient cases – both of which represent the lowest of the three compound annual growth rates for inpatient and outpatient cases, respectively, shown in the table [on page 4, Section Q] – UNC Hospitals expects UNC Health total operating room cases at all sites of care in Orange County to grow to over 38,000 cases by SFY 2026.... This growth in surgical services utilization is expected to be supported by the same factors that have led to the historical growth of UNC Hospitals including increasing demand for surgical services due to population and use rate growth, clinical service development at UNC Hospitals, and the recruitment of additional surgeons to serve patient need.”

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

- The applicant’s utilization projections for UNC Hospitals are based on the hospital’s historical surgical utilization from FY2018 to FY2020, and are further supported by the projected growth and aging in the service area population.
- The applicant’s utilization projections are supported by letters from physicians who have expressed support for the proposed project. See Exhibit I.3.

North Chapel Hill Surgery Center

Pursuant to the need determination in the 2018 SMFP, North Chapel Hill Surgery Center was approved to develop a freestanding, separately licensed ambulatory surgical center with two operating rooms (Project ID # J-11645-18). In Section Q, the applicant provides projected utilization of the two operating rooms at the approved ambulatory surgery center in Chapel Hill during the first three full fiscal operating years of the proposed project, as illustrated in the following table.

Projected North Chapel Hill Surgery Center Utilization

Operating Rooms	Year 1 FY2024	Year 2 FY2025	Year 3 FY2026
Dedicated Ambulatory ORs	2	2	2
Outpatient Surgical Cases	2,166	2,260	2,359
Surgical Case Times	71	71	71
Totals Surgical Hours	2,570	2,682	2,800
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	2.0	2.0	2.1

Source: Section Q, Form C.

In Section Q, the applicant provides the assumptions and methodology used to project utilization. Specifically, the applicant states projected utilization of the two dedicated ambulatory surgical operating rooms is based on the utilization projections for the two operating rooms in the previously approved project (Project ID # J-11645-18). The applicant states,

“UNC Hospitals believes that the utilization projections provided in UNC Health’s 2018 and 2019 applications, including North Chapel Hill Surgery Center, were reasonable and supported based on the data available at the time. As such, UNC Hospitals has maintained the specific case numbers projected for North Chapel Hill Surgery Center, as shown above, for the purposes of the utilization projections in this application. Of note, North Chapel Hill Surgery Center’s SFY 2025 and 2026 utilization was not projected in the 2018 CON application. For purposes of these projections, UNC Hospitals estimates that North Chapel Hill Surgery Center’s utilization will grow 4.4 percent annually from SFY 2024 to 2026.... As noted in the 2018 North Chapel Hill Surgery Center application, the assumed 4.4 percent growth rate was based on the historical growth in outpatient surgical utilization experienced by UNC Hospitals from SFY 2016 to SFY 2018”

The applicant’s projected utilization is reasonable and adequately supported for the following reasons:

- The applicant’s utilization projections for North Chapel Hill Surgery Center for the period through the third year of the proposed project (FY2026) are supported by the applicant’s historical outpatient surgical case volumes.

- The applicant’s utilization projections are supported by letters from physicians who have expressed support for the proposed project. See Exhibit I.3.

Access

In Section C.8, pages 38-39, the applicant states it is committed to providing services to all patients, and will not discriminate against anyone based on income, payer status, race, ethnicity, age, sex, physical handicap, or the patient’s ability to pay. In Section L.3, page 72, the applicant projects the following payor mix during the third full fiscal year (FY2026) of operation following completion of the project, as illustrated in the following table.

Payor Source	Entire Facility	Operating Rooms
Self-Pay	8.8%	7.9%
Medicare *	34.2%	26.0%
Medicaid *	15.3%	22.3%
Insurance *	37.0%	36.2%
Other (Other Govt; Workers Comp)	4.8%	7.6%
Total	100.0%	100.0%

* Including any managed care plans

The projected payor mix is reasonable and adequately supported.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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 support 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 does not propose the reduction or elimination of a service. 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

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan. The applicant states that two of the three proposed operating rooms will be located in renovated space in the hospital's "*annex suite*" and one of the proposed operating rooms will be located in renovated space on the fourth floor of the hospital.

In Section E, pages 48-49, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need. The alternatives considered were:

Maintain the status quo: The applicant states this option is not an effective alternative because it would not address the need for additional surgical capacity at UNC Hospitals.

Develop fewer additional operating rooms: The applicant states it considered the alternative of developing fewer additional operating rooms but determined that fewer operating rooms would not meet the growing need for surgical capacity at UNC Hospitals.

Develop the operating rooms at a different location: The applicant states it considered this alternative, but determined that the previously approved applications for the operating room need determinations in the 2018 and 2019 SMFPs addressed the needs for ambulatory surgical operating rooms and operating rooms at the Hillsborough campus, and the greatest need at this time is for surgical capacity at the Main Campus.

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

- The application is conforming to all statutory and regulatory criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

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. Therefore, the application is approved subject to the following conditions:

- 1. University of North Carolina Hospitals at Chapel Hill shall materially comply with all representations made in the certificate of need application.**
- 2. University of North Carolina Hospitals at Chapel Hill shall develop three additional operating rooms on the Chapel Hill Campus for a total of no more than 46 operating rooms on the Chapel Hill campus and 8 operating rooms on the Hillsborough campus upon completion of this project, Project ID #J-11644-18 (add 2 ORs), and Project ID #J-11646-18 (add 2 ORs), and Project ID #J-11695-19 (add one OR).**
- 3. Upon completion of this project, Project I.D. #J-11644-18, Project I.D. #J-11646-18 and Project I.D. # J-11695-19, University of North Carolina at Chapel Hill shall be licensed for no more than 54 operating rooms (46 on the Chapel Hill campus and 8 on the Hillsborough campus).**
- 4. University of North Carolina Hospitals at Chapel Hill 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.**
- 5. University of North Carolina Hospitals at Chapel Hill 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.**
- 6. 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, University of North Carolina Hospitals at Chapel Hill 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.**
- 7. University of North Carolina Hospitals at Chapel Hill 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

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan. The applicant states that two of the three proposed operating rooms will be located in renovated space in the hospital’s “*annex suite*” and one of the proposed operating rooms will be located in renovated space on the fourth floor of the hospital.

Capital and Working Capital Costs

In Section Q, the applicant projects the total capital cost of the project as shown in the table below.

Construction/Renovation Costs	\$6,991,895
Architectural/Engineering Fees	\$607,991
Medical Equipment Costs	\$897,000
Nonmedical Equipment	\$232,595
Other Costs/Contingency	\$1,747,974
Total	\$10,477,455

In Section Q, Form F.1(a), the applicant provides the assumptions used to project the capital cost.

In Section F.3, page 52, the applicant projects there will be no start-up costs or initial operating expenses associated with the proposed project because it is not a new service.

Availability of Funds

In Section F.2, page 50, the applicant states that the capital cost will be funded as shown in the table below.

Type	UNC Hospitals	Total
Loans	\$0	\$0
Accumulated reserves or OE *	\$10,477,455	\$10,477,455
Bonds	\$0	\$0
Other	\$0	\$0
Total Financing	\$10,477,455	\$10,477,455

* OE = Owner’s Equity

In Exhibit F.2-1, the applicant provides a letter dated April 15, 2020, from the Chief Financial Officer for UNC Hospitals documenting its intention to provide accumulated reserves to

finance the proposed project. Exhibit F.2-2 contains a copy of the audited financial statements for UNC Hospitals for the year ended June 30, 2019 which indicate that UNC Hospitals had \$241 million in cash and cash equivalents as of June 30, 2019. The applicant adequately demonstrates that sufficient funds will be available for the capital needs of the project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In Form F.2, the applicant projects that revenues will exceed operating expenses in each of the first three full fiscal operating years of the project, as shown in the table below.

	Project Year 1 FY2024	Project Year 2 FY2025	Project Year 3 FY2026
Total Surgical Cases	29,469	30,205	30,964
Total Gross Revenues (Charges)	\$671,994,750	\$709,452,602	\$749,096,314
Total Net Revenue	\$247,488,048	\$261,283,351	\$275,883,680
Average Net Revenue per Case	\$8,398	\$8,650	\$8,910
Total Operating Expenses (Costs)	\$215,257,582	\$226,283,392	\$237,206,593
Average Operating Expense per Case	\$7,305	\$7,492	\$7,661
Net Income	\$32,230,466	\$34,999,959	\$38,677,088

Totals may not sum due to rounding

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs, and charges. See Section Q of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

- (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

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan.

N.C.G.S. §131E-176(24a) states: “Service area means the area of the State, as defined in the State Medical Facilities Plan or rules adopted by the Department, which receives services from a health service facility.” On page 51, the 2020 SMFP states, “An operating room’s ‘service area’ is the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.” In Figure 6.1, page 57 of the 2020 SMFP, Orange County is shown as a single-county operating room service area. Thus, the service area for this facility consists of Orange County. Facilities may also serve residents of counties not included in their service area.

The following table identifies the existing and approved inpatient (IP), outpatient (OP), and shared ORs located in Orange County, and the inpatient and outpatient case volumes for each provider, from pages 65 and 78 of the 2020 SMFP.

Orange County	IP ORs	OP ORs	Shared ORs	Excluded C-Section, Trauma, Burn ORs	CON Adjustments	IP Surgery Cases	OP Surgery Cases
North Chapel Hill Surgery Center	0	0	0	0	2	0	0
UNC Hospitals	3	11	32	-5	0	14,208	16,658
UNC Health Care Total	3	11	32	-5	2	14,208	16,658
2018 SMFP Need Determination*					4		
2019 SMFP Need Determination*					3		
Total	3	11	32	-5	9	14,208	16,658

Source: 2020 SMFP

*Pursuant to a settlement agreement of the 2018 and 2019 operating room reviews for Orange County, Duke Health Orange Ambulatory Surgery Center was approved for Project I.D. # J-11692-19 (develop a new multispecialty ASC with two operating rooms and two procedure rooms), and UNC Hospitals was approved for Project I.D. # J-11644-18 (add two operating rooms on the Chapel Hill campus), Project I.D. # J-11645-18 (add two operating rooms on the Hillsborough campus) and Project I.D. # J-11695-19 (add one operating room on the Chapel Hill campus).

On December 19, 2019, the Agency issued a memorandum which amended the 2020 State Medical Facilities Plan (SMFP) to include a need determination for three additional operating rooms in the Orange County Operating Room Service Area pursuant to Policies GEN-1 and GEN-2. In Section G.2, pages 57-58, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved services in the proposed service area. The applicant states:

“UNC Hospitals is proposing to develop three additional operating rooms at UNC Hospitals Main Campus in response to the need identified in the 2020 SMFP for three additional operating rooms in Orange County. As noted previously, the identified need determination for Orange County was generated based solely on the surgical

utilization at UNC Hospitals. The identified need can best be met by the proposed application to add three operating rooms at UNC Hospitals Main Campus. As the sole provider of surgical services in Orange County, and with the need determination based solely on its utilization, the proposed project by UNC Hospitals will provide much-needed additional hospital-based surgical capacity to serve a growing patient population.”

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

- There is a need determination in the 2020 SMFP for three additional operating rooms in the Orange County service area and the applicant proposes to develop three operating rooms.
- The applicant adequately demonstrates that the proposed operating rooms are needed in addition to the existing or approved operating rooms in Orange County.

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.

- (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, the applicant provides current and projected full-time equivalent (FTE) staffing for the proposed services through the first three operating years of the project as illustrated in the following table.

UNC Hospitals Surgical Services Staffing (FTE)				
Position	Current (FY2019)	FY1 (FY2024)	FY2 (FY2025)	FY3 (FY2026)
Registered Nurse	222.20	249.29	252.70	252.70
Surgical Technician	140.95	153.78	156.28	156.28
Aides/Orderlies	37.63	44.29	45.29	45.29
Clerical Staff	5.41	6.08	6.08	6.08
Radiology Technologists	0.20	0.20	0.20	0.20
Respiratory Therapist	0.56	0.56	0.56	0.56
Administrator	26.04	26.37	26.37	26.37
Business Office	26.84	26.84	26.84	26.84
Perfusionist	5.13	5.13	5.13	5.13
Phlebotomist	1.89	1.89	1.89	1.89
Totals*	466.86	514.36	521.36	521.36

Source: Form H in Section Q of the application.
 *Totals may not foot due to rounding

The assumptions and methodology used to project staffing are provided in Section Q. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.3, which is found in Section Q. In Sections H.2 and H.3, pages 59-60, the applicant describes the methods to be used to recruit or fill new positions and its existing training and continuing education programs. In Exhibit I.3, the applicant provides a letter from the medical director for UNC Hospitals Surgical Services indicating an interest in continuing as the medical director for the proposed services.

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 61, the applicant states UNC Hospitals currently provides all of the ancillary and support services necessary for the proposed services. The applicant states,

“As an existing full-service academic medical center, UNC Hospitals has all ancillary and support services in place to support hospital operations, including the existing surgical services at its Main Campus. These existing ancillary and support services also will support the additional operating rooms proposed in this application. Patients may require the use of any of UNC Hospitals’ existing ancillary and support services including laboratory, radiology, pharmacy, dietary, housekeeping, maintenance, and administration, among others.”

In Section I.1, page 61, and Exhibit I.1, the applicant adequately explains how each ancillary and support service will be made available. In Section I.2, page 61, the applicant describes its existing relationships with other local health care and social service providers. The applicant provides supporting documentation in Exhibit I.2.

The applicant adequately demonstrates 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

In Section K.2, page 65, the applicant states the project involves renovating 14,060 square feet of existing space in the existing hospital. Line drawings are provided in Exhibit C.1-2.

In Section K.3, page 65, the applicant adequately explains how the cost, design, and means of construction represent the most reasonable alternative for the proposal.

In Section K.3, pages 65-66, 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.

In Section K.3, page 66, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

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.

(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.1, page 70, the applicant provides the historical payor mix for UNC Hospitals and surgical services for the FY2019, as shown in the table below.

Payment Source	Percent of Total for Entire Facility	Percent of Total for Operating Rooms
Self Pay	8.8%	7.9%
Medicare^	34.2%	26.0%
Medicaid^	15.3%	22.3%
Insurance^	37.0%	36.2%
Other*	4.8%	7.6%
Total**	100.0%	100.0%

Source: Table on page 70 of the application.

*The applicant states the "Other" category includes TRICARE, Workers Compensation and other government payors.

**Totals may not foot due to rounding.

^Including any managed care plans.

In Section L.1, page 69, the applicant provides the following comparison.

	Percentage of Total Patients Served by the Facility during the Last Full FY2019	Percentage of the Population of the Service Area
Female	58.4%	52.2%
Male	41.6%	47.8%
Unknown	0.0%	0.0%
64 and Younger	74.2%	86.0%
65 and Older	25.8%	14.0%
American Indian	0.6%	0.6%
Asian	2.0%	8.3%
Black or African-American	22.4%	11.8%
Native Hawaiian or Pacific Islander	0.1%	0.1%
White or Caucasian	61.3%	76.6%
Other Race	9.5%	2.6%
Declined / Unavailable	4.1%	0.0%

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicant adequately documents the extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved. Therefore, the application is conforming to this criterion.

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

C

Recipients of Hill-Burton funds were required to provide uncompensated care, community service and access by minorities and handicapped persons. In Section L.2, page 70, the applicant states,

“UNC Hospitals has long since satisfied its “free care” obligation under the Hill-Burton Act. Charity care provided by UNC Hospitals for State Fiscal Year 2019 is estimated to be more than \$266 million. UNC Hospitals provides care to all persons based only on their need for care and without regard to minority status or handicap/disability.”

In Section L.2, page 71, the applicant states that during the last five years, two patient civil rights access complaints have been filed against its facilities. The applicant states one complaint has been resolved through mediation and the second matter is still pending litigation.

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section L.3, page 72, the applicant projects the following payor mix for UNC Hospitals and operating room services during the third year of operation (FY2026) following completion of the project, as shown in the following table.

Payor Source	Entire Facility	Operating Rooms
Self-Pay	8.8%	7.9%
Medicare *	34.2%	26.0%
Medicaid *	15.3%	22.3%
Insurance *	37.0%	36.2%
Other (Other Govt; Workers Comp)	4.8%	7.6%
Total	100.0%	100.0%

* Including any managed care plans

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 7.9 percent of total operating room services will be provided to self-pay patients, 26.0 percent to Medicare patients, and 22.3 percent to Medicaid patients.

In Section L.3, page 72, the applicant provides the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported because it is based on the applicant's historical experience.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

In Section L.5, page 73, the applicant adequately describes the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

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

C

In Section M.1, pages 74-75, the applicant describes the extent to which health professional training programs in the area have access to the proposed health services for training purposes.

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

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan.

N.C.G.S. §131E-176(24a) states: “Service area means the area of the State, as defined in the State Medical Facilities Plan or rules adopted by the Department, which receives services from a health service facility.” On page 51, the 2020 SMFP states, “An operating room’s ‘service area’ is the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.” In Figure 6.1, page 57 of the 2020 SMFP, Orange County is shown as a single-county operating room service area. Thus, the service area for this facility consists of Orange County. Facilities may also serve residents of counties not included in their service area.

The following table identifies the existing and approved inpatient (IP), outpatient (OP), and shared ORs located in Orange County, and the inpatient and outpatient case volumes for each provider, from pages 65 and 78 of the 2020 SMFP.

Orange County	IP ORs	OP ORs	Shared ORs	Excluded C-Section, Trauma, Burn ORs	CON Adjustments	IP Surgery Cases	OP Surgery Cases
North Chapel Hill Surgery Center	0	0	0	0	2	0	0
UNC Hospitals	3	11	32	-5	0	14,208	16,658
UNC Health Care Total	3	11	32	-5	2	14,208	16,658
2018 SMFP Need Determination*					4		
2019 SMFP Need Determination*					3		
Total	3	11	32	-5	9	14,208	16,658

Source: 2020 SMFP

*Pursuant to a settlement agreement of the 2018 and 2019 operating room reviews for Orange County, Duke Health Orange Ambulatory Surgery Center was approved for Project I.D. # J-11692-19 (develop a new multispecialty ASC with two operating rooms and two procedure rooms), and UNC Hospitals was approved for Project I.D. # J-11644-18 (add two operating rooms on the Chapel Hill campus), Project I.D. # J-11645-18 (add two operating rooms on the Hillsborough campus) and Project I.D. # J-11695-19 (add one operating room on the Chapel Hill campus).

On December 19, 2019, the Agency issued a memorandum which amended the 2020 State Medical Facilities Plan (SMFP) to include a need determination for three additional operating rooms in the Orange County Operating Room Service Area pursuant to Policies GEN-1 and GEN-2.

In Section N.1, page 77, 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. The applicant states,

“UNC Hospitals believes that the proposed project will foster competition in the proposed service area, even as the only existing provider of surgical services in the service area. In particular, UNC Hospitals has a unique mission to serve patients from across the state, and regularly cares for patients from all 100 counties. As such, the proposed project will enhance competition by expanding the capacity of surgical services at UNC Hospitals, which will improve its ability to compete with other providers. The proposed project will

enhance the provision of timely, quality patient care and will assist UNC Hospitals in meeting its four-fold mission of patient care, teaching, research, and community service. UNC Hospitals maintains that the development of additional surgical capacity in Orange County will promote cost-effectiveness, quality, and access to services in the proposed service area and will thus be in compliance with the spirit and legislative intent of the Certificate of Need Law.”

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

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

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

- (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, the applicant identifies 18 health care facilities owned or managed by UNC Health Care System.

In Section O.3, pages 81-82, the applicant states that, during the 18 months immediately preceding the submittal of the application, incidents related to quality of care occurred at one UNC Health Care System facility, UNC REX Hospital. In Section O.3, page 82, the applicant states that a plan of correction for UNC REX Hospital was accepted and the hospital is back in compliance with all CMS conditions as of July 19, 2019. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, all of the UNC Health Care System facilities are back in compliance with all CMS Conditions of Participation. 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

UNC Health Care System facilities, the applicant provides sufficient evidence that quality care has been provided in the past. Therefore, the application is conforming to this criterion.

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

C

UNC Hospitals proposes to develop three additional operating rooms on the hospital main campus in Chapel Hill pursuant to the need determination in the 2020 State Medical Facilities Plan. The Criteria and Standards for Surgical Services and Operating Rooms, NCAC 14C .2100, are applicable.

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

10A NCAC 14C .2103 PERFORMANCE STANDARDS

- (a) *An applicant proposing to increase the number of operating rooms (excluding dedicated C-section operating rooms) in a service area shall demonstrate the need for the number of proposed operating rooms in addition to the existing and approved operating rooms in the applicant's health system in the applicant's third full fiscal year following completion of the proposed project based on the Operating Room Need Methodology set forth in the 2018 State Medical Facilities Plan. The applicant is not required to use the population growth factor.*
- C- UNC Hospitals proposes to develop three additional operating rooms on the main hospital campus in Chapel Hill which is part of the UNC Hospitals health system. The applicant projects sufficient surgical cases and hours to demonstrate the need for three additional ORs in the applicant's health system in the third operating year of the project based on the Operating Room Need Methodology in the 2020 SMFP. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.
- (b) *The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.*
- C- In Section Q, Form C, pages 1-16, the applicant provides the assumptions and methodology used in the development of the projections required by this Rule. The

discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.