

**Acute Care Services Committee
Agency Report
Adjusted Need Petition to
Reduce the Operating Room Need Determination in Forsyth County in the
2018 State Medical Facilities Plan**

Petitioner:

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Request:

Wake Forest Baptist Health (WFBH) requests an adjustment to the 2018 SMFP need determination for operating rooms (OR) in Forsyth County, by reducing the OR need from six to four.

Background Information:

Chapter Two of the *North Carolina Proposed 2018 State Medical Facilities Plan (SMFP)* provides that “[a]nyone who finds that the North Carolina State Medical Facilities Plan policies or methodologies, or the results of their application, are inappropriate may petition for changes or revisions. Such petitions are of two general types: those requesting changes in basic policies and methodologies, and those requesting adjustments to the need projections.” The planning process and time allow for submission of petitions requesting adjusted need determinations in the summer. It should be noted that any person might submit a certificate of need (CON) application for a need determination in the Plan. The CON review could be competitive and there is no guarantee that the petitioner would be the approved applicant.

The new need methodology consists of several steps to determine the number of ORs needed in each OR service area. The methodology projects the number of surgical hours by first multiplying the average case times reported by each facility by the hours for inpatient and ambulatory cases for the previous year (data year). This result is then multiplied by the projected population change between the data year and four years beyond the data year (target year). The number of operating rooms required by the target year is the result of dividing the projected number of surgical hours for the target year by the number of hours per OR per year for each facility based on assumptions used in the SMFP, while accounting for outliers. The final step calculates the number of additional ORs needed by subtracting the projected total number of required ORs from the current OR

inventory for each health system in the service area. Deficits for all health systems are summed to obtain the need for ORs in the service area.

Wake Forest University Health Sciences obtained the Plastic Surgery Center of North Carolina (PSCNC) and created Wake Forest Ambulatory Ventures. This entity is currently 80% owned by Wake Forest University Health Sciences and 20% owned by Surgical Care Affiliates. PSCNC has three ORs. It is an underutilized facility, meaning that its utilization has been less than 40% for at least the past two years. In 2016, its utilization was 12.88%, based on its reported average case time. Before 2016, the utilization was based on the case time assumptions in the prior OR methodology; the facility's utilization was generally approximately 5%. Wake Forest Ambulatory Ventures is developing a facility listed as Clemmons Park Ambulatory Surgery Center (CPASC) in the SMFP (based on the information on the CON, G-008608-10). The three single-specialty ORs at PSCNC will be relocated to the new multi-specialty facility, which is part of the WFBH health system.

Analysis/Implications:

The new OR methodology no longer considers the total number of ORs in the service area, but rather considers the total number of ORs in each health system within a given service area. The acquisition of CPASC adds three ORs to the WFBH inventory. A complicating factor is that PSCNC is a chronically underutilized facility. As such, the methodology requires that PSCNC's three ORs be excluded from need determination calculations. This situation currently is unique to Forsyth County, but could occur in any other service area in the future. Similar situations have occurred under the previous OR methodology. However, they did not make a difference in need determinations because the number of surplus ORs offset any increases in deficits that were due to this type of anomaly.

Draft Table 6B from the May 2, 2017 meeting of the Acute Care Services Committee showed WFBH with 48 ORs (including the three new ORs under development at CPASC). However, since the source of the three new ORs is an underutilized facility, the Agency determined that they should not count in the inventory. Thus Table 6B in the Proposed 2018 SMFP shows 45 ORs (three fewer ORs than in the draft Table 6B). The separation from WFBH in Table 6B in the Proposed 2018 SMFP was for purposes of presentation only; the mathematical result is the same as if the facilities had been included in the WFBH inventory calculation.

WFBH's position is that the need determination calculations should not exclude the underutilized ORs at PSCNC when ascertaining the OR inventory for WFBH. The purpose of the exclusion of chronically underutilized facilities is to avoid the suppression of need. Their exclusion from inventories and need determination calculations predates the new OR methodology. The 2016-2017 OR Methodology Workgroup discussed this issue and decided that the exclusion should remain. Therefore, the new OR methodology excludes chronically underutilized facilities in a health system's inventory, to avoiding penalizing the health system as a whole and suppressing need in the service area.

The situation with WFBH differs from the standard consideration of underutilized facilities. In most cases, underutilized facilities remain so. In this case, the CON application had to show that the new facility will be utilized according to the required performance standards.

Agency Recommendation:

The agency supports the new methodology for ORs. Although the Petition affects the inventory of WFBH only, its approval would affect the need determination for the Forsyth County service area. Of concern is that approval of the Petition would set a precedent for including chronically underutilized facilities in need determination calculations when the underutilized facilities are part of a CON-approved development project. Since the purpose of excluding chronically underutilized facilities is to avoid the suppression of need, the Agency is reluctant to make exceptions. However, it is reasonable that underutilized ORs that are approved for development such that they must cease to be underutilized should be included in the inventory in the same manner as other CON-approved ORs under development. Given available information and comments submitted by the August 10, 2016 deadline date for comments on petitions and comments, and in consideration of the factors discussed above, the Agency recommends approval of the petition. Further, the Agency recommends clarification of language in the Methodology for Projecting Operating Room Need section of Chapter 6 of the SMFP to reflect this exception to the handling of underutilized ORs.