

COMMENT

Comment on Petition for Special Need Adjustment for Dedicated Pediatric ORs in Wake County

COMMENTER

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Rex Healthcare (“Rex”) appreciates the opportunity to comment on the petition filed by WakeMed for two dedicated pediatric ORs in Wake County. As explained in the *Proposed 2013 SMFP*, the special need petition process is useful when “unique or special attributes of a particular geographic area or facility” necessitate special consideration that is not addressed by the standard methodology. Rex believes that the special need petition process is an important one; however, it does not believe that the WakeMed petition demonstrates a need that cannot be adequately addressed by the standard methodology or by WakeMed itself. In particular:

1. The petition fails to consider the ability of WakeMed to designate pediatric ORs using its existing inventory of operating rooms.
2. The petition fails to show sufficient need for these rooms, based on WakeMed’s volume or the pediatric population in Wake County.
3. The recommendations from the Pediatric OR Work Group address possible future changes to the OR methodology, not special need determinations.

Each of these issues is discussed in detail below.

WakeMed Has the Ability to Designate Pediatric ORs

The petition rationalizes the special need determination based, in part, on the difficulty of competing in a CON review for dedicated pediatric ORs. The petitioner implies that any ORs designated for pediatric care must be approved by the CON Section as pediatric ORs; however, this is not the case. As the petition states on pages 2 and 3, applicants apply for additional operating rooms and must only designate multi- versus single-specialty and hospital-based versus freestanding. As the petitioner notes, pediatric surgery crosses a number of specialties, so any multi-specialty operating room could be used as a pediatric operating room.

The petition also implies that the equipment, space and temperature requirements of the pediatric operating rooms limit the ability to provide specialized care to these patients.

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This is not correct, however. Rex is not aware of any restrictions on CONs for recently-approved operating rooms that have limited the type of equipment that can be purchased, the size of the rooms or any other conditions that would prevent the ORs from being used in the manner stated in the petition, other than the recent single-specialty demonstration projects. In other words, the CON approval of any hospital-based multi-specialty OR should allow the applicant to develop the ORs to function in a manner that supports the delivery care to pediatric patients as the petition describes.

As a final consideration under this point, the petition fails to consider WakeMed’s ability to *internally* designate its existing operating rooms for pediatric cases. The petition implies that the only way WakeMed can develop special use ORs is through a competitive CON review; however, this is not the case. In fact, many hospitals have received CONs to develop special use or “dedicated” operating rooms using ORs from their existing inventory – in *non-competitive reviews*. A few examples are listed in the following table:

<i>Project ID #</i>	<i>Applicant(s)</i>	<i>Project Description</i>	<i>CON Approval Date</i>
F- 7246-05	Waveco, LLC d/b/a Edgehill Surgery Center	Relocate an existing multi-specialty ambulatory surgery center to focus on minimally invasive surgery.	8/26/2005
J- 7884-07	University of North Carolina Hospitals at Chapel Hill d/b/a University of North Carolina Hospitals	Acquire vascular interventional radiology equipment to be located in an existing operating room.	9/14/2007
G-8245-08	The Moses H. Cone Memorial Hospital and The Moses H. Cone Memorial Hospital Operating Corp. & Triad Neurosurgery, LLC d/b/a Triad Neurosurgery	Relocate two existing shared OR's to a new separately licensed ambulatory surgery center for minimally-invasive neurological surgery and pain management procedures.	3/30/2009
J-8288-09	Duke University Health System d/b/a Duke University Hospital	Installation of an existing fixed cardiac cath lab in one operating room.	5/22/2009
F-8440-09	The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center	Acquire endovascular imaging equipment to install in an existing operating rooms.	1/19/2010
B- 8475-10	Mission Hospitals, Inc. d/b/a Memorial Mission Hospital, Inc.	Acquire a high resolution fixed c-arm and install in operating room.	7/23/2010
F- 8491-10	Presbyterian Hospital Matthews	Relocate two existing ORs to a new separately-licensed orthopedic ambulatory surgical facility.	7/23/2010

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G-8682-11	High Point Regional Health System	Renovate and expand surgical services, including developing a hybrid OR without increasing the total number of ORs.	10/28/2011
G-8700-11	The Moses H. Cone Memorial Hospital and The Moses H. Cone Memorial Hospital Operating Corporation	Acquire fixed c-arm angiography system to convert an existing OR to a hybrid OR.	10/28/2011
Q-8706-11	Pitt County Memorial Hospital, Inc.	Add one vascular interventional radiology unit (angiography equipment) into existing OR room.	12/22/2011
G-8831-12	Forsyth Memorial Hospital, Inc. d/b/a Forsyth Medical Center	Acquire a specialized angiography system to develop a hybrid operating room on the Winston-Salem campus.	Under Review (filed 5/15/12)
F-10009-12	Presbyterian Hospital	Acquire angiography equipment for hybrid OR.	Under Review (filed 7/16/12)

As shown, many of these projects were to develop “hybrid” ORs, or operating rooms with cardiac cath or angiography equipment installed in the room. The nature of these proposals includes the use of existing ORs to develop rooms with unique equipment to be used for the special use ORs. None of these providers required a special need determination to develop these special use ORs. It is possible that other providers have been able to develop similar ORs without reaching the capital threshold that requires a CON, and it is also possible that WakeMed could designate ORs as pediatric ORs without a capital expenditure that requires a CON. However, even if a CON would be required, either because of the capital expenditure or another reason, WakeMed could file a CON to use its existing OR inventory *outside of a competitive CON review*, and the table above clearly shows the success of multiple providers who have pursued that alternative.

WakeMed’s Surgical Volume Does Not Warrant a Special Need for Additional ORs

As demonstrated in its petition, WakeMed’s surgical volume does not warrant additional operating rooms to accommodate pediatric patients. Table 4 on page 12 shows that WakeMed has the least-utilized hospital-based ORs in Wake County. While its overall utilization appears high (89.6%), WakeMed fails to note that it has recently acquired two additional operating rooms that are currently designated as freestanding, single specialty ORs. It is also interesting that WakeMed recently (April 2012) applied for a CON to relocate those ORs to WakeMed Raleigh—but not to serve as dedicated pediatric ORs, but as general use shared ORs. Certainly WakeMed is free to pursue the development of its surgical service as it believes necessary; however, the fact that these recently-acquired ORs, which could have easily been developed as pediatric rooms, were instead requested as general purpose rooms, calls into question the depth of need that exists for pediatric ORs. Moreover, when the capacity of those two additional ORs

is added to the table on page 4 of the petition, WakeMed Raleigh's utilization drops even further to 82.9%.

The demographic data provided in the petition also fail to demonstrate a need for pediatric ORs. On page 9 of the petition, population data show that the total Wake County population is projected to grow 10.2 percent from 2012 to 2017; data on the same page show that the pediatric population in Wake County is projected to grow by only 7.5 percent during the same time period. Thus, in five years, the pediatric population will be a smaller portion of the total Wake County population.

The Recommendations of the Work Group Suggest Changes for the Methodology After Additional Data Is Collected and Studied

As a final point, Rex does not believe that the recommendations of the Pediatric OR Work Group included the approval of a special need petition. In fact, on the contrary, the recommendations state on the second page that, "exceptions to the needs [sic] methodology, should be few and far between, because it undermines the validity of the model, the intent of the process and it sets precedence." Instead of a special need determination, the petition suggests that the SHCC and staff collect additional data that can be used in "3-5 years" to consider a wholesale change to the OR methodology.

Without a more careful and thoroughly-studied approach, the special allocation of "dedicated pediatric operating rooms" could be difficult to manage in the future. For example, neither the CON law, nor the CON rules nor the *SMFP* define "dedicated pediatric operating rooms." Without a definition of these rooms, their purpose and appropriate use, capacity, and methodology for determining future need, the CON Section may not be able to appropriately review the application, and the method of accounting for these rooms in future *SMFPs* would be uncertain.

In conclusion, the petition fails to address other alternatives available to the petitioner, including its ability to designate existing operating rooms for pediatric use. The petition notes that several types of specialty ORs are considered in the methodology, including open heart, C-Section, dedicated inpatient, dedicated ambulatory and shared operating rooms, yet none of these types of ORs have a separate need determination, even though some of them require special equipment and staffing. Based on this fact and the others discussed in these comments, Rex believes that there is no compelling reason to warrant a special need determination for two dedicated pediatric operating rooms in Wake County.