

COMMENTS TO PETITION

Comments to Petition for Special Need Adjustment for Two Operating Rooms

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New Hanover Regional Medical Center (NHRMC) respectfully requests that the State Health Coordinating Council deny the Petition for Special Need Adjustment submitted by Wilmington Health, PLLC (Wilmington Health) for two additional operating rooms in New Hanover County.

The following comments directly address and clarify several issues raised by Wilmington Health used to support their petition:

Accountable Care Organization

Prior to addressing the reasons Wilmington Health is proposing a special need adjustment to the OR need in next year's plan, we would first like to clarify what was presented as background in their petition. Specifically, on page 2 of the petition, Wilmington Health states that it "participates in two Accountable Care Organizations (ACOs), the central goal of which is to lower costs while improving quality of care and the patient experience – goals which parallel those of healthcare reform." Wilmington Health then states that it "has also partnered with Blue Cross and Blue Shield of North Carolina to form an ACO agreement."

Wilmington Health has formed an Accountable Care Organization known as Physicians Healthcare Collaborative, LLC that is a Medicare Shared Savings Program participant and has also partnered with Blue Cross and Blue Shield of North Carolina to form an ACO agreement. However, Wilmington Health failed to clearly identify that it also participates, as of September 2013, in the Accountable Care Alliance. This entity was formed to include Blue Cross and Blue Shield of North Carolina, Wilmington Health's ACO, Physicians Healthcare Collaborative, LLC, and NHRMC's ACO, Physician Quality Partners, LLC. The Accountable Care Alliance is the first such model in North Carolina that brings together an insurer, an independent multi-specialty clinic, and a hospital system.

The Accountable Care Alliance is highlighted at the following link: <http://mediacenter.bcbsnc.com/news/new-hanover-regional-medical-center-wilmington-health-and-bcbsnc-launch-ncs-first-accountable-care-alliance>

As health care reform continues to take shape, it is NHRMC's intrinsic belief that the provision of care to patients must be coordinated and collaborative. It is for that reason that the Alliance described above took shape, and it is why NHRMC's ongoing commitment to reducing the fragmented delivery of healthcare is a priority. While opportunities for improvement remain, NHRMC is certain its collaborative approach to working with both employed and independent providers to reduce inefficiencies and inappropriate utilization of services, while attaining high quality outcomes and maintaining excellent patient experience, is the most appropriate model for care delivery and necessary to achieve the triple aim goals we share with our community providers.

History of Operating Room Development in New Hanover County

On page 5 of the petition, Wilmington health states, " As shown in the *Proposed 2015 SMFP*, **the two operating rooms that were approved pursuant to the 2006 SMFP still have yet to be developed – nearly a decade later!**" [Emphasis added by Petitioner] Although this statement is essentially true, Brunswick Novant did construct the building that would hold the Same Day Surgery Center; however, in 2010, due to the downturn in the economy, it put the completion of the facility on an indefinite hold. NHRMC was approved to acquire Same Day Surgery Center in July 2013, and the two operating rooms will become operational in the next four weeks. Clearly, NHRMC had no control over the development of these ORs for the initial six years from when these ORs were originally awarded in November 2007.

COMMENTS TO COUNTER THE REASONS FOR THE REQUESTED ADJUSTMENT

High Utilization of Existing Operating Rooms

On page 6 of the petition, the first table Wilmington Health provides correctly illustrates the utilization of the operating rooms included in the New Hanover County operating room inventory (41 operating rooms, including the two to become operational within the next four weeks). However, it should be stressed so that there is no confusion with what is presented in the table that the calculated "Percent Utilization of Threshold" is the percentage of utilization of 80% utilization. Stated simpler, based on the need methodology assumptions found in the *State Medical Facilities Plan* and as shown in the first table on page 6, the operating room utilization in New Hanover County has never reached 80% utilization of actual capacity in the previous five years.

The second table Wilmington Health provides attempts to show the "true utilization of the operating rooms that were in service and being used to treat patients." This table in no way shows the "true utilization" in the operating rooms because Wilmington Health continues to use the need methodology assumptions, specifically the hours per case assumption of 3 hours per inpatient case and 1.5 hours per ambulatory case. Since 2004, the NC Department of Health and Human Services has required hospitals and ambulatory surgery centers to report their Average "Case Time" in Minutes for Inpatient Cases and for Ambulatory Cases. For over 10 years, actual "Case Time" data has been reported, but the State Medical Facilities Plan has not incorporated this data into the standard need methodology for operating rooms.

Using the inpatient and ambulatory cases identified in the *2011 State Medical Facility Plan* through the *Proposed 2015 State Medical Facilities Plan* and the Average “Case Time” in Minutes for Inpatient Cases and for Ambulatory Cases, as reported in the 2010 through 2014 Hospital License Renewal Applications and the 2010 through 2014 Ambulatory Surgical Facility License Renewal Applications, NHRMC calculated the “true utilization” in the operating rooms in New Hanover County.

New Hanover County Operating Room “True” Utilization

| | NHRMC IP Cases | NHRMC IP Avg Case Time | IP Hours | NHRMC Amb Cases | NHRMC Amb Avg Case Time | Atlantic SurgiCenter Amb Cases | Atlantic SurgiCenter Amb Avg Case Time | SurgCare Amb Cases | SurgCare Amb Avg Case Time | Total Amb Hours | Total Hours | Total Operational ORs | “True Utilization” |
|------|----------------|------------------------|----------|-----------------|-------------------------|--------------------------------|----------------------------------------|--------------------|----------------------------|-----------------|-------------|-----------------------|--------------------|
| 2009 | 9,661 | 2.3 | 22,220 | 18,100 | 1.32 | 2,314 | 0.79 | 8,071 | 0.81 | 32,258 | 54,478 | 39 | 60% |
| 2010 | 9,194 | 2.22 | 20,411 | 17,781 | 1.67 | 2,896 | 0.88 | 8,496 | 0.83 | 39,294 | 59,705 | 39 | 65% |
| 2011 | 9,320 | 2.45 | 22,834 | 17,520 | 1.33 | 4,066 | 0.82 | 7,865 | 0.84 | 33,242 | 56,076 | 39 | 61% |
| 2012 | 9,003 | 2.35 | 21,157 | 17,204 | 1.33 | | | 7,728 | 0.85 | 29,450 | 50,607 | 39 | 55% |
| 2013 | 9,506 | 2.27 | 21,579 | 20,761 | 1.25 | | | 8,378 | 0.83 | 32,905 | 54,484 | 39 | 60% |

“True Utilization” based on total hours available (9 hours x 260 days = 2,340 hours)

As the table illustrates, the “true utilization” of the operational operating rooms (39 operating rooms) in New Hanover County, taking into consideration all available hours of the day (not capping at 80% threshold), was 60% in 2013. **This means that out of 91,260 available hours for surgical cases, 36,504 hours were unused.**

As the following table illustrates, if the *State Medical Facilities Plan* used the reported Average “Case Time” in Minutes for Inpatient Cases and for Ambulatory Cases, instead of the current hours per case assumption in its need methodology for operating rooms, New Hanover County, under the current market utilization circumstances, would actually experience a surplus of 9.9 operating rooms [$54,484 / 1,872 = 29.1$; $39.0 - 29.1 = 9.9$ operating rooms] in 2013. As NHRMC is not including the two operating rooms that will become operating in the next four weeks in this calculation, New Hanover County would actually have a surplus of 11.9 operating rooms [$9.9 + 2.0 = 11.9$ operating rooms].

New Hanover County Operating Room "Threshold" Utilization

| | Total Hours | Total Operational ORs | Percent Utilization of Threshold [^] |
|------|-------------|-----------------------|-----------------------------------------------|
| 2009 | 54,478 | 39 | 75% |
| 2010 | 59,705 | 39 | 82% |
| 2011 | 56,076 | 39 | 77% |
| 2012 | 50,607 | 39 | 69% |
| 2013 | 54,484 | 39 | 75% |

[^] based on standard hours available (9 hours x 260 days x 80% = 1,872 hours)

On page 7 of the petition, Wilmington Health provides a table that shows the number of inpatient and ambulatory surgical patients that left New Hanover County for their procedure. It is Wilmington Health's belief that "patients may be leaving the county because of the high utilization of the county's operating rooms and lack of freestanding ambulatory providers." NHRMC has already provided accurate data that shows the operating rooms in New Hanover County are not utilized at full capacity, and the table provided by Wilmington Health does not show the true story of patient movement.

The following table shows the number of patients that "outmigrate" from and "inmigrate" to New Hanover County surgical providers as reported in the 2013 Hospital License Renewal Applications and 2013 Ambulatory Surgical Facility License Renewal Applications:

Operating Room Outmigration and Inmigration from/to New Hanover County

| 2013 | Inpatient Outmigration | Ambulatory Outmigration | 2013 | Inpatient Inmigration | Ambulatory Inmigration |
|-----------------------------|------------------------|-------------------------|--------------|-----------------------|------------------------|
| to Duke University Hospital | 222 | 261 | to NHRMC | 5,807 | 9,170 |
| to UNC Hospital | 231 | 223 | to SurgCare | | 4,071 |
| to Other Hospital | 163 | 301 | | | |
| Total | 616 | 785 | Total | 5,807 | 13,241 |

Source: 2013 Hospital License Renewal Applications (pages 21 and 22) and 2013 Ambulatory Surgical Facility License Renewal Applications (page 8)

The table clearly shows that of the 1,401 surgical patients that left New Hanover County for their procedure in 2013, nearly 67% were treated at an academic medical hospital $[(937 / 1,401) \times 100 = 66.8\%]$, most likely for higher acuity services and/or specialties not offered in New Hanover County.

So, for the 464 surgical patients that left New Hanover County for a non-academic medical hospital for their procedure, 19,048 surgical patients came to New Hanover County for their procedure.

Long-term Undeveloped Operating Rooms

On page 8 of the petition, Wilmington Health states, “the long-term impact of having needed operating rooms go undeveloped has likely compressed the need for ORs in the County.” As NHRMC has previously illustrated, in 2013 the operational operating rooms in New Hanover County operated at 60% of total available hours or 75% of the standard threshold. New Hanover County, under the current market utilization circumstances, has an actual surplus of operating rooms.

Lack of Alternative Providers

On page 9 of the petition, Wilmington Health states, “Further, given Wilmington Health’s position as the **only ACO** [emphasis added] in the area, the approval of the petition would allow a unique provider the opportunity to apply for operating rooms for its existing ASC.” It should be clarified that NHRMC, too, has an ACO, as mentioned previously. Physician Quality Partners, LLC, is an ACO that was formed between local community physicians, both employed and independent providers, and NHRMC to actively develop clinical initiatives that will improve the quality of health care services and control costs. Additionally, Physician Quality Partners, LLC anticipates approval from CMS to become a participant in the Medicare Shared Savings Program effective January 1, 2015. Furthermore, Wilmington Health’s ACO has partnered with NHRMC’s ACO, along with Blue Cross and Blue Shield of North Carolina, to form the Accountable Care Alliance. This type of collaborative model among distinct provider groups and an insurer is exactly how NHRMC envisions citizens of Southeastern North Carolina receiving high-value, low-cost healthcare.

Need Under Standard Methodology

On page 9 of the petition, Wilmington Health states, “In fact, if the two non-developed operating rooms had been open in 2013 and were utilized at a rate comparable to the other rooms in the county, the *Proposed 2015 SMFP* would show a need for three additional operating rooms in New Hanover County, as shown below.” Wilmington Health has not shown any reasonable proof that pent up demand exists and cannot support its assumption that the utilization of the two non-developed operating rooms would generate 3,703 hours; in fact, the surgical cases that left New Hanover County to a non-academic medical center for their procedure could only generate 941 hours based on the standard hours per case assumption $[(163 \times 3) + (301 \times 1.5) = 941 \text{ hours}]$.

On page 10 of the petition, Wilmington Health further states (NHRMC’s notes added in bold), “We understand that the Agency is often hesitant to recommend approval of petitions that would constitute a wholesale departure from the standard methodology; however, we believe that given the deficit that exists under the standard methodology [**the deficit is 0.45 operating rooms and does not generate a need determination**], coupled with the continued high utilization of operating rooms [**NHRMC has shown that actual operating room utilization is only 60%**], the aging of the

population, the recent decrease in the number of operating rooms in a freestanding ambulatory setting **[although the number of operating room in freestanding ambulatory settings has decreased, this argument in no way justifies the increase in the number of operating rooms in New Hanover County]**, and the long-term failure to develop two approved operating rooms **[the two operating room will be operational in the next four weeks]**, the unique and particular circumstances in New Hanover County warrant a special need adjustment." Based on the facts interjected by NHRMC in the statement above, the merits of this special need adjustment request are not reasonable and do not support the addition of two operating rooms to New Hanover County.

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ADVERSE EFFECTS IF PETITION IS NOT APPROVED

On page 10 of the petition, Wilmington Health states “Patients will continue to be denied access to the **only ACO** [emphasis added] in the area, which will limit its potential to further extend savings to patients and payors.” As noted previously, NHRMC, too, has an ACO. Furthermore, Wilmington Health’s ACO has partnered with NHRMC’s ACO, along with Blue Cross and Blue Shield of North Carolina to form the Accountable Care Alliance. This type of collaborative model among distinct provider groups and an insurer is exactly how NHRMC envisions citizens of Southeastern North Carolina receiving high-value, low-cost healthcare.

Finally, Wilmington Health’s assumption that patients will not have access to lower cost options because NHRMC operates 38 of the 45 operating rooms is not supported by available data. The following table illustrates that, during FY2013 for the top 15 ambulatory CPT procedures performed on patients within NHRMC’s 7-county service area, NHRMC was the low charge New Hanover County provider for 11 of the top 15 CPT procedures.

| CPT Procedure | NHRMC Charge | Free-standing Ambulatory Surgery Center Charge | % Difference |
|--------------------------------------|--------------|------------------------------------------------|--------------|
| 69436 – Tympanostomy | \$2,208 | \$5,533 | -60.1% |
| 29876 – Arthroscopy, Knee | \$6,160 | \$10,632 | -42.1% |
| 15823 – Blepharoplasty, Upper Eye | \$5,436 | \$9,076 | -40.1% |
| 29880 – Arthroscopy, Knee | \$6,361 | \$10,161 | -37.4% |
| 29881 – Arthroscopy, Knee | \$6,577 | \$8,664 | -24.1% |
| 66984 – Cataract Removal/Insert Lens | \$6,211 | \$7,722 | -19.6% |
| 26055 – Tendon Sheath Incision | \$3,631 | \$4,197 | -13.5% |
| 29827 – Arthroscopy, Shoulder | \$20,003 | \$21,914 | -8.7% |
| 42820 – Tonsillectomy | \$4,608 | \$4,891 | -5.8% |
| 64721 – Neuroplasty | \$3,887 | \$4,004 | -2.9% |
| 67311 – Strabismus Surgery | \$5,965 | \$6,026 | -1.0% |
| 45378 – Colonoscopy | \$2,697 | \$2,587 | 4.3% |
| 43235 – Upper GI Endoscopy | \$2,291 | \$1,614 | 41.9% |
| 43239 – Upper GI Endoscopy | \$3,127 | \$1,759 | 77.8% |
| 66982 – Cataract Surgery, Complex | \$8,119 | \$4,393 | 84.8% |

Source: Truven’s ambulatory surgical procedure database for FY13

Clearly, NHRMC is a cost-saving option for many surgical outpatients receiving care in New Hanover County. In those few procedures where NHRMC’s charges are higher, the patient’s acuity is likely a factor driving greater utilization of higher intensity resources.

CONCLUSION

On page 12 of the petition, Wilmington Health states “Wilmington Health believes that the special circumstances in New Hanover County warrant the need for two additional operating rooms. Specifically (NHRMC’s notes added in bold):

- The existing operating rooms in New Hanover County are highly utilized and have been consistently for several years; **[NHRMC has shown that in 2013 New Hanover County operational operating rooms were utilized at 60% of total available hours or 75% Utilization of Threshold.]**
- Not only is the population growing, as accounted for in the methodology, but the population is also aging faster than the state as a whole, reflecting the older population that tends to live in coastal areas such as Wilmington;
- Two operating rooms allocated and approved as part of the *2006 SMFP* have gone undeveloped for eight years; **[Both operating rooms will become operational within the next four weeks.]**
- In recent years, the number of providers and non-hospital based operating rooms has decreased; and, **[The total number of operating rooms has remained constant, but the number of operational operating rooms will increase within the next four weeks.]**
- The standard methodology shows a deficit of 0.45 operating rooms, only five hundredths from the number needed to generate the need for one additional operating room; if the two undeveloped operating rooms were providing capacity today, the need would likely be for three additional operating rooms.” **[Wilmington Health could not provide any reasonable proof that either pent up demand or existing outmigration surgical cases would fill the two operating rooms and generate a need for three operating rooms.]**

In conclusion, NHRMC respectfully requests the State Health Coordinating Council consider that Wilmington Health’s petition lacks compelling factors to support that a unique circumstance exists in New Hanover County and therefore the request for special need adjustment for two operating rooms be denied.