

FAX COVER SHEET

**Received by the
CON Section**

31 AUG 2010 2 : 26

To: Martha Frisone, CON Section

From: Joseph W. Hubbard, SouthPark Surgery Center Board Chairman

Fax: 919-733-8139

Re: Comments in Opposition to CON Project ID# F-8543-10 to open Randolph
Surgery Center, LLC a single specialty surgery center

31 AUG 2010 .2 : 26

SOUTHPARK
Surgery Center
6035 Fairview Road
Charlotte, NC 28210

August 31, 2010

Craig Smith, CON Section Chief
North Carolina Division of Health Services Regulation
2701 Mail Service Center
Raleigh, NC 27699-2701

Dear Mr. Smith,

In accordance with N.C.G.S. Section 131E-185(a1)(1) and on behalf of the Board of Directors for SouthPark Surgery Center, I am submitting the following comments in opposition to the Certificate of Need Application of Randolph Surgery Center, LLC for the North Carolina Single Specialty Ambulatory Surgical Center Demonstration project in Mecklenburg, Cabarrus, or Union Counties (Project I.D. # F-8543-10). The Applicant is a joint venture, with 50% owned by Charlotte Eye, Ear, Nose & Throat Associates (CEENTA) and 50% owned by Carolinas HealthCare System (CHS), both located in Charlotte, North Carolina.

The single specialty demonstration project was created in response to many surgeons requesting the opportunity to demonstrate to the State Health Coordinating Council and the Certificate of Need Section that physician-owned operating rooms can be more efficient, provide the same high quality care with outcomes that exceed national benchmarks, and provide care for the identical payor types the same as hospital-owned operating rooms. The SouthPark Surgery Center Board of Directors believes that the proposed Randolph Surgery Center, LLC fails to demonstrate the spirit and intent of the demonstration project's purpose because it does not increase the control and ownership of physician-owned operating rooms nor does it expand access.

It is important to note that the proposed Randolph Surgery Center, LLC application features a 50/50 joint ownership between a large hospital system and Charlotte Eye, Ear, Nose, & Throat Associates, a surgical group which already owns 40% of SouthPark Surgery Center, a six operating room licensed freestanding ambulatory surgery center located only 3.8 miles from the proposed Randolph Surgery Center, LLC site. SouthPark Surgery Center specializes in otolaryngology and ophthalmology surgical procedures.

Additionally, the Randolph Surgery Center, LLC application proposes to shift more than 1,700 otolaryngology cases from SouthPark Surgery Center in year one which comprises approximately 60% of the proposed Randolph Surgery Center volume. This shift represents 42% of the annual otolaryngology cases currently performed at SouthPark Surgery Center and 20% of SouthPark's total annual volume! The applicant fails to demonstrate how access will improve given that the majority of their patients already receive high quality care at SouthPark surgery center. The proposed application is supported by the same 23 otolaryngology physicians who practice and/or have ownership at SouthPark Surgery Center. Clearly, these providers already have sufficient access to surgical services at SouthPark Surgery Center.

The economic downturn in North Carolina has taken a toll on volumes for elective otolaryngology cases over the last year as evidenced by SouthPark Surgery Center's 8% decline in otolaryngology cases through July 2010. As a result, the proposed surgical volumes at Randolph Surgery Center are uncharacteristic of recent trends. In addition, the annual growth rate of 2.5% provided in the CON application is higher than population growth projections for the otolaryngology patient population. While the decline may be temporary due to economic and insurance changes, it is reflective of the current environment and further demonstrates that sufficient capacity exists today in the market place for otolaryngology surgical cases.

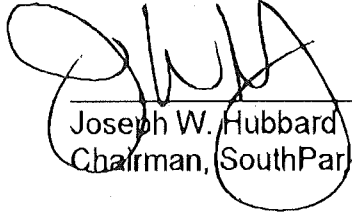
The volume assumptions and projections for the proposed Randolph Surgery Center are overstated and therefore nonconforming with Criterion 3 which states ~~"the applicant ... shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, 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."~~ When a CON application is non-conforming with Statutory Review Criterion (3), it is also found derivatively non-conforming with CON Statutory Review Criteria (1), (4), (5), (6), (12), (13), and (18a).

As required in Criterion 14, the proposed Randolph Surgery Center will not adequately serve the elderly and medically under-served such as the medically indigent or low income persons as well as the existing SouthPark Surgery Center. The charity care policy proposed at Randolph Surgery Center is a sliding scale policy with full write off of persons at or below 150% of the Federal Poverty Level. Comparatively, the existing SouthPark charity care policy fully covers patients up to 300% of the Federal Poverty Level.

The proposed Randolph Surgery Center will provide the lowest level of access to surgical services for Medicare and Medicaid patients as required in Criterion 13. Only 13% of the proposed Randolph Surgery Center's payor mix constitutes the Medicare population and only 6% is derived from Medicaid patients.

In summary, the SouthPark Surgery Center opposes the Randolph Surgery Center single specialty operating room demonstration project based on non-conformity to multiple Statutory Review Criteria. On behalf of the Board of Directors of South Park Surgery Center, I urge the CON Section to deny this application. Thank you for your consideration.

Sincerely,



Joseph W. Hubbard
Chairman, SouthPark Surgery Center