May 2, 2011 Comments By Novant Health, Inc.
Regarding CON Application of
The Moses H. Cone Memorial Hospital
& The Moses H. Cone Memorial Hospital Operating Corporation and
Triad Surgery Center, LLC
(Project I.D. # G-8657-11)- Guilford County
Submitted March 15, 2011 for April 1, 2011 Review

In accordance with N.C.G.S. § 131E-185(a1)(1), Novant Health, Inc. submits the following Written Comments regarding the Certificate of Need Application of The Moses H. Cone Memorial Hospital & The Moses H. Cone Memorial Hospital Operating Corporation (collectively, "Moses Cone Health System") and Triad Surgery Center, LLC submitted on March 15 2011. (Project I.D. #G-8657-11) ("Application").

I. Introduction

The Moses Cone Health System ("MCHS") proposes to develop in Guilford County a new, separately licensed freestanding multispecialty ambulatory surgery center by relocating two shared operating rooms from the Wesley Long Community Hospital and one outpatient operating room from Wesley Long Surgery Center. The location of the proposed Triad Surgery Center is 2630 Willard Dairy Rd., High Point, NC 27265, which is located within both the High Point Regional Health System Surgical Service Area and the Kernersville Medical Center (KMC) Surgical Service Area.

KMC is a new community hospital with four shared use, inpatient-outpatient operating rooms which opened in March 2011. These for operating rooms are new to the Kernersville and western Guilford County market.[1] The proposed TSC will be located in the KMC Primary Service Area and will negatively impact the new facility which was projected as needed based upon much of the same population base reflected by TSC.

The location of the proposed Triad Surgery Center is on the campus of the Moses Cone MedCenter High Point, which includes a satellite emergency department and outpatient imaging services that opened in June 2009.

According to page 16 of the Application,

> the two operating rooms proposed to be relocated from [Wesley Long Community Hospital] are not currently operational because they are undersized and therefore cannot accommodate contemporary operating room equipment and staff requirements. These two rooms are currently used for storage, a function that will

[1] In the 2006 Kernersville Medical Center CON Application, the KMC service area was defined to include the zip codes of: 27284/Kernersville; 27009/Belews Creek (Forsyth County); 27053/Walkertown (Forsyth County); 27265/High Point (Guilford County); 27235/Colfax (Guilford County); and 27310/Oak Ridge (Guilford County). Four of the KMC service area zip codes (27284, 27235, 27265, and 27310) overlap with the proposed TSC service area zip codes.

not change upon development of the proposed project. The one room proposed to be relocated from [Wesley Long Surgery Center] is not currently operational and is used for storage. This space will become a permanent storage room.[2]

The proposed freestanding multispecialty ambulatory surgery center will be located on the campus of Moses Cone MedCenter High Point at 2630 Willard Dairy Road, High Point, zip code 27265.

The freestanding multispecialty ambulatory surgery center will be leased by The Moses H. Cone Memorial Hospital Operating Corporation to a newly-formed Triad Surgery Center, LLC.[3] In addition, the management of the Triad Surgery Center ambulatory surgery facility is contracted out to The Moses H. Cone Memorial Hospital. See Application page 3 and Exhibit #2.

At the time of the submission of the Application, the sole member of Triad Surgery Center, LLC is Moses Cone Medical Services, Inc., a subsidiary of The Moses H. Cone Memorial Hospital.[4]

MCHS intends to develop the building shell housing the proposed freestanding multispecialty ambulatory surgery center, and the Triad Surgery Center, LLC will up fit the space and purchase all equipment and furnishings.[5]

The proposed freestanding multispecialty ambulatory surgery center will be called the Triad Surgery Center, and will provide ambulatory surgical services in the following six specialties: orthopedics, general, urology, gynecology, otolargyngology, and ophthalmology.[6]

The total project cost is $10,655,486, which will come from MCHS accumulated reserves, plus working capital of $1,038,838 needed during start up from MCHS.[7] MCHS projects the proposed freestanding multispecialty ambulatory surgery center will be operational on October 1, 2012.

II. Statutory CON Review Criteria

N.C.G.S. Section 131E-183 (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.

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[2] CON Application G-8657-11, page 16.
[3] CON Application G-8657-11, page 3.
[4] CON Application G-8657-11, page 4.
[5] CON Application G-8657-11, page 11.
[6] CON Application G-8657-11, page 11.
[7] CON Application G-8657-11, pages 89 and 92.

The Application is non-conforming to Criterion (3) because it overstates the need for the proposed new freestanding ambulatory surgery center in the designated service area.

A. The Methodology Used to Project Utilization at Triad Surgery Center is Unreasonable, Overstates the Population to be Served, Results in Overstated Surgical Case Volume, and does not Address or Minimize the Operating Room Surplus at MCHS Facilities in Greensboro

Exhibit 11of the Application contains the methodology that MCHS used to project surgical cases at the proposed Triad Surgery Center (TSC) and at all MCHS-Greensboro facilities in the first three project years (FFY 2012-FFY 2015: 10/1/2012 – 9/30/2015). For the following reasons, the methodology is unreasonable, results in overstated surgical case volume, and does not eliminate or effectively address the operating room surplus at MCHS facilities in Greensboro and Guilford County.

1. The Proposed 13-Zip Code Service Area for the Triad Surgery Center is Unreasonable

On page 37 of the Application, MCHS sets forth the seven-Zip Code Service Area for MedCenter High Point, which service area was approved by the CON Section in Project ID #G-7708-06. MedCenter High Point includes an approved freestanding emergency department and imaging services. There were no surgical services approved to be provided at MedCenter High Point as part of that 2006 CON Application.

On page 38 of the Application, MCHS provides FFY 2010 patient origin for its freestanding Emergency Department. Based on one year of patient origin for its freestanding Emergency Department, MCHS enlarges the seven-Zip Code Service Area and defines a thirteen-Zip Code Service Area for the proposed Triad Surgery Center. The applicant fails to explain both (1) why it is reasonable to use the freestanding ED patient origin as the basis for the patient origin for the proposed surgery center; and (2) why it is reasonable to expand the surgery center service area from seven to thirteen zip codes.

A freestanding ED is designed to serve patients with largely unscheduled health care needs of an emergency, emergent, and or urgent nature and is open 24 hours per day, 7 days per week. In contrast, a freestanding surgery center is largely a place where scheduled and often elective outpatient surgery cases are handled; a freestanding surgery center is not typically equipped for emergency or trauma surgeries. Also, patients can spend the night in the freestanding emergency room in an "observation" status to better permit an informed clinical decision to be made about whether the patient disposition will be to admit the patient to the hospital, to send the patient for outpatient follow-up, or to send the patient home. A freestanding surgery center has defined hours of operation. In this project, the defined hours of operation for the Triad Surgery Center are:

"Monday to Friday from 6:00 a.m. to 6:00 p.m. Surgeries will be scheduled between 7:30 a.m. and 3:30 p.m. to allow patients sufficient time to fully recover." [Emphasis added] See. Application page 14.

As noted in the above quote, Triad Surgery Center is a facility where surgical cases are scheduled and it is not expected that patients will spend the night at the surgery center to recover.

In addition, at page 72 of the Application, it states:

"Patients will be screened for surgery by the surgeons practicing at Triad Surgery Center. Patients with complicating co-morbid conditions will receive a medical evaluation prior to surgery and must receive medical clearance for surgery at the ASC. Any patient not medically cleared for surgery at the ASC will have their surgery scheduled at...MCHS."

The above statement clearly indicates that the proposed ASC is not the type of setting that is able to accept and care for urgent, emergent, or medically complex patients. This is a clear contrast with the types of patients that present in a freestanding satellite emergency department that is operating under the acute care hospital license of Moses Cone Hospital.

One year of "current MedCenter High Point patient origin experience" for a freestanding Emergency Department is not a reasonable basis for MCHS having included six new zip codes in the proposed service area for a new freestanding ambulatory surgery center. A freestanding emergency department is different than an ambulatory surgery center. Freestanding emergency department patients are different than ambulatory surgery patients; they require different services. Most significantly, emergency services are by definition emergent. Ambulatory surgery is scheduled and is performed on patients whose medical conditions do not require resources of an acute care hospital.

The following table shows the approved seven-Zip Code Service Area for MedCenter High Point and the proposed thirteen-Zip Code Service Area for the proposed Triad Surgery Center, respectively. Moses Cone does not explain why a freestanding, multi-specialty surgery center would draw from a much larger service area than a satellite emergency department operating under the acute care hospital license of Moses Cone Hospital. It would be more logical for the opposite to be true, as explained above.

Service Area Comparison
Moses Cone MedCenter High Point (Freestanding ED) And
Triad Surgery Center, LLC (Freestanding, Separately Licensed Surgery Center)

MedCenter High Point Approved Service Area	Proposed Triad Surgery Center Service Area
27235 - Western Guilford County-Colfax 2	27235 - Western Guilford County-Colfax
27265 - SE Guilford & NE Davidson Counties-High Pt	27265 - SE Guilford & NE Davidson Counties-High Pt
27282 - Guilford County-Jamestown	27282 - Guilford County-Jamestown
27310 - NW Guilford County-Oak Ridge	27310 - NW Guilford County-Oak Ridge
27409 - Guilford County- Guilford, Guilford College	27409 - Guilford County- Guilford, Guilford College
27284 - Eastern Forsyth County-Kernersville	27284 - Eastern Forsyth County-Kernersville
27407 - Guilford County-Sedgefield, Groomtown, Hilltop	27407 - Guilford County-Sedgefield, Groomtown, Hilltop
	27260 - SE Guilford County-High Point
	27262 - SE Guilford & NE Davidson Counties-High Point, Emorywood
	27357 - NW Guilford County-Stokesdale
	27358 - Northern Guilford County-Summerfield
	27406 - Southern Guilford County-Greensboro
	27410 - Guilford County-Greensboro

Sources: CON Application G-8657-11, pages 36-38 and Exhibit #16 and USPS web site, Zip Code Lookup

By increasing the number of zip codes for the proposed Triad Surgery Center to thirteen zips, MCHS nearly doubles the population base of the approved seven-Zip Code Service Area for MedCenter High Point, as shown in the following table.

Service Area Population Comparison

MedCenter High Point Approved Service Area	2010	2015	Proposed Triad Surgery Center Service Area	2010	2015
27235	3,924	4,379	27235	3,924	4,379
27265	46,308	51,071	27265	46,308	51,071
27282	16,552	17,984	27282	16,552	17,984
27310	5,845	6,317	27310	5,845	6,317
27409	14,834	16,131	27409	14,834	16,131
27284	51,404	55,833	27284	51,404	55,833
27407	48,571	51,629	27407	48,571	51,629
Total	**187,438**	**203,344**	27260	27,779	29,193
			27262	25,944	27,326
			27357	7,769	8,299
			27358	10,870	11,497
			27406	54,569	56,993
			27410	54,903	59,310
			Total	**369,272**	**395,962**

Source: TSC CON Application

If MCHS limited itself to the approved seven-Zip Code Service Area for MedCenter High Point, its projected utilization for the Triad Surgery Center would have been significantly lower in project year three, as shown in the following table.

Service Area Projected Utilization Comparison
October 2014 – September 2015

MedCenter High Point Approved Service Area	PY 3:FFY 2015	Proposed Triad Surgery Center Service Area	PY 3:FFY 2015
27235	25	27260	66
27265	280	27265	280
27282	207	27282	207
27310	65	27407	742
27409	238	27409	238
27284	16	27235	25
27407	742	27262	26
Total	**1,573**	27284	16
OR Needed at 1,872 Hours/Year	**1.3**	27310	65
		27357	66
		27358	128
		27406	503
		27410	517
		Total	**2,879**
		OR Needed at 1,872 Hours/Year	**2.3**

Source: TSC CON Application

As shown in the previous table, it appears that it was necessary for MCHS to greatly expand the approved service area for MedCenter High Point in order to justify relocation of two of the three operating rooms to the proposed Triad Surgery Center.

Furthermore, four of the TSC Service Area Zip Codes (27284, 27235, 27265, and 27310) overlap with the KMC Service Area Zip Codes. As previously discussed, the growth of this population base was integral to the review and CON approval of the four operating rooms at KMC, a new community hospital with four shared use, inpatient-outpatient operating rooms. Kernersville Medical Center and its four ORs opened in March 2011. These ORs are new to the Kernersville and western Guilford County market.

2. Triad Surgery Center Failed to Appropriately Identify the Population to Be Served

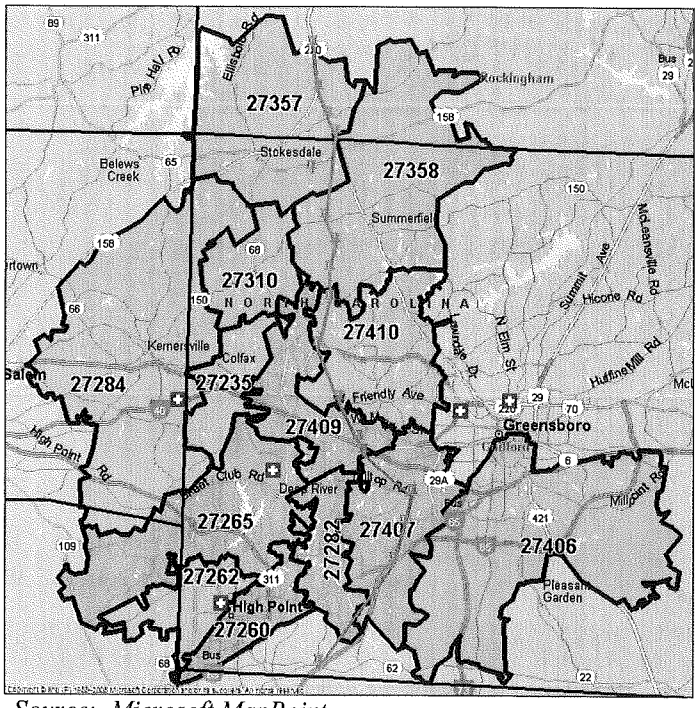
TSC unreasonably expanded the proposed service area to include a significantly larger population based, in part, upon one year of patient origin information for the emergency services at MedCenter High Point. As discussed above, it is not reasonable to assume that the service area of a surgery center which offers scheduled non-emergent ambulatory surgery services would be similar to the service area of a satellite emergency department that operates under the umbrella of an acute care hospital to serve the emergency, emergent and urgent needs of patients 24 hours per day, every day. MCHS fails to offer any support or explanation for this dramatic service area and population base expansion. MCHS fails to support or explain why it is reasonable to assume that the service area and patient origin of a satellite ED can serve as the

starting point for the service area of a freestanding, separately licensed multi-specialty surgery center.

Furthermore, TSC states on page 35 that the proposed center is needed "to meet patient demand for a **convenient, accessible choice of surgical center options**." Again in Exhibit 11 on page 13 of the exhibit, TSC states that the projected increase in market share is based upon "the **increased convenience, accessibility** and innovation of the new facility."

However, as shown in the following map and tables, much of the population in the proposed 13-Zip Service Area is geographically closer to existing surgical services at Moses Cone and Wesley Long. The following map illustrates driving points (along the green line) which reflect halfway points based upon driving time, between the proposed TSC and the existing ambulatory surgical services at Wesley Long and Moses Cone. As previously discussed, both locations currently have underutilized freestanding ambulatory surgery centers.

Midway Points for Driving Distance Between Triad Surgery Center and Wesley Long Community Hospital and Moses Cone Existing Surgical Services

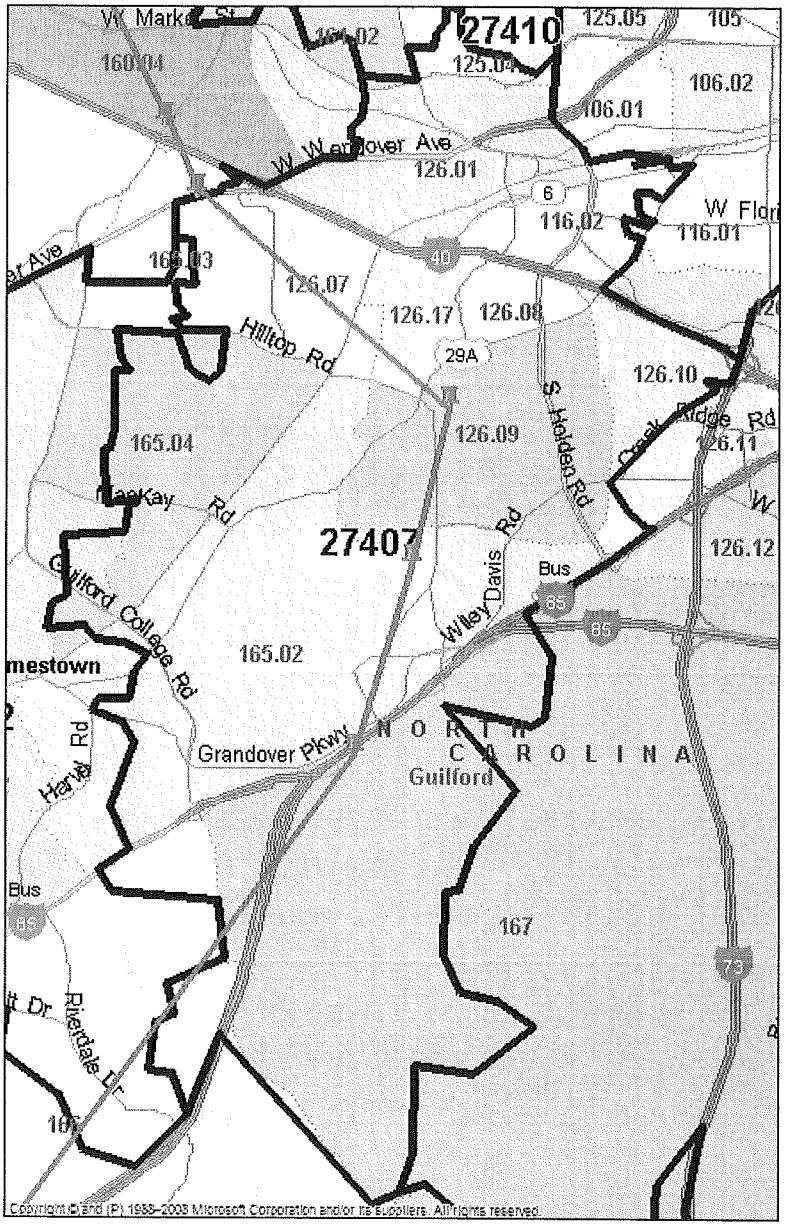


Source: Microsoft MapPoint

As shown in the previous map, all of zip code 27406 (Southern Guilford County/Greensboro) and most of zip codes 27358 (Northern Guilford County/Summerfield) and 27410 (Guilford County/Greensboro) in the defined TSC Secondary Service Area are geographically closer to the existing services at Wesley Long and Moses Cone Hospitals. The applicant did not explain why it would be reasonable for patients to drive by these surgical program locations and choose the TSC location for outpatient surgery. In addition, approximately half of zip code 27407 (Guilford County/Sedgefield-Groomtown-Hilltop) in the defined TSC Primary Service Area is closer

geographically to existing services at Wesley Long and Moses Cone as shown in the following map and table.

Census Tracts in Zip Code 27407



As reflected in the previous map, all of census tracts 126.01, 126.10, 116.02, and 126.08 are on the western side of the green line and closer to existing surgical services provided at Wesley Long and Moses Cone. In addition, most of census tracts 126.17, 126.09 and 167 are on the western side of the green line. This represents a substantial portion of the total population of zip code 27407 (Guilford County/Sedgefield-Groomtown-Hilltop) as reflected in the following table.

Census Tracts 2007 Population Percent of Zip Code 27407

	Population
Zip Code	
27407*	44,813
Census Tracts	
126.17	3,254
126.08	2,993
126.1	3,275
126.09	8,432
126.01	5,680
116.02	3,163
Total Census Tracts	26,797
Percent of Zip Code	59.8%

Source: Microsoft MapPoint; Claritas
*Note: Guilford County/Sedgefield-Groomtown-Hilltop

As shown in the previous table approximately 60 percent of the population of zip code 27407, in the TSC Primary Service Area, is geographically closer to existing surgical services at Wesley Long and Moses Cone.

With approximately 60 percent of the population from one zip code in the Primary Service Area and nearly 100% of population from three of the Secondary Service Area zip codes being geographically closer to existing surgical services at Wesley Long and Moses Cone, TSC has significantly overstated the population to be served. This population currently has established relationships and referral systems with the physicians and surgeons associated with the surgical services at Wesley Long and Moses Cone. TSC does not provide any discussion or documentation regarding the necessity of changing these existing patterns, which in fact, would require patients to travel further for surgical services. As a result, the Applicant has not adequately identified the population to be served and the proposed project is not conforming with Criterion 3.

Furthermore as shown in the following table, without the surgical volume from these four zip codes the projected volumes for the proposed project are insufficient to justify the project.

Adjusted Triad Surgery Center Projections
Excluding Zip Codes 27407 (50%) - 27410 - 27406 - 27235)

	2013	2014	2015	Volume	2013	2014	2015
	Projected Total Zip Volume At MCHS			Shifted	Projected TSC Volume		
Total Projected Volume					2,977	3,056	3,198
Less Half the Projected Volume from 27407 in PSA	532	547	571	65%	346	356	371
Less Volume From SSA Zips							
27406	1,630	1,644	1,676	30%	489	493	503
27410	1,653	1,679	1,724	30%	496	504	517
27358	414	418	427	30%	124	125	128
Adjusted TSC Surgical Volume					1,522	1,578	1,679
Weighted Ambulatory Hours					2,283	2,367	2,519
OR Need					1.22	1.26	1.35

Source: TSC CON Application Exhibit 11, Tables B,C,D

As shown in the previous table, without surgical volume from the three Secondary Service Area zip codes geographically closer to existing surgical services at Wesley Long and Moses Cone and half of the surgical volume from zip code 27407 in the Primary Service Area, projected surgical volumes do not justify the proposed project with three operating rooms.

3. Market Share Growth Assumptions Unsubstantiated & Unreasonable

TSC provided no documentation to justify projected growth in market share in the service area other than improved accessibility for residents. However, the project does not include improved accessibility for much of the defined service area, since many parts of the primary and secondary TSC service area are closer to existing surgical services programs. In addition, the proposed 13-Zip Code Service Area currently has sufficient surgical capacity.

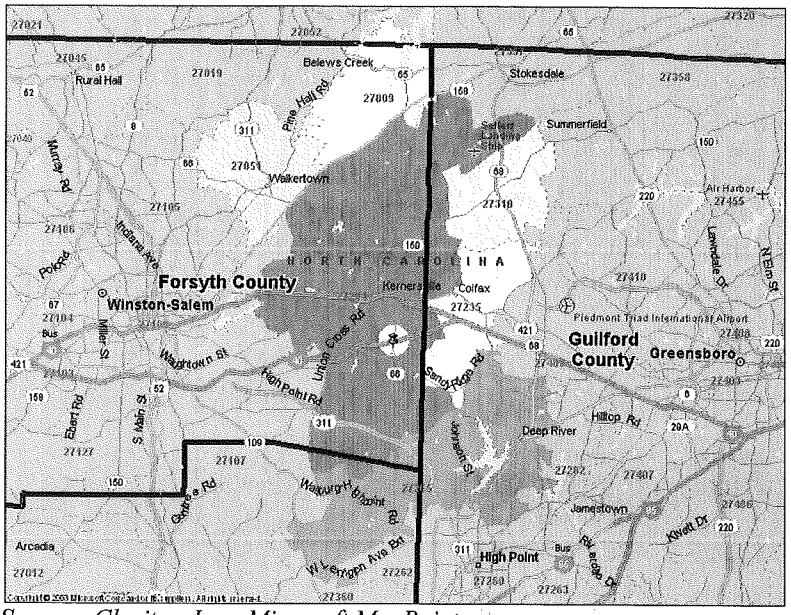
It is important to realize that the proposed TSC Zip Code Service Area is included in both the High Point Regional Health System (HPHS) Service Area, and Kernersville Medical Center (KMC) Service Area.

HPRHS currently has 12 operating rooms, including one C-Section OR, two open heart operating rooms and nine shared operating rooms. HPRHS is located in High Point, within zip code 27262, which is included in the defined TSC Service Area. In addition, HPRHS owns 50% of High Point Surgery Center which has six ambulatory surgery operating rooms. High Point Surgery Center is a freestanding, separately licensed, multi-specialty surgery center located in High Point, within zip code 27262, which is included in the defined TSC Service Area.

Combined utilization of the nine shared operating rooms and six ambulatory surgery operating rooms in FFY 2010 was less than 60%[8] of total surgical capacity.

KMC is a new community hospital, which opened in March 2011. KMC has four shared use, inpatient-outpatient operating rooms that are new to the Kernersville and western Guilford County market.[9] The proposed TSC will be located in the KMC Primary Service Area and will negatively impact the new facility, which was projected as needed based upon much of the same population base reflected by TSC. In addition, KMC projected surgical utilization reflected a significant growth in market share from the service area.

FMC Kernersville Zip Code Service Area



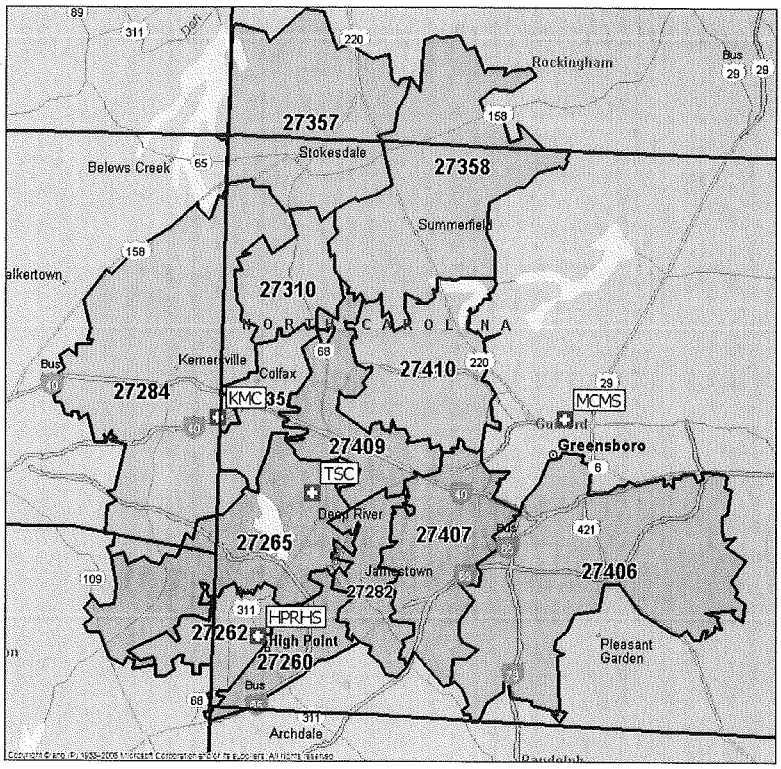
Source: Claritas, Inc.; Microsoft MapPoint

[8] Combined utilization = 2,994 inpt cases x 3.0 hrs/case + 7,861 outpt cases x 1.5 hrs/case = 20,774 total surgical hours. Surgical utilization = 20,774 / (15 ORs x 2,340 hrs/OR) = 59.2% of capacity

[9] In the 2006 Kernersville Medical Center CON Application, the KMC service area was defined to include the zip codes of: 27284/Kernersville; 27009/Belews Creek (Forsyth County); 27053/Walkertown (Forsyth County); 27265/High Point (Guilford County); 27235/Colfax (Guilford County); and 27310/Oak Ridge (Guilford County). Four of the KMC service area zip codes (27284, 27235, 27265, and 27310) overlap with the proposed TSC service area zip codes.

The following map shows the proposed TSC zip service area.

Proposed Triad Surgery Center Service Area



Furthermore, a review of ambulatory surgical market share for FFY 2008 through FFY 2010 shows that MCHS has lost market share over the three year timeframe as shown in the following table.

Moses Cone Ambulatory Surgical Market Share

Guilford County	**FFY 2008**	**FFY 2009**	**FFY 2010**
Moses Cone Health System	12,953	12,933	11,902
Total All Providers	36,243	36,567	35,262
Moses Cone Health System	35.7%	35.4%	33.8%
Forsyth	**FFY 2008**	**FFY 2009**	**FFY 2010**
Moses Cone Health System	616	592	567
Total All Providers	23,037	23,053	23,779
Moses Cone Health System	2.7%	2.6%	2.4%
Rockingham	**FFY 2008**	**FFY 2009**	**FFY 2010**
Moses Cone Health System	2,175	2,040	1,951
Total All Providers	8,459	8,094	7,995
Moses Cone Health System	25.7%	25.2%	24.4%

Source: Hospital and Ambulatory Surgical Facilities Annual LRAs

Ambulatory surgical volume at MCHS from each of the three counties identified as part of the proposed TSC Service Area (Guilford, Forsyth, and Davidson Counties) has decreased continuously during the last three years. While MCHS cites the failing economy as a reason for the decreased utilization, MCHS has also lost market share in all three counties over the last three years which is a result of gains by other providers, rather than a failing economy. As a result, the projected growth in market share included in the TSC projections is completely unsubstantiated, unsupported, and unreasonable and also results in overstated projections. Without the market share increases, the proposed TSC project is neither needed nor justified. Therefore, the project is non-conforming to Criterion 3.

4. MCHS Projections Result in Unreasonable Growth Rate at the Proposed Triad Surgery Center

As discussed in detail in below, MCHS inflated its FFY 2010 base level of surgical cases at an annual rate of 1.1% and then subtracted outpatient surgery volume from each of its five Greensboro facilities, which volume is shifted to the proposed Triad Surgery Center.

On page 23 of the Application, MCHS presents projected ambulatory surgery volume at the proposed Triad Surgery Center. MCHS, however, failed to reflect the annual rate of growth projected at the proposed Triad Surgery Center, which growth in shown in the following table.

Triad Surgery Center
Projected Surgical Case Utilization
October 2012 – September 2015

October - September	FFY 2013	FFY 2014	FFY 2015	CAGR
Projected Ambulatory Volume	2,977	3,056	3,198	3.6%
Annual Change		2.7%	4.6%	

Source: TSC CON Application

As shown in the previous table, MCHS has been overly optimistic and even aggressive in its surgical case projections for the proposed Triad Surgery Center. It projects aggregate growth of 3.6%, which is over three times the 1.1% "projected MCHS service area population growth during the [period FFY 2010 through FFY 2015]." The compound annual growth rate of 3.6% for the proposed Triad Surgery Center utilization is more than three times the 1.1% "projected MCHS service area population growth during the [period FFY 2010 through FFY 2015]." These growth rates are neither supported nor explained adequately in the Application.

There is no reasonable or well-articulated basis on which to project such growth in outpatient surgical cases for the proposed Triad Surgery Center. That growth is particularly unreasonable in light of the surplus of operating room inventory that exists and will continue to exist at the five MCHS Greensboro facilities and in Guilford County overall.

5. A Projected Increase of 1.1% Annually for Inpatient and Outpatient Surgical Cases at MCHS Greensboro Facilities is Unreasonable

Using FFY 2010 as its base year surgical case volume, MCHS projected total inpatient and outpatient surgical utilization will increase by 1.1% per year through FFY 2015, the third project year. Exhibit 11, Table J in the Application shows the projected surgical cases by facility. A projected increase of 1.1% annually for inpatient and outpatient surgical volume at MCHS is unreasonable given the trend in declining surgical utilization at MCHS facilities, as shown in the following table.

Moses Cone Health System
Surgical Utilization: October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
MCHM						
Inpatient	7,010	7,260	6,948	7,237	1.1%	-0.2%
Annual Change		3.6%	-4.3%	4.2%		
Open Heart	594	627	531	523	-4.2%	-8.7%
Annual Change		5.6%	-15.3%	-1.5%		
Outpatient	5,762	5,919	5,936	5,645	-0.7%	-2.3%
Annual Change		2.7%	0.3%	-4.9%		
Total w/Open Heart	13,366	13,806	13,415	13,405	0.1%	-1.5%
Annual Change		3.3%	-2.8%	-0.1%		
Total w/o Open Heart	12,772	13,179	12,884	12,882	0.3%	-1.1%
Annual Change		3.2%	-2.2%	0.0%		
WLCH						
Inpatient	2,887	3,015	3,203	3,093	2.3%	1.3%
Annual Change		4.4%	6.2%	-3.4%		
Outpatient	3,007	3,014	2,811	2,752	-2.9%	-4.4%
Annual Change		0.2%	-6.7%	-2.1%		
Total	5,894	6,029	6,014	5,845	-0.3%	-1.5%
Annual Change		2.3%	-0.2%	-2.8%		
WHG						
Inpatient	2,772	2,821	2,643	2,577	-2.4%	-4.4%
Annual Change		1.8%	-6.3%	-2.5%		
Outpatient	2,668	2,681	2,555	2,386	-3.7%	-5.7%
Annual Change		0.5%	-4.7%	-6.6%		
Total	5,440	5,502	5,198	4,963	-3.0%	-5.0%
Annual Change		1.1%	-5.5%	-4.5%		
MCSC						
Outpatient	4,398	5,707	5,227	4,822	3.1%	-8.1%
Annual Change		29.8%	-8.4%	-7.7%		
WLSC						
Outpatient	2,037	2,762	2,832	2,273	3.7%	-9.3%
Annual Change		35.6%	2.5%	-19.7%		

Source: LRAs

As shown in the previous table, the only inpatient surgical volume growth occurred at MCMH in FFY 2010. No MCHS Greensboro-based facility has experienced any growth in outpatient surgical volume in FFY 2010. Total surgical volume has declined at all five facilities in FFY 2010.

In view of the actual surgical utilization at MCHS facilities, it would have been more conservative for MCHS to project 0% growth in surgical volume at MCHS Greensboro facilities. Instead, MCHS unreasonably projected that its Greensboro facilities would each grow by 1.1% annually, which "mirror[s] overall service area population growth during the period [FFY 2010 and FFY 2015]."

Using as a base overly inflated volume at each MCHS Greensboro facility, MCHS determined the percentage of outpatient cases to shift from each facility to the proposed Triad Surgery Center, calculated the resulting volume from each facility, and subtracted that volume from each facility.

B. Operating Room Need Methodology – Results in Surplus of ORs

Projected surgical volume is overstated in the Application as the result of overstating the population to be served, and assuming unsupported market share growth. As a result, the projected surgical case utilization fails to justify the proposed new freestanding ambulatory surgery center. Furthermore, there is a surplus of licensed operating rooms at MCHS in Guilford County based upon the Operating Room Need Methodology in the *2011 SMFP*, and based upon the methodology utilized to project volume at the proposed new freestanding ambulatory surgery center. Moreover the 2011 SMFP shows that Guilford County as a whole has the largest surplus of ORs of any county in the state, at 26.49 surplus Guilford County ORs out of 97 total ORs in Guilford County. Please see also a discussion in the context of Criterion (3) and Criterion (6).

C. Moses Cone Health System has Surplus of 14-18 Licensed ORs

According to the 2011 Hospital License Renewal Application for The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Moses Cone Health System, the following health care facilities are under License Number H0159:

Name of Facility	Address	Type of Business/Service
The Moses H. Cone Memorial Hospital	1200 N. Elm Street, Greensboro, NC 27401	Acute Care Hospital
Wesley Long Community Hospital	501 N. Elam Avenue, Greensboro, NC 27403	Acute Care Hospital
The Women's Hospital of Greensboro	801 Green Valley Road, Greensboro, NC 27408	Acute Care Hospital
Behavioral Health Center	700 Walter Reed Drive, Greensboro, NC 27403	Acute Care Psychiatric Hospital
Moses Cone Surgery Center	1127 N. Church Street, Greensboro, NC 27401	Ambulatory Surgery Center
Wesley Long Surgery Center	509 N. Elam Avenue, Greensboro, NC 27403	Ambulatory Surgery Center
MedCenter High Point	2630 Willard Dairy Road, High Point, NC 27265	Freestanding Emergency Department and Ambulatory Care Center

Source: LRAs

According to the 2011 Hospital License Renewal Application for The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Moses Cone Health System, there are a total of **54 licensed operating rooms under License Number H0159**, as shown in the following table.

Moses Cone Health System
Licensed Operating Room Inventory under License Number H0159

Type of Room	# Rooms
Dedicated Open Heart	4
Shared	37
Ambulatory	13
Total	54

Source: LRAs

The following table shows historical utilization of the 54 licensed operating rooms of MCHS over the last four fiscal years.

Moses Cone Health System
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Inpatient w/Open Heart	13,263	13,723	13,325	13,430	0.4%	-1.1%
Annual Change		3.5%	-2.9%	0.8%		
Outpatient	17,872	20,083	19,361	17,878	0.0%	-5.6%
Annual Change		12.4%	-3.6%	-7.7%		
Total	31,135	33,806	32,686	31,308	0.2%	-3.8%
Annual Change		8.6%	-3.3%	-4.2%		
Licensed ORs	54	54	54	54		
ORs Needed at 1,872 Hrs/Yr	35.6	38.1	36.9	35.8		
Surplus (+)/Deficit (-)	18.4	15.9	17.1	18.2		

Source: LRAs

The previous table shows that outpatient surgical cases have been declining for the last two fiscal years. As a result, **MCHS has 18 surplus licensed operating rooms**. That surplus accounts for one third (18/54 = .33) of the MCHS licensed operating room inventory. In addition, the 2011 SMFP, Table 6B (SMFP page 84) show that Guilford County currently has the largest surplus of ORs of any County in North Carolina, at 26.49 surplus ORs. Guilford County has shown the largest surplus of ORs among the 100 North Carolina Counties for the past several years, based on Chapter 6 in the annual State Medical Facilities Plans.

MCHS states that it excludes trauma volume from Exhibit 11, Table J in the Application. Please note, however, that inpatient volume in the previous table (7,237 cases in FFY 2010) is the same as it is presented in Exhibit 11, Table J (7,237 cases in FFY 2010). In the absence of internal

data from MCHS, there is no means by which to determine the number of trauma surgery cases to exclude from the utilization shown in the previous table.

The following table shows MCHS licensed operating room utilization without open heart rooms and cases performed in those four rooms.

Moses Cone Health System
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Inpatient w/o Open Heart	12,636	13,129	12,794	12,907	0.7%	-0.8%
Annual Change		3.9%	-2.6%	0.9%		
Outpatient	17,872	20,083	19,361	17,878	0.0%	-5.6%
Annual Change		12.4%	-3.6%	-7.7%		
Total	30,508	33,212	32,155	30,785	0.3%	-3.7%
Annual Change		8.9%	-3.2%	-4.3%		
Licensed ORs w/o Open Heart and Trauma Rooms	49	49	49	49		
ORs Needed at 1,872 Hrs/Yr	34.6	37.1	36.0	35.0		
Surplus (+)/Deficit (-)	14.4	11.9	13.0	14.0		

Source: LRAs

The previous table shows that outpatient surgical cases have been declining for the last two fiscal years. As a result, **MCHS has 14 surplus licensed operating rooms**, which is 26% (0.259 = 14/54) of the licensed operating room inventory of MCHS.

D. Moses Cone Memorial Hospital has a Three Operating Room Surplus when All Licensed Operating Rooms are Included

The following table shows historical utilization of the licensed operating rooms of Moses Cone Memorial Hospital over the last four fiscal years.

Moses Cone Memorial Hospital
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Inpatient	7,010	7,260	6,948	7,237	1.1%	-0.2%
Annual Change		3.6%	-4.3%	4.2%		
Open Heart	594	627	531	523	-4.2%	-8.7%
Annual Change		5.6%	-15.3%	-1.5%		
Outpatient	5,762	5,919	5,936	5,645	-0.7%	-2.3%
Annual Change		2.7%	0.3%	-4.9%		
Total w/Open Heart	13,366	13,806	13,415	13,405	0.1%	-1.5%
Annual Change		3.3%	-2.8%	-0.1%		
Licensed ORs	20	20	20	20		
ORs Needed at 1,872 Hrs/Yr	16.8	17.4	16.7	17.0		
Surplus (+)/Deficit (-)	3.2	2.6	3.3	3.0		
Total w/o Open Heart	12,772	13,179	12,884	12,882	0.3%	-1.1%
Annual Change		3.2%	-2.2%	0.0%		
Licensed ORs w/o Open Heart and Trauma Rooms	15	15	15	15		
ORs Needed at 1,872 Hrs/Yr	15.9	16.4	15.9	16.1		
Surplus (+)/Deficit (-)	-0.9	-1.4	-0.9	-1.1		

Source: LRAs

Note: In the absence of internal data from MCHS, there is no means by which to determine the number of trauma surgery cases to exclude from the utilization shown in this table.

The previous table shows that **MCHS has three surplus licensed operating rooms when all licensed operating rooms are included**. When four open heart and one trauma operating room are excluded, MCHS has a deficit of one operating room, as shown in the previous table.

E. Wesley Long Community Hospital has a Surplus of 6.8 Licensed Operating Rooms

The following table shows historical utilization of the licensed operating rooms of Wesley Long Community Hospital over the last four fiscal years.

Moses Cone Health System: Wesley Long Community Hospital
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Inpatient	2,887	3,015	3,203	3,093	2.3%	1.3%
Annual Change		4.4%	6.2%	-3.4%		
Outpatient	3,007	3,014	2,811	2,752	-2.9%	-4.4%
Annual Change		0.2%	-6.7%	-2.1%		
Total	5,894	6,029	6,014	5,845	-0.3%	-1.5%
Annual Change		2.3%	-0.2%	-2.8%		
Licensed ORs	14	14	14	14		
ORs Needed at 1,872 Hrs/Yr	7.0	7.2	7.4	7.2		
Surplus (+)/Deficit (-)	7.0	6.8	6.6	6.8		

Source: LRAs

The previous table shows that outpatient surgical utilization at WLCH has been declining over the last two fiscal years. During the last four fiscal years, WLCH has had underutilized operating room capacity. **In the most recent fiscal year, there are 6.8 surplus licensed operating rooms at WLCH.**

F. Women's Hospital of Greensboro has a Surplus of One Licensed Operating Room

The following table shows historical utilization of the licensed operating rooms of Wesley Long Community Hospital over the last four fiscal years.

Moses Cone Health System: Women's Hospital of Greensboro
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Inpatient	2,772	2,821	2,643	2,577	-2.4%	-4.4%
Annual Change		1.8%	-6.3%	-2.5%		
Outpatient	2,668	2,681	2,555	2,386	-3.7%	-5.7%
Annual Change		0.5%	-4.7%	-6.6%		
Total	5,440	5,502	5,198	4,963	-3.0%	-5.0%
Annual Change		1.1%	-5.5%	-4.5%		
Licensed ORs	7	7	7	7		
ORs Needed at 1,872 Hrs/Yr	6.6	6.7	6.3	6.0		
Surplus (+)/Deficit (-)	0.4	0.3	0.7	1.0		

Source: LRAs

The previous table shows that inpatient, outpatient, and total utilization at WHG have been declining over the last two fiscal years. **In the most recent fiscal year, there is one surplus licensed operating room at WHG.**

G. Moses Cone Surgery Center has a Surplus of Four Licensed Operating Rooms

The following table shows historical utilization of the licensed operating rooms of Moses Cone Surgery Center over the last four fiscal years.

Moses Cone Health System: Moses Cone Surgery Center
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Outpatient	4,398	5,707	5,227	4,822	3.1%	-8.1%
Annual Change		29.8%	-8.4%	-7.7%		
Licensed ORs	8	8	8	8		
ORs Needed at 1,872 Hrs/Yr	3.5	4.6	4.2	3.9		
Surplus (+)/Deficit (-)	4.5	3.4	3.8	4.1		

Source: LRAs

The previous table shows that outpatient utilization at MCSC has been declining over the last two fiscal years. **In the most recent fiscal year, there are four surplus licensed operating rooms at MCSC.**

H. Wesley Long Surgery Center has a Surplus of Three Licensed Operating Rooms

The following table shows historical utilization of the licensed operating rooms of Wesley Long Surgery Center over the last four fiscal years.

Moses Cone Health System: Wesley Long Surgery Center
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FFY 2007	FFY 2008	FFY 2009	FFY 2010	CAGR 2007-2010	CAGR 2008-2010
Outpatient	2,037	2,762	2,832	2,273	3.7%	-9.3%
Annual Change		35.6%	2.5%	-19.7%		
Licensed ORs	5	5	5	5		
ORs Needed at 1,872 Hrs/Yr	1.6	2.2	2.3	1.8		
Surplus (+)/Deficit (-)	3.4	2.8	2.7	3.2		

Source: LRAs

The previous table shows that outpatient utilization at WLSC declined by approximately 20% in the last fiscal year. **There have been surplus licensed operating rooms at WLSC in each of the last four fiscal years.**

I. Shifting Outpatient Surgical Volume from MCHS-Greensboro Facilities will Not Eliminate Operating Room Surplus at those Facilities

MCHS makes clear on page 52 of the Application that the proposed project is premised on a "shift [of outpatient surgical cases] from MCHS-Greensboro-based facilities to the proposed Triad Surgery Center in High Point." Shifting outpatient surgical cases will not eliminate the surplus of licensed operating room capacity at MCHS. Please see Section J for a detailed analysis of the surplus that remains at MCHS in the third project year of the proposed Triad Surgery Center.

It is noteworthy that MCHS shifts outpatient volume from all five of its Greensboro facilities instead of only the two facilities from which operating rooms are being relocated. MCHS offers no explanation in the Application for doing the former and not the later.

J. Greensboro Specialty Surgical Center has a Surplus of One Licensed Operating Room

In March 2009, MCHS and Triad Neurosurgery, LLC received a Certificate of Need for Project ID #G-8245-08, which approved a relocation of two existing shared operating rooms from the Wesley Long Community Hospital to develop Triad Neurosurgery, LLC, a new separately licensed ambulatory surgical facility.

Nearly two years after that Certificate of Need was awarded, in a letter dated February 28, 2011, MCHS notified the CON Section of its intent to surrender Certificate of Need for which it was approved in Project ID #G-8245-08 to develop Triad Neurosurgery, LLC.

In the February 28, 2011 letter, MCHS states the reason for its surrender of a Certificate of Need for Project ID #G-8245-08:

> [I]n January 2011, Moses Cone Medical Services, Inc. and Gateway Spinal Specialists, LLC acquired membership interests in Greensboro Specialty Surgery Center, LLC. This change of circumstances allows the opportunity to accomplish many of the goals proposed for the Triad Neurosurgery project, **without creating a new freestanding ambulatory surgery center or incurring the capital expenditures authorized by the Certificate of Need.** [....]
>
> The two (2) operating rooms originally proposed to be transferred from Wesley Long Community Hospital to Triad Neurosurgery will remain instead on the Wesley Long campus and on the Moses Cone Health System license (#H0159). [**Emphasis** added.]

A copy of the February 28, 2011 is included in Exhibit 10 of the Application.

On page 11 of the Application, MCHS identifies itself as "a partner with SCA and area surgeons in the Greensboro Specialty Surgical Center."[10] MCHS, however, does not identify its percentage ownership in Greensboro Specialty Surgical Center, which makes it impossible to determine whether MCHS is a "related entity," as that term is defined in 10A NCAC 14C .2101(9), of Greensboro Specialty Surgical Center.

According to the 2011 License Renewal Application for Greensboro Specialty Surgical Center, it is licensed for three freestanding ambulatory surgical operating rooms. Greensboro Surgical Specialty Surgical Center, Ltd. is a multispecialty ambulatory surgical facility, which provided ophthalmology, oral, orthopedic, plastic, and podiatric surgeries in FFY 2010.

The following table shows historical utilization of the three licensed operating rooms of Greensboro Specialty Surgical Center over the last four fiscal years.

Greensboro Specialty Surgical Center
Licensed Surgical Operating Utilization
October 2006 – September 2010

October - September	FY 2007	FY 2008	FY 2009	FY 2010	CAGR 2007-2010	CAGR 2008-2010
Ambulatory	1,718	1,888	2,489	2,437	12.4%	13.6%
Annual Change		9.9%	31.8%	-2.1%		
Licensed ORs	3	3	3	3		
ORs Needed at 1,872 Hrs/Yr	1.4	1.5	2.0	2.0		
Surplus (+)/Deficit (-)	1.6	1.5	1.0	1.0		

Source: LRAs

The previous table shows increased utilization between FFY 2007 and FFY 2009, which utilization has declined in the most recent fiscal year. Despite that growth, licensed GSSC operating room inventory is underutilized, which results in a surplus of one operating room in each of the last four fiscal years.

While not discussed in the Application, it is reasonable to assume that ambulatory surgical cases may shift from Greensboro Specialty Surgical Center to the proposed Triad Surgery Center, which would further exacerbate the surplus at Greensboro Specialty Surgical Center.

K. MCHS Continues to have Underutilized and Surplus Operating Room Inventory in All Three Project Years

MCHS somewhat obscures in Exhibit 11/ Table J of its Application, its operating room surplus by using a metric labeled "% Capacity, " rather than calculating operating rooms needed at 1,872 hours per year as defined in the SMFP, and comparing operating rooms needed to existing, licensed operating room inventory.

[10] CON Application G-8657-11, page 8.

It does not seem reasonable for MCHS to spend approximately $11 million to develop a new freestanding ambulatory surgery center in High Point, when its Greensboro facilities have underutilized and surplus operating room inventory.

N.C.G.S. Section 131E-183 (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.

As discussed in detail in the context of Criterion (3), MCHS has not demonstrated the need for the proposed relocation of three licensed operating rooms at MCHS to a new freestanding multispecialty ambulatory surgery center.

Additionally, on page 59, MCHS identifies two alternatives it considered to the proposed project: maintaining the status quo and relocating operating rooms to "another section of MCHS's broader service area."

According to page 16 of the Application,

> the two operating rooms proposed to be relocated from [Wesley Long Community Hospital] are not currently operational because they are undersized and therefore cannot accommodate contemporary operating room equipment and staff requirements. These two rooms are currently used for storage, a function that will not change upon development of the proposed project. The one room proposed to be relocated from [Wesley Long Surgery Center] is not currently operational and is used for storage. This space will become a permanent storage room.[11]

The status quo, therefore, involves three licensed operating rooms that are used for storage and not for the performance of surgical procedures.

This is not the first time that MCHS has proposed to relocate unused licensed operating rooms from Wesley Long Community Hospital to a new freestanding ambulatory surgery center.

In March 2009, the two unused operating rooms at Wesley Long Community Hospital were approved for relocation to a new freestanding ambulatory surgery center to be called the Triad Neurosurgery Center (Project ID #G-8245-08).

In a letter dated February 28, 2011 to the CON Section, MCHS surrendered its Certificate of Need for Project ID #G-8245-08, stating:

> [I]n January 2011, Moses Cone Medical Services, Inc. and Gateway Spinal Specialists, LLC acquired membership interests in Greensboro Specialty Surgery Center, LLC. This change of circumstances allows the opportunity to accomplish many of the goals proposed for the Triad Neurosurgery project, **without creating**

[11] CON Application G-8657-11, page 16.

a new freestanding ambulatory surgery center or incurring the capital expenditures authorized by the Certificate of Need. [....]

MCHS could also have discussed in its Application, ways to accomplish many of the goals for the proposed Triad Surgery Center "without creating a new freestanding ambulatory surgery center or incurring the [nearly $12 million] capital expenditures" proposed in this project. Such an option would involve its relationship with Greensboro Specialty Surgical Center, an existing, functional joint venture in Greensboro.

Further, MCHS could have, but did not consider, renovating space in one or more existing facilities to allow for the three unused licensed operating rooms to remain in existing facility(ies), in order to minimize the outlay of capital for a $10.6 million capital expenditure plus working capital of $1,038,838 and to discuss the advantages and disadvantages of a more cost effective alternative than TSC.

For those reasons, the Application is non-conforming to Criterion (4).

N.C.G.S. Section 131E-183 (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.

Since the TSC outpatient surgical case volume projections are unsupported and overstated as discussed above in Criterion (3) of these Comments, then the TSC projected Income Statement, which is based on these surgical volume projections is also unsupported and unreliable.

In addition, the CON ProForma Form B Income Statement Projections included in the TSC Application fail to include as deductions from TSC Projected Gross Revenue for both Bad Debt and Charity Care amounts. These amounts are specified in Application Section VI at pages 73-74 for TSC's first two years of operation. Thus, TSC's "Deductions from Gross Revenue" are understated and consequently TSC's Net Operating Revenues are overstated.

For those reasons, the Application is non-conforming to Criterion (5).

N.C.G.S. Section131E-183 (6)

The applicant shall demonstrate that the proposed project will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

As discussed in the context of Criteria (3) and (4) above, there are three licensed operating rooms used for storage and not for the performance of surgical procedures. Those unused licensed operating rooms are part of the underutilized and the surplus operating room inventory at MCHS Greensboro facilities. Unused and surplus operating room inventory demonstrates an

unnecessary duplication of existing health service capacities and assets at MCHS Greensboro facilities.

MCHS seeks approval to relocate three unused licensed operating rooms from two MCHS Greensboro facilities to a new freestanding ambulatory surgery center at MedCenter High Point. Relocation of three unused licensed operating rooms will not eliminate the surplus operating room inventory remaining at MCHS Greensboro facilities. Consequently, there will continue to be unnecessary duplication of existing health service capacities and assets at MCHS Greensboro facilities.

Furthermore, as previously discussed, the existing surgical services in the proposed service area are underutilized or brand new. KMC opened in March 2011 and will improve access to ambulatory surgical services for much of the proposed service area as specified in it CON Application filed in 2006.

The Application is non-conforming to Criterion (6).

N.C.G.S. Section 131E-183 (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;
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. 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
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.

On pages 76-77 of the Application, MCHS states that the Triad Surgery Center projected payor mix is based on the FY 2010 MCHS Surgical Patients' payor mix. However, it is not clear from the information provide in the Application, whether the MCHS historical payor mix includes both inpatient and outpatient surgical cases. If inpatient surgical cases are included in the historical payor mix, then the applicant would need to explain why it is a satisfactory basis to

predict the payor mix for a facility that will only serve outpatient surgical patients, with fewer co-morbidities.

For example, the following differences in the MCHS historical payor mix and the projected TSC Year 2 payor mix are not fully explained in the Application:

- The TSC Medicare payor mix is projected to be 22.6% compared to the MCHS historical Medicare surgical patient payor mix of 42.6%
- The TSC Managed Care payor mix is projected to be 60.7% compared to the MCHS historical Managed Care surgical patient payor mix of 40.6%

N.C.G.S. Section131E-183 (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.

MCHS did not adequately demonstrate that the proposed relocation of three unused licensed operating rooms to a new freestanding multispecialty ambulatory surgery center will have a positive impact upon the cost effectiveness of the proposed services. Please see discussion in the context of Criteria (3), (3a), (4), (5), (6), and (13). Therefore, the Application is not conforming to Criterion (18a).

IV. CON Criteria and Standards for Surgical Services and Operating Rooms – 10A NCAC 14C .2100

The proposed project is non-conforming to the Criteria and Standards for Surgical Services Operating Rooms as follows:

10A NCAC 14C .2103(b)—PERFORMANCE STANDARDS

As discussed in the context of Criterion (3) above, the methodology used by MCHS to project surgical volume at the MCHS Greensboro facilities and the Triad Surgery Center is unreasonable and results in overstated volume. As such, the surgical case volumes presented in response to 10A NCAC 14C .2103(b) are overstated, unreasonable, and based on assumptions that are unsupported in the Application.