



May 2, 2016

Via email and USPS

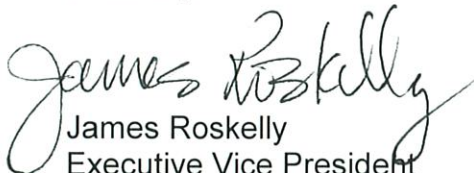
Ms. Martha J. Frisone, Assistant Chief, Certificate of Need  
Mr. Mike McKillip, Project Analyst  
Healthcare Planning and Certificate of Need Section  
Division of Health Service Regulation  
2704 Mail Service Center  
Raleigh, NC 27699-2704

Re: Written Comments on CON Project ID# G-11150-16

Dear Ms. Frisone and Mr. McKillip:

In accordance with NCGS § 131E-185(a1)(1), please find enclosed written comments from Cone Health regarding CON Project ID #G-11150-16, an application filed by Novant Health Kernersville Outpatient Surgery, LLC to create a new ambulatory surgical facility by relocating two operating rooms from Winston-Salem, NC to Kernersville, NC. Please let me know if you have any questions regarding these comments or if I can provide additional information. Thank you for the opportunity to submit these comments.

Sincerely,

  
James Roskelly  
Executive Vice President  
Strategic Development

JR/jc

Attachments

## **Written Comments regarding Novant Health Kernersville Outpatient Surgery, LLC CON Application to Develop a Separately Licensed ASC, Project I.D. #G-11150-16**

### **Introduction**

The following comments are filed by The Moses H. Cone Memorial Hospital Operating Corporation d/b/a Cone Health (CH) in response to the CON application filed by Novant Health, Inc. and Novant Health Kernersville Outpatient Surgery, LLC (NHKOS), collectively referred to as Novant or NHKOS, for a separately licensed, multi-specialty ambulatory surgery center on the Novant Health Kernersville Medical Center campus in a new Medical Office Building. These comments are filed in accordance with NCGS § 131E-185(a1)(1).

Based on the CON review criteria in §131E-183, there are several specific instances where the proposed NHKOS project is non-conforming. As detailed below, Cone Health recommends the agency disapprove the pending CON application for the following reasons:

- Novant fails to reasonably identify the population to be served (Criterion 3)
- Novant fails to substantiate its assumptions (Criteria 3, 4, 5, 6, 13 and 18a)
- Novant fails to address its excess capacity in Forsyth County (Criterion and 6)
- Novant fails to address the impact on competition (Criterion 18a)
- Novant fails to address the impact on access (Criterion 1)

### **Criterion 1 – NCGS § 131E-183(a)(1)**

*The proposed project shall be consistent with applicable policies and need determinations in the State Medical Facilities Plan, the need determination of which constitutes a determinative limitation on the provision of any health service, health service facility, health service facility beds, dialysis stations, operating rooms, or home health offices that may be approved.*

Novant specifies in its application that “patients may not self-refer for outpatient surgical procedures.” Also, Novant states that “persons requesting elective services must make acceptable financial arrangements at or before admission.” The two (2) operating rooms proposed to be relocated to the new ASC in Kernersville are currently located at Novant Health Forsyth Medical Center in Winston-Salem, an acute care hospital licensed by DHHS and a participant in CMS. Forsyth Medical Center operates an emergency department and, as such, patients may self-refer through the emergency department for outpatient surgical services. By removing these operating rooms from the hospital into a freestanding ASC, the project will decrease access to services in contradiction to Policy GEN-3.

Since freestanding ASCs typically represent a lower cost option, they can support the value proposition contained within Policy GEN-3 at the core of certificate of need; however, since the proposed project does not aim to have lower charges than a hospital setting and excludes professional anesthesia charges from the facility charge, it does not satisfy this criterion. Discussion under Criterion 5 is hereby incorporated. Therefore, the application is non-conforming to Criterion 1.

**Criterion 3 – NCGS § 131E-183(a)(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.*

Novant identifies a proposed service area comprised of twelve zip codes in Forsyth and Guilford Counties as shown in Table I below, and including FFY 2015 inpatient and outpatient surgical cases and percent of patient origin at Kernersville Medical Center.

**Table I  
Proposed Service Area by Zip Code**

Zip Code	Zip City	County	FFY 2015 Surgical Cases	FFY 2015 Patient Origin
27284	Kernersville	Forsyth County	1,247	38.5%
27285*	Kernersville	Forsyth County	25	0.8%
27009	Belews Creek	Forsyth County	58	1.8%
27051	Walkertown	Forsyth County	117	3.6%
27235	Colfax	Guilford County	54	1.7%
27265	High Point	Guilford County	124	3.8%
27282	Jamestown	Guilford County	16	0.5%
27310	Oak Ridge	Guilford County	40	1.2%
27357	Stokesdale	Guilford County	59	1.8%
27358	Summerfield	Guilford County	21	0.6%
27409	Greensboro	Guilford County	17	0.5%
27410	Greensboro	Guilford County	27	0.8%
Proposed Service Area Subtotal			1,805	55.7%
Other Forsyth and Guilford County Patients			833	25.7%
All Other Patients			603	18.6%
Total			3,241†	100.0%

\*PO Box overlay of zip code 27284

†Although Table 3-10 is labeled as “Novant Health Kernersville Medical Center Historical Zip Level Outpatient Surgery Patient Origin” the totals include both inpatient and outpatient surgical cases, as determined by the table on Page 26 of the CON application

Source: Exhibit 3, Table 10

This proposed service area is presented in the CON application as “the NHKOS Target Market Area defined by Novant Health’s Greater Winston-Salem Market Business & Strategic Planning staff.” For the purposes of the CON application, the 2016 State Medical Facilities Plan specifies that the service area for a county with at least one licensed facility with one or more operating rooms is the single county in which the facility is located. Therefore, the SMFP-defined service area for the project is Forsyth County. However, Novant uses population growth and market share of its defined service area as a basis for supporting the growth rates included in the methodology.

Typically, a service area in healthcare is defined by percentage of patient origin for existing facilities. Most hospitals define the area from which a cumulative 70-75% of patients reside as the primary service area and the area where up to 90% of patients reside as the secondary service area. The service area identified by Novant does not follow this convention. For example, zip code 27107, representing the second largest zip code for patient origin, is not included in the proposed service area, despite it representing 7.0% patient origin. Meanwhile, zip codes such as 27282, comprising just 0.5% of patient origin, are included in the proposed service area. If Novant included all zip codes in descending order of patient origin, the service area would be comprised primarily of Forsyth County zip codes, consistent with the SMFP definition for the service area. In fact, Novant has included just 55.7% of its historical patient origin in the proposed service area. If appropriate zip codes were included in the proposed service area, Novant would likely draw existing patients from its other facilities in Winston-Salem, not new patients from Guilford County. This would not substantiate a need for the new ASC as Novant is already serving those patients through existing facilities. It would also fail to substantiate Novant’s claim that the service is needed in Kernersville since patients would be traveling from Winston-Salem, not Guilford County. As such, Novant has failed to properly identify the population it intends to serve.

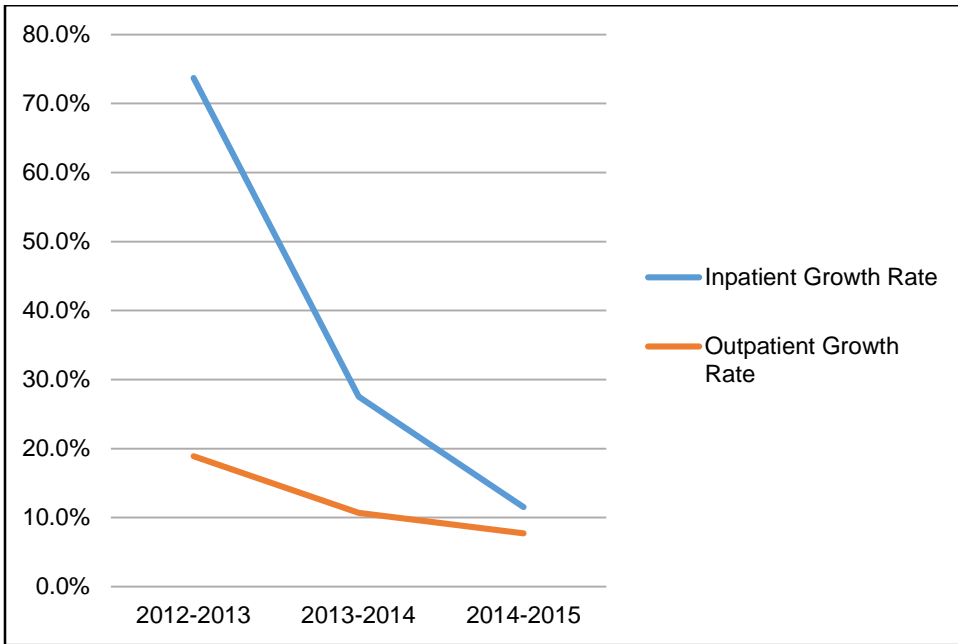
Novant’s need methodology proposes a growth rate of 7.7% for outpatient surgical cases at NHKOS from 2016 to 2021. As justification for the proposed surgical growth rate, Novant includes information in the application regarding changes in surgical reimbursement. These statements are based on a MedPAC report published in March of 2010. In the most recent MedPAC report published in March of 2016, most of the statements from the 2010 report are refuted. Whereas in the 2010 report, the ASC service volume per beneficiary increased 10.5% (based on 2007 and 2008 data), the 2016 report shows a decrease in volume per beneficiary by 0.8% (based on 2013 and 2014 data). The same 2016 report indicates that Hospital Outpatient Department (HOPD) surgical procedures increased 1.1% from 2013 to 2014, and that those procedures are not procedures typically performed in an ASC setting based on a MedPAC analysis of historical site of service. If Novant used a declining growth rate for outpatient surgical procedures, the methodology would not demonstrate a need for the proposed ASC. These reports demonstrate that the need is for hospital based and not

freestanding ASC ORs. Since the existing operating rooms are already located in a hospital setting, Novant does not demonstrate a need to move them from their current location to a freestanding ASC. Therefore, the information contained within the application does not substantiate a need for the proposed service.

Novant's need methodology also includes a projected increase in market share for outpatient surgery in the proposed service area. Novant calculates this change from FFY 2012 through FFY 2014 using state data submitted from providers to Truven Health Analytics. New state data reporting requirements went into effect during FFY 2012 which specified that a significantly expanded code set and bill types were to be reported as part of the outpatient dataset. Data scientists at Truven Health Analytics, the statewide data processor for the data used in the application, have studied the FFY 2012 data and have indicated that due to the complexities associated with implementing the new reporting requirements, data from FFY 2012 are unreliable and should not be used when analyzing market activity. Please see *Exhibit 1* for data from Truven Health Analytics demonstrating the variation in the FFY 2012 outpatient data. The inherent instability of this data makes it insufficient to justify need and cannot be used as a basis for the growth rate in the application.

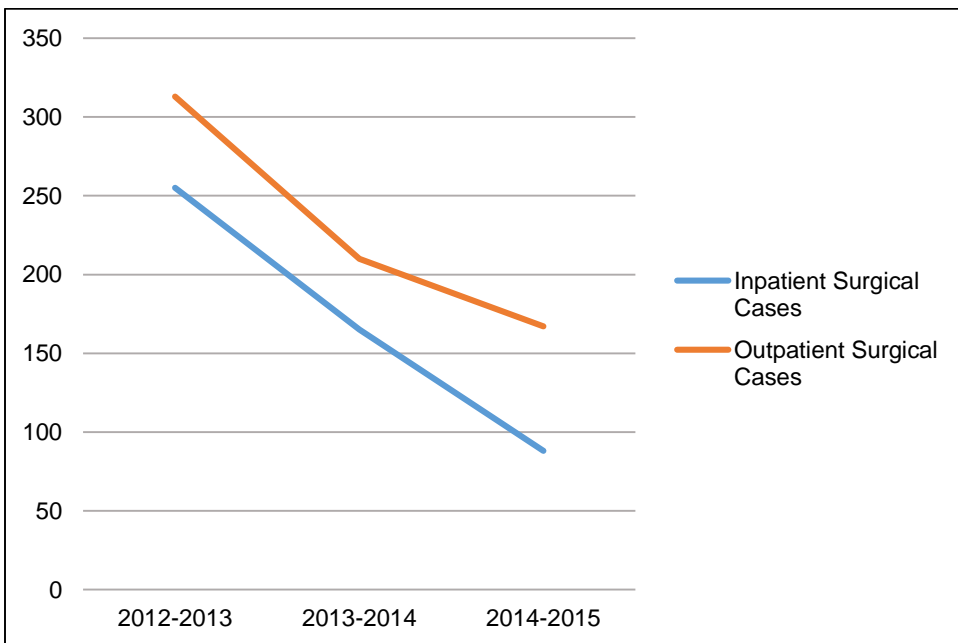
Novant utilizes its observed 2014-2015 growth rates (11.5% as the projected growth rate for inpatient surgical cases and 7.7% for outpatient surgical cases) as the projected future growth rates in its methodology. Novant states that these are conservative growth rates because they are lower than the average of all year-over-year growth rates in the relevant time frame. Novant fails to explain why a constant growth rate is reasonable in light of a constantly declining growth rate and decline in actual case volume growth. Charts I and II below show the decline in both growth rate and new cases year over year for Kernersville Medical Center.

**Chart I**  
**Year over Year Surgical Growth Rate**  
**Novant Health Kernersville Medical Center**



Source: CON Application G-11150-16, page 26

**Chart II**  
**Annual Increase in Surgical Case Volume**  
**Novant Health Kernersville Medical Center**



Source: CON Application G-11150-16, page 26

Novant does not address these factors in its application and its assumptions around continued growth have already been addressed above. As such, the proposed growth rates contained within the application are not reasonable or justified.

Novant fails to address what types of surgical specialties will be offered at the proposed new ASC. As part of the application, Novant provides letters of support from general surgeons, obstetricians and gynecologists, an ophthalmologist, orthopedic surgeons, podiatrists, and urologists; however, at no point in the application does Novant quantify what surgical specialties or how many surgical cases of each specialty will be performed in the ASC. Also, the methodology states that 60% of cases will move from Kernersville Medical Center to the proposed ASC. Kernersville Medical Center reports outpatient surgical cases in general surgery, obstetrics and gynecology, ophthalmology, orthopedics, otolaryngology, urology, podiatry, and physiatry/pain on its 2016 Hospital License Renewal Application. There is no substantiation from any otolaryngologists or pain specialists that those procedures will be accommodated or performed in the new ASC. Similarly, there were only four (4) obstetric or gynecologic cases performed at Kernersville Medical Center during FFY 2015. This incidental volume does not serve as a reasonable basis for projecting volumes. Without clearly identifying what services will be offered at the new ASC, Novant cannot identify the population it proposes to serve and cannot justify its utilization projections and need methodology.

Of the physicians who offered support letters for the application, all but four (4) are employed by Novant. Since these physicians are already employed by Novant, they are likely already performing the majority, if not all, of their surgical cases at Novant facilities. Since the proposed project would also be a Novant facility, there would not be any additional cases brought to Novant, simply a shift of cases from one Novant surgical facility to the proposed ASC. These physicians are already utilizing Novant surgical facilities and, as discussed in Criterion 6, there is sufficient and excess surgical capacity at all of Novant's Forsyth County facilities in Project Year 3, thereby demonstrating a lack of need for the proposed project.

If Novant does intend to offer the opportunity to partner with area physicians in a shared ownership structure, there is no indication that it would be successful at doing so. In order to be eligible to become an investor in an ASC, a surgeon must perform at least one-third of their surgeries in an ASC and must commit to perform at least one-third of those surgeries in the proposed ASC. It appears that Novant has not been able to secure physician investors for the CON approved ASC in Holly Springs, NC which may be one reason for the delay in the proposed timetable for that project. There is no indication in the application that Novant would experience different results with the proposed project in Kernersville, NC. If the ASC were to remain wholly owned by Novant and the majority of surgeons were employed by Novant, there would be no reason for the facility to be freestanding as Novant would gain higher reimbursement under hospital-based rates. These rates are the same as those already being charged

at Forsyth Medical Center where the operating rooms are currently located. Therefore, the proposed project would be an unnecessary relocation of existing resources.

Novant's need methodology does not contain a reasonable baseline for the proposed procedure room volumes. According to the application, "*minor procedure volume at the proposed NHKOS are estimated based upon discussion with NHKMC surgical management staff and a review of procedure volume data for the surgeons who signed procedure room support letters.*" In its 2016 Hospital License Renewal Application, Novant reported 370 non-surgical outpatient cases – 26 pain management cases and 344 GI endoscopy cases. Of those, the GI endoscopy cases would be inappropriate for a procedure room as Novant did not propose any GI endoscopy rooms or respond to the GI endoscopy rules found in 10A NCAC 14C .3900. As such, the baseline of 26 cases does not substantiate the proposed 1,300 minor procedures Novant projects in its application. Additionally, the 26 procedures are pain management procedures and there are no support letters from psychiatrists, anesthesiologists, or other pain management specialists to substantiate the proposed volumes based on currently reported volumes at Kernersville Medical Center.

In conclusion, Novant misidentifies the service area, does not support its proposed patient origin or growth rates with reasonable assumptions, provides no basis for the procedure room volumes, and does not justify the investment in a new ASC. Therefore, the application is non-conforming with Criterion 3.

**Criterion 3a – NCGS § 131E-183(a)(3a)**

*In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.*

Novant proposes to relocate two (2) operating rooms from Forsyth Medical Center to the proposed freestanding ASC in Kernersville Medical Center. In Exhibit 3, Table 8, Novant provides information indicating that Forsyth Medical Center will have a surplus of 4.4 operating rooms; however, Novant failed to adjust the supply of operating rooms to reflect the movement of one (1) operating room to Clemmons Medical Center as part of CON-approved Project ID # G-8165-08 and two (2) operating rooms to the proposed ASC. Therefore, the actual resulting surplus of operating rooms at Forsyth Medical Center is 1.4 operating rooms. In their current location at Forsyth Medical Center, these operating rooms are made available to all patients regardless of ability to pay as Forsyth Medical Center is subject to EMTALA. If these operating rooms are moved to a freestanding ASC, the operating rooms may not be guaranteed to be available to all patients regardless of ability to pay as the ASC will not be subject to EMTALA.



**Criterion 4 – NCGS § 131E-183(a)(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.*

An application that cannot be approved is not an effective alternative, and therefore cannot conform to this criterion. The application is also not a more effective alternative compared to the operating rooms remaining at Forsyth Medical Center for the reasons discussed under Criteria 1, 3, 3a, 5, 6, 13, and 18a. Discussion under these criteria is hereby incorporated.

**Criterion 5 – NCGS § 131E-183(a)(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.*

Novant does not include reasonable projections for costs or charges for providing the proposed health services. In the pro formas included in the application, Novant proposes an average charge of \$10,529.51 in PY 1, \$10,950.69 in PY 2, and \$11,388.71 in PY 3 for surgical services. These charges are higher than other, recently approved freestanding ASC CON applications by up to 50%. Moreover, these average charges are not in line with Novant's average charges at other ASCs within North Carolina. According to information obtained from the Division of Health Service Regulation's Transparency in Health Care Costs database, among the 20 most commonly performed outpatient surgeries during the timeframe of July 2014 – June 2015, the average charge for only one (1) procedure exceeded \$10,000 at Novant Health Huntersville Outpatient Surgery Center and no average charge exceeded \$10,000 at Novant Health Ballantyne Surgery Center. In fact, only five (5) procedures at Novant Health Huntersville Outpatient Surgery Center and one (1) procedure at Novant Health Ballantyne Surgery Center had average charges in excess of \$5,000. This, coupled with the discussion of unreasonable volumes and an unreasonable payor mix, cannot be used to demonstrate the immediate and long-term financial feasibility of the proposed project.

Novant also states in its assumptions that all anesthesia, including CRNA charges, are not included and would be billed to the patient separately. While Novant's proposed charges are higher than other ASCs owned by Novant or other parties, the exclusion of CRNA services makes the proposed charges even more unreasonable. To be competitive, it is not likely that Novant's proposed ASC would be able to implement such charge and its revenue would be less. As such, the financial feasibility of the

proposed project is questionable. Therefore, the application is non-conforming with Criterion 5.

**Criterion 6 – NCGS § 131E-183(a)(6)**

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

Novant Health operates two (2) licensed facilities with operating rooms in Forsyth County, the service area for the proposed project as defined in the 2016 SMFP: Novant Health Forsyth Medical Center (License #H0209) and Novant Health Medical Park Hospital (License #H0229). Novant Health Forsyth Medical Center is a multi-campus facility with licensed operating rooms at Novant Health Forsyth Medical Center, Novant Health Kernersville Medical Center, Novant Health Clemmons Medical Center, Novant Health Hawthorne Outpatient Surgery, and Novant Health Outpatient Orthopedic Surgery. As discussed in relation to Criterion 3a, Novant projects a surplus of 1.4 operating rooms at Forsyth Medical Center when operating rooms approved or proposed to relocate from Forsyth Medical Center to other facilities are removed from its inventory. Novant does not include an analysis of total operating capacity for the licensed entity of Novant Health Forsyth Medical Center (License # H0209). If the same population growth methodology used to project utilization at Forsyth Medical Center is used for Novant Health's other Forsyth County campuses, the result is a surplus of operating rooms for both licensed entities as shown in Table II.

**Table II**  
**Calculated Utilization at Novant Health Forsyth County Facilities**  
**Project Year 3**

<b>Campus</b>	<b>2021 Surgical Cases</b>	<b>ORs Needed</b>	<b>ORs Proposed</b>	<b>Surplus/ Deficit</b>
<i>Forsyth Medical Center*</i>	11,161	13.6	15+	1.4+
<i>Kernersville Medical Center*</i>	5,649	3.7	4	0.3
<i>Clemmons Medical Center†</i>	2,801	3.4	5	1.6
<i>Hawthorne Surgery Center</i>	6,283	5.0	4	(1.0)
<i>Orthopedic Outpatient Surgery</i>	2,593	2.1	2	(0.1)
<b>Novant Health Forsyth Medical Center Subtotal</b>	<b>28,487</b>	<b>27.8</b>	<b>30</b>	<b>2.2</b>
Novant Health Medical Park Hospital	9,898	8.7	10	1.3
Novant Health Kernersville Outpatient Surgery*	2,226	1.8	2	0.2
<b>Total</b>	<b>40,611</b>	<b>38.3</b>	<b>42</b>	<b>3.7</b>

\*from CON application

†includes 1,500 IP cases and 240 OP cases shifted from FMC per CON application

+Novant lists 18 ORs at FMC in its application; however, this does not account for the movement of 1 OR to Clemmons and 2 ORs to the new proposed ASC

Source: CON Application G-11150-16 and Cone Health calculations

Novant Health maintains a surplus of almost four (4) operating rooms collectively at its Forsyth County facilities, indicating sufficient capacity, and actually shows a deficit at its current outpatient surgical locations, both of which are hospital based. This calculation demonstrates that patients are currently utilizing HOPD services. Since the operating rooms already exist in the hospital setting, the proposed project would decrease access to those HOPD services. Beyond that, the calculated surplus of operating rooms at Forsyth Medical Center and Medical Park Hospital demonstrate a continued oversupply of operating rooms within Forsyth County at Novant's facilities. Novant fails to address the oversupply of operating rooms in Forsyth County, both its own and others, in the application; therefore, the application is non-conforming with this criterion.

Additionally, Novant did not demonstrate that the project is not duplicative of existing providers. Premier Surgery Center is a CON approved, freestanding ASC located in High Point that became operational in early 2016. Premier is located in zip code 27265, a zip code Novant includes in its service area. Premier Surgery Center initially filed its CON application on July 15, 2008 and only recently became operational in early 2016, almost eight (8) years after the filing date. The substantial delay in opening a freestanding ASC, the same proposed service contained with Novant's application, demonstrates a lack of demand for these services. If patients and/or providers believed that these services were necessary, Premier Surgery Center would have opened much sooner than 2016. Additionally, Wake Forest Baptist Health has approval to develop a

seven (7) room ASC in Forsyth County pursuant to Policy AC-3. While these operating rooms will not be included in the planning inventory for the SMFP, they will substantially increase the availability of ambulatory surgery facilities within the county.

Although Premier Surgery Center recently opened and no data are publicly available, it may serve the patients that Novant proposes to serve in its ASC. Premier Surgery Center includes three (3) zip codes in its service area that overlap with Novant's proposed ASC – including 27284, the zip code for Kernersville. In total, Premier Surgery Center projected that 47% of its patients would come from zip codes Novant also proposes to serve. Novant does not address how the addition of another surgery center in the proposed service area is not duplicative of this existing freestanding ASC capacity.

**Criterion 13 – NCGS § 131E-183(a)(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 page 44 of its application, Novant has proposed to relocate 60% of projected outpatient surgical volume from Kernersville Medical Center to the proposed ASC. On page 80 of the application, Novant states that the projected payor mix is based on a three (3) year average payor mix at Kernersville Medical Center. This assumption is unreasonable as Medicare and Medicaid patients have difficulty accessing ASC services. Medicare patients, traditionally defined as those aged 65 and over, experience co-morbidities at a higher rate than other segments of the population. These co-morbidities can disqualify them from being eligible to receive services at an ASC as the

anesthesia risks are too high, forcing them to seek services in a hospital-based setting. CMS also maintains a list of outpatient surgical procedures that may only be performed in a hospital setting. Those patients would not be eligible to receive services at an ASC regardless of health status. Novant does not take any of this information into the discussion of how Medicare patients will access services.

Additionally, since patients seeking treatment at the proposed ASC must have a physician referral, Medicaid patients must first find a surgeon who is willing to perform the surgery at the proposed ASC. While Novant makes representations in the application as to the charity care policies that will be in place, those same policies state that elective outpatient surgical patients will be required to make financial arrangements prior to surgery. Whereas Novant is obligated to treat Medicaid patients regardless of their ability to pay or insurance status when they present to the emergency department, those same access requirements do not apply at the proposed ASC. Both the necessity to find a physician willing to perform surgery for Medicaid patients and the prepayment requirements make the proposed payor mix unreasonable and will decrease access for those underserved patients. For those reasons, the application is non-conforming with Criterion 13.

**Criterion 18a – NCGS § 131E-183(a)(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.*

The proposed project will not add a new competitor or a new provider because it will be 100% owned and operated by Novant Health, Inc., an existing non-profit provider of healthcare services in Forsyth County and Kernersville. None of the physician support letters indicate that the physician intends to invest in the proposed ASC. In fact, all but four of the physician support letters are from physicians employed by Novant who are unlikely to be or qualify as investors. There is no advantage of a new “competitor” in the market because Novant will at least remain the majority owner. Interestingly, the Amendments of Articles of Organization in Exhibit 1 of Novant’s CON application show that the name of a limited liability corporation formerly known as Holly Springs Hospital II, LLC was changed to Novant Health Kernersville Outpatient Surgery, LLC on February 18, 2016.

Since Premier Surgery Center and Novant propose to serve some of the same population, it is likely that the two ASCs will compete for patients. As noted in Criterion 6, Novant does not address the expected effects of the proposed services on Premier Surgery Center, an existing freestanding ASC located in the proposed service area. As discussed in Criteria 3 and 5, Novant does not propose a more competitive setting for

surgical patients than Premier Surgery Center based on the unsubstantiated growth projections and unreasonable charges. Therefore, the proposed project does not represent that it will have a favorable impact on competition or the other factors listed in Criterion 18a. As such, it is non-conforming to the criterion.

## **Exhibit 1**

# **Truven Health Analytics Analysis of Outpatient State Data**



## NCHA/Truven Planner Meeting

June 18, 2015

## Truven Data Program Updates

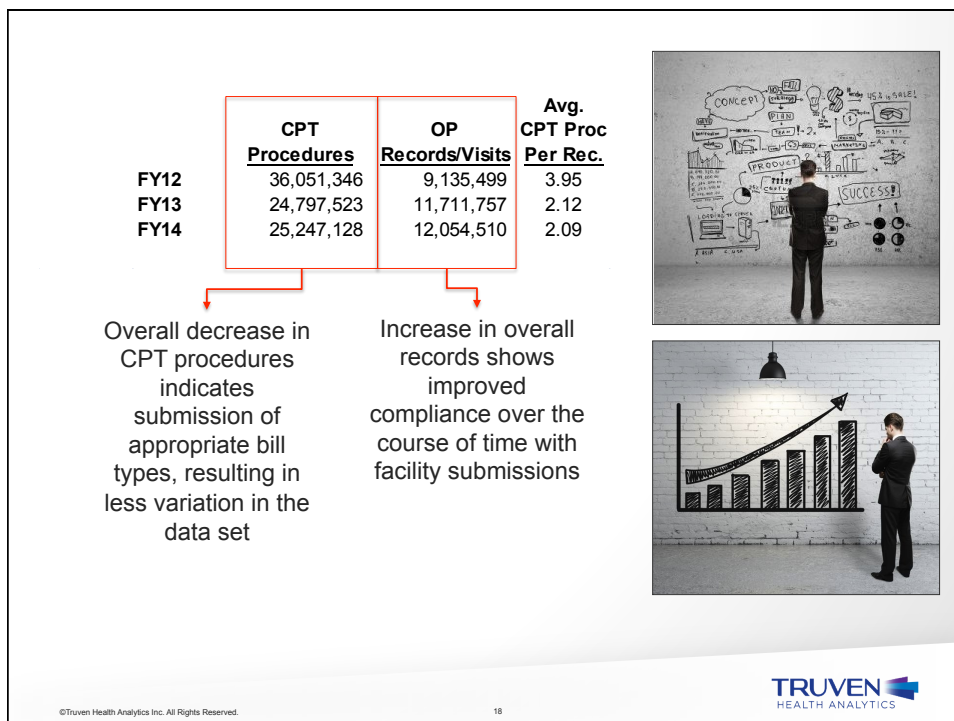
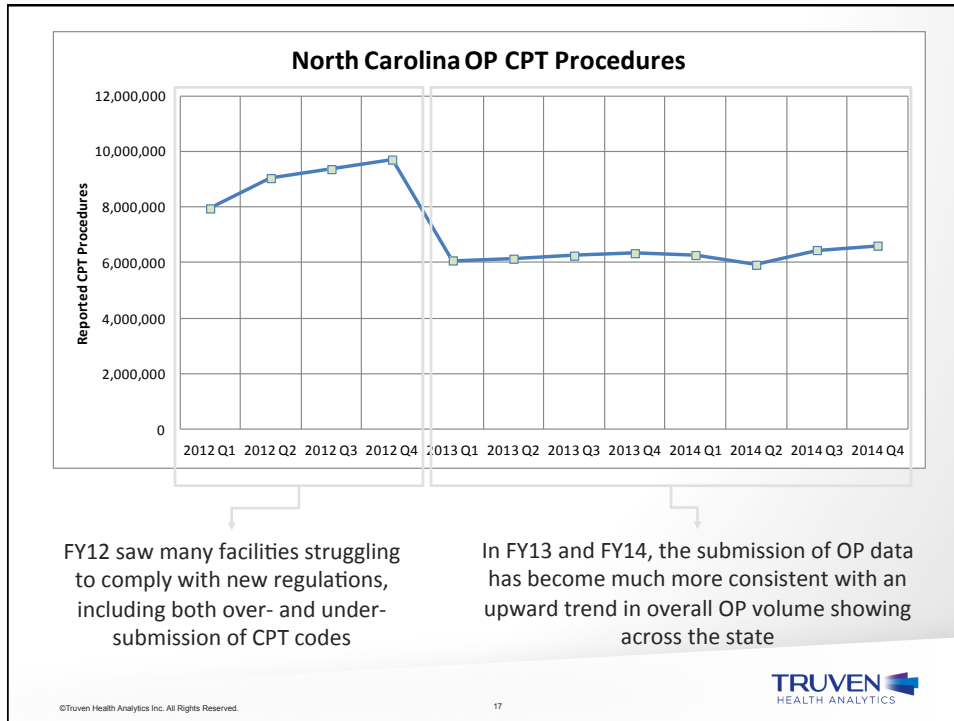


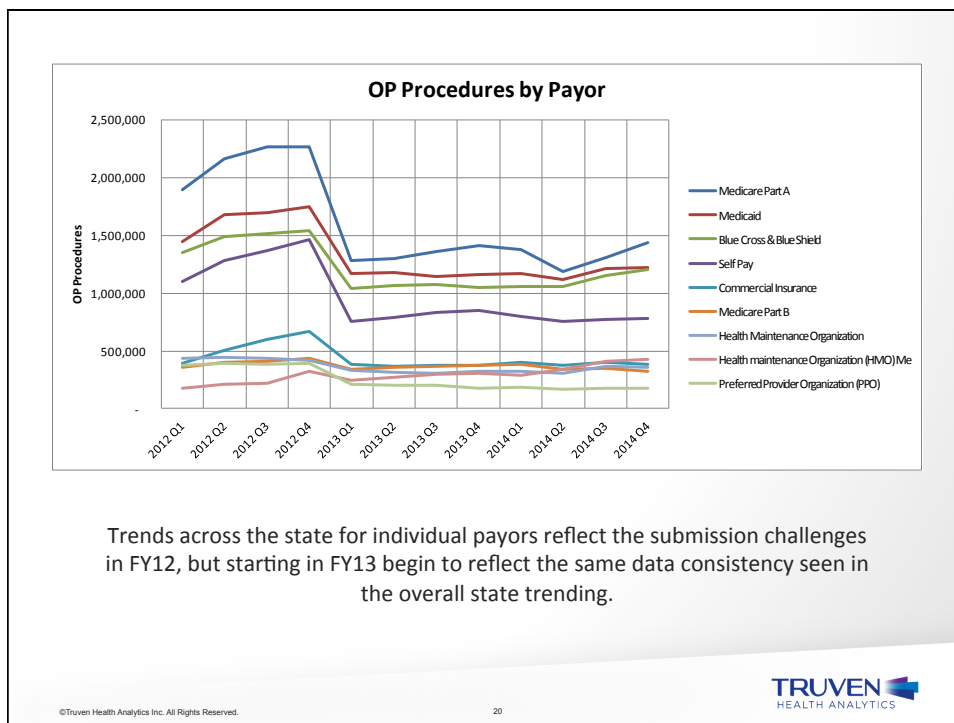
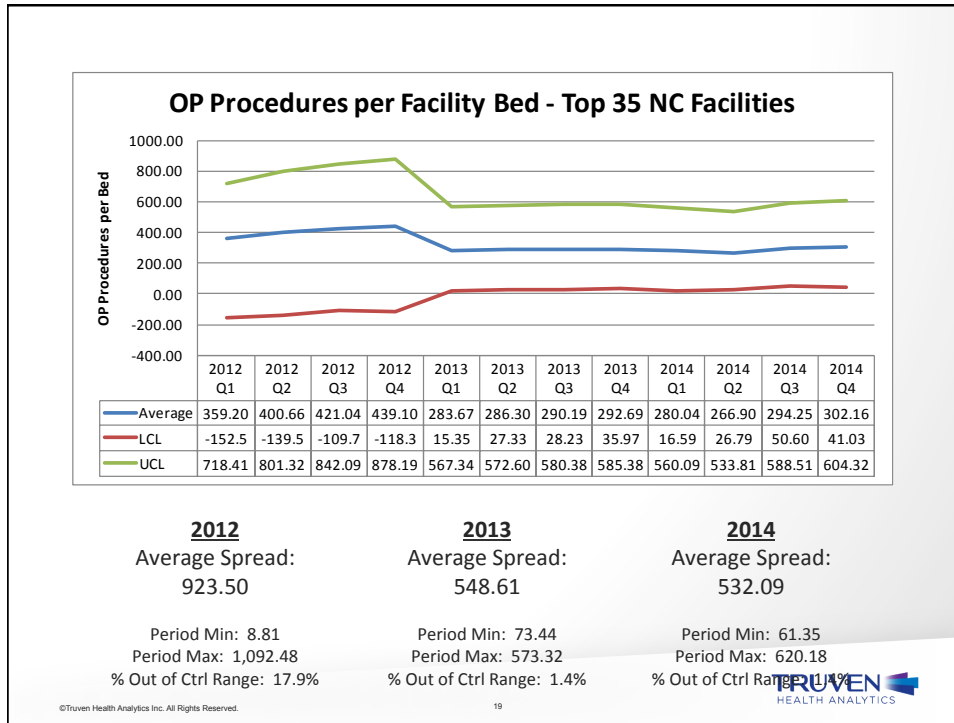


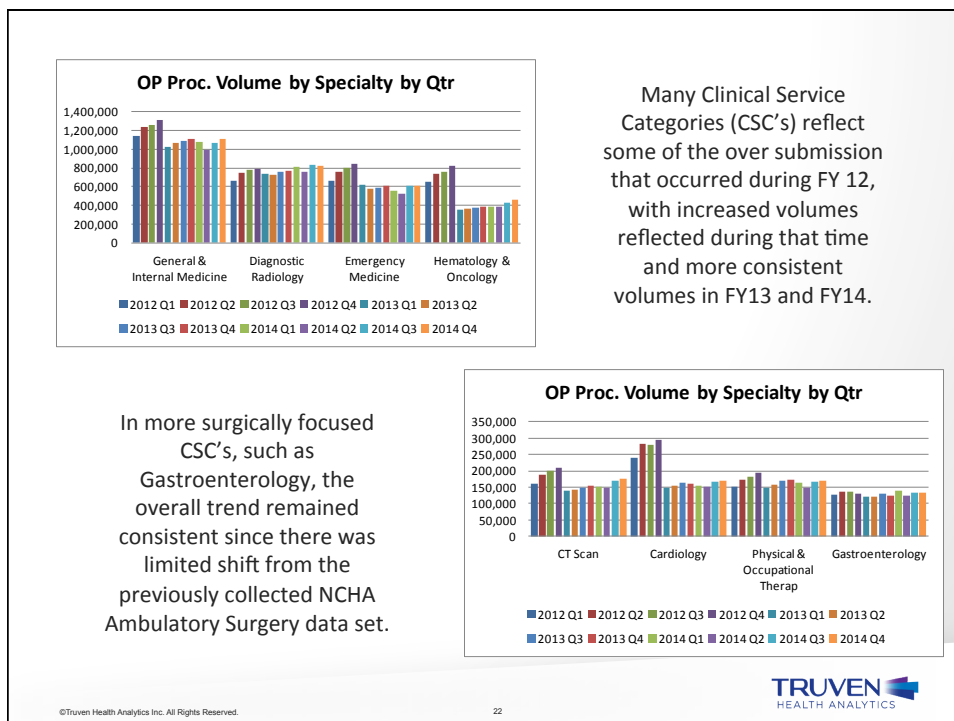
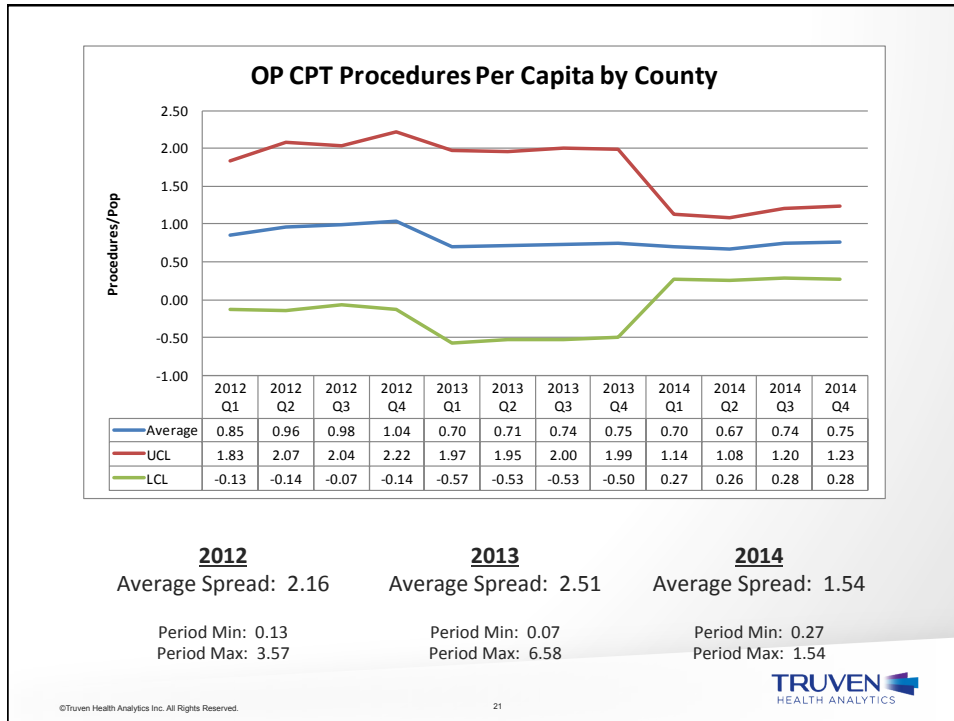
## Outpatient Procedure and Service Line Data Files in Database Deliverables

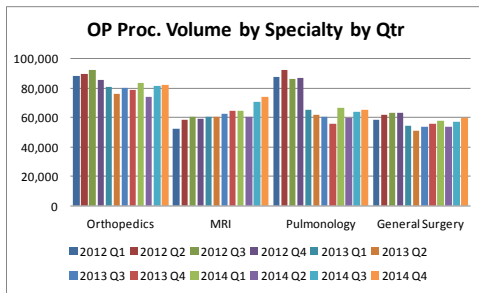
Data File Name	Contents	Comments/Notes
PATIENTREGISTRATION.TXT	File containing all UB04 patient-level information. Each record represents a single outpatient encounter.	Also contains the Truven-derived Principal CPT Procedure – called princpx
CPX.TXT	Contains <b>ALL</b> CPT procedure codes submitted. Each record represents a one of the submitted codes.	Also contains the Principal CPT Procedure submitted by the hospital – called pcpx
CPXREF.TXT	Contains reference information for all CPT codes submitted, including description, ATG and CSC	This file can be joined to the two files listed above to name and categorize CPT codes into service lines

## Analysis of Current Outpatient Database



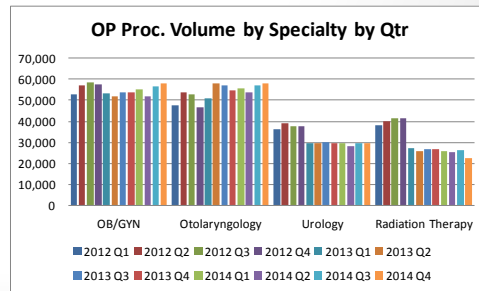






Increased compliance in new regulations can be seen in imaging specialties, such as MRI – while, Orthopedics and General Surgery reflect the same consistency carried over from the Ambulatory Surgery data set.

CSC's that have a heavier mix of office based procedures, such as HemOnc, Urology and Radiation Therapy will, in many cases, show a higher volume in FY12 (due to the submission of office and PBC volumes), with consistency starting in FY13.



©Truven Health Analytics Inc. All Rights Reserved.

23



More than Data. Answers.