

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: September 22, 2023

Findings Date: September 22, 2023

Project Analyst: Julie M. Faenza

Co-signer: Micheala Mitchell

Project ID #: H-12360-23

Facility: Southern Pines Surgery Center

FID #: 220730

County: Moore

Applicants: Southern Pines Surgery Center Properties, LLC

Southern Pines Surgery Center, LLC

Pinehurst Surgical Clinic Realty, LLC

Project: Develop a new ASF by relocating two existing ORs from Surgery Center of Pinehurst and developing two procedure rooms

REVIEW CRITERIA

G.S. 131E-183(a): The Department shall review all applications utilizing the criteria outlined in this subsection and shall determine that an application is either consistent with or not in conflict with these criteria before a certificate of need for the proposed project shall be issued.

- (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.

C

Southern Pines Surgery Center Properties, LLC, Southern Pines Surgery Center, LLC, and Pinehurst Surgical Clinic Realty, LLC (hereinafter referred to as “the applicant”) propose to develop a new orthopedic specialty ambulatory surgical facility (ASF), Southern Pines Surgery Center (SPSC), by relocating two existing operating rooms (ORs) from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

Need Determination

The applicant does not propose to develop any beds or services or acquire any medical equipment for which there is a need determination in the 2023 State Medical Facilities Plan (SMFP). Therefore, there are no need determinations applicable to this review.

Policies

There is one policy in the 2023 SMFP which is applicable to this review. *Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities*, on page 30 of the 2023 SMFP, states:

“Any person proposing a capital expenditure greater than \$4 million to develop, replace, renovate or add to a health service facility pursuant to G.S. § 131E-178 shall include in its certificate of need application a written statement describing the project’s plan to assure improved energy efficiency and water conservation.

In approving a certificate of need proposing an expenditure greater than \$5 million to develop, replace, renovate or add to a health service facility pursuant to G.S. § 131E-178, Certificate of Need shall impose a condition requiring the applicant to develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4.

Any person awarded a certificate of need for a project or an exemption from review pursuant to G.S. § 131E-184 is required to submit a plan for energy efficiency and water conservation that conforms to the rules, codes and standards implemented by the Construction Section of the Division of Health Service Regulation. The plan must be consistent with the applicant’s representation in the written statement as described in paragraph one of Policy GEN-4. The plan shall not adversely affect patient or resident health, safety or infection control.”

The proposed capital expenditure for this project is greater than \$4 million. In Section B, page 27, the applicant describes the project’s plan to improve energy efficiency and conserve water.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion based on the following:

- The applicant does not propose to develop any beds or services or acquire any medical equipment for which there is a need determination in the 2023 SMFP.

- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 because the applicant adequately demonstrates that the application includes a written statement describing the project’s plan to assure improved energy efficiency and water conservation.
- (2) Repealed effective July 1, 1987.
- (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, ... persons [with disabilities], the elderly, and other underserved groups are likely to have access to the services proposed.

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

Patient Origin

On page 47, the 2023 SMFP defines the service area for ORs as “...*the single or multicounty grouping shown in Figure 6.1.*” Figure 6.1 on page 53 of the 2023 SMFP shows Moore County as its own OR service area. Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

SCSP is not an existing facility but will be relocating two ORs from SCP. The historical patient origin for SCP is shown below.

SCP Historical Patient Origin – Outpatient Surgical – FFY 2021		
County	# of Patients	% of Total
Moore	2,958	44.8%
Cumberland	802	12.1%
Lee	613	9.3%
Hoke	455	6.9%
Scotland	355	5.4%
Richmond	308	4.7%
Montgomery	300	4.5%
Robeson	276	4.2%
Other NC Counties	537	8.1%
Total	6,604	100.0%

Source: Section C, page 37

In Section C, page 40, the applicant provides the projected patient origin for the first three full fiscal years of operation following project completion, as shown in the table below.

SCP Projected Patient Origin – Outpatient Surgical FYs 1-3 (CYs 2026-2028)						
County	FY 1 (CY 2026)		FY 2 (CY 2027)		FY 3 (CY 2028)	
	# of Patients	% of Total	# of Patients	% of Total	# of Patients	% of Total
Moore	1,087	34.1%	1,254	34.1%	1,421	34.1%
Richmond	427	13.4%	493	13.4%	558	13.4%
Cumberland	379	11.9%	438	11.9%	496	11.9%
Lee	325	10.2%	375	10.2%	425	10.2%
Robeson	255	8.0%	294	8.0%	333	8.0%
Hoke	201	6.3%	232	6.3%	263	6.3%
Montgomery	159	5.0%	184	5.0%	208	5.0%
Scotland	108	3.4%	125	3.4%	142	3.4%
Other NC Counties	242	7.6%	279	7.6%	317	7.6%
Total	3,187	100.0%	3,677	100.0%	4,167	100.0%

In Section C, page 38, the applicant provides the assumptions and methodology used to project patient origin. The applicant states it assumed the projected patient origin would be consistent with the FY 2022 patient origin for orthopedic surgical cases from SCP and FirstHealth Moore Regional Hospital (FMRH). The applicant’s assumptions are reasonable and adequately supported based on the following:

- The applicant provides the historical patient origin data for one of the facilities it uses to project future patient origin.
- The applicant projects patient origin based on the subgroup of patients projected to utilize SCSP.

Analysis of Need

In Section C, pages 28-36 and pages 43-49, the applicant explains why the patients it proposes to serve need the proposed services, as summarized below.

- Changes to Historical OR Sizes and Types of Surgeries Performed at ASFs: the applicant states that the ORs at SCP were developed at a time when more complex orthopedic procedures could not be performed in ASFs, and their ORs and procedure rooms are smaller than what is considered standard today. The applicant states that since the development of SCP, changes in surgeries that can be performed on an outpatient basis and changes to reimbursement have increased the types of surgeries performed in ASFs. The applicant states that for some of the more complex orthopedic surgeries, the existing ORs are too small to properly accommodate the necessary equipment. The applicant further states that SCP cannot expand its facility to enlarge its ORs, so it is proposing to relocate two of those ORs to develop them in larger space. The applicant projects orthopedic surgery patients who were previously treated at SCP and some orthopedic patients eligible for outpatient surgery who were previously treated at FMRH will be treated at the proposed SPSC going forward. (pages 28-36)
- Existing Size of ORs at SCP is Too Small: the applicant states five of the existing ORs at SCP are 400 square feet and the sixth is 650 square feet. The applicant states 400

square feet was a typical size for an OR 20 years ago, but now ORs need to be 600-800 square feet. The applicant further states the single OR that is 650 square feet is not sufficient to meet the need for the types of orthopedic surgery in demand. (page 43)

- Population Growth for Moore County and Surrounding Counties: the applicant states that, according to the North Carolina Office of State Budget and Management (NC OSBM), the overall population of Moore County increased by 10.7% between 2018 and 2023 and is projected to increase by 11% between 2023 and 2028. The applicant further states that for the “extended service area” of Cumberland, Hoke, Lee, Montgomery, Richmond, Robeson, and Scotland counties, where 41.7% of surgical patients originate from, the population overall is projected to increase by 1.9% between 2023 and 2028, but the population age 65 and older is projected to increase by 10.4% between 2023 and 2028. The applicant states that patients aged 65 and older comprise 17.6% of the population of Moore County and the “extended service area” but comprise more than 40% of projected cases during the third full fiscal year following project completion at SPSC. (pages 44-46)
- Increased Life Expectancy: the applicant states that, according to the NC State Center for Health Statistics, the life expectancy of Moore County residents based on 2018-2020 data showed increases in life expectancy for people aged 65 and older that impacts the potential need for surgical procedures. (page 47)
- Ambulatory Surgical Trends: the applicant provides sources stating that ASFs performed approximately 32% of all outpatient surgeries in 2005 but over 50% of outpatient surgeries by 2017. The sources provided by the applicant further state ASFs come with reduced costs and shorter patient stays, and quality of surgery and postoperative care can exceed that of hospitals. (page 48)

The information is reasonable and adequately supported for the following reasons:

- The applicant identifies existing capacity constraints that it believes justifies the need to relocate existing ORs.
- The applicant provides reliable data, makes reasonable statements about the data, and uses reasonable assumptions about the data to demonstrate the projected population growth in the area and the projected growth of the population age 65 and older in the area.

Projected Utilization

On Form C.3b in Section Q, the applicant projects utilization for the first three full fiscal years of operation following project completion, as shown in the table below.

SPSC Projected Utilization – FYs 1 – 3 (CYs 2026 – 2028)			
	FY 1 (CY 2026)	FY 2 (CY 2027)	FY 3 (CY 2028)
ORs	2	2	2
Outpatient Surgical Cases	2,386	2,545	2,705
Outpatient Case Times (hours)	1.10	1.10	1.10
Total Surgical Hours	2,625	2,800	2,975
Standard Hours per OR per Year (Group 6)	1,312	1,312	1,312
Total Surgical Hours / Standard Hours per OR per Year	2.00	2.13	2.27
Procedure Rooms	2	2	2
Outpatient Procedures	801	1,132	1,463

In the Utilization Methodology and Assumptions subsection of Section Q, the applicant provides the assumptions and methodology used to project utilization, as summarized below.

- The applicant compares CAGRs for different intervals between FFYs 2017-2022 for both total surgical cases at SCP and orthopedic surgical cases at SCP. The applicant uses the 5-year CAGR of 3.33% for projecting growth in total surgical cases at SCP. The 5-year CAGR of 3.33% is the lowest of the CAGRs calculated by the applicant.
- The applicant projects growth in orthopedic surgical cases by using the 5-year CAGR of -0.51%, resulting in a slight decline in orthopedic surgical cases over time.
- The applicant then used the corresponding 5-year CAGR to project future total outpatient surgical cases and orthopedic outpatient surgical cases at FMRH.
- The applicant assumes all orthopedic surgeries will shift to SPSC when the facility opens on January 1, 2026 and subtracts them from the total surgical cases projected for SCP.
- The applicant provides a letter signed by three orthopedic surgeons, stating that in their opinion, a review of outpatient orthopedic surgical cases performed at FMRH during FY 2022 shows that 75% of those cases could be safely performed in an ASF. The letter further stated that the cases could be safely performed in a procedure room, but it would be up to each individual physician about where to schedule a surgical case.
- The applicant assumed that a number of outpatient orthopedic surgical cases would shift from FMRH to SPSC. The applicant projected a ramp-up in the shift of surgical cases, stating that ramping up the shift would create fewer financial issues for FMRH due to loss of revenue from surgical cases.
- The applicant used standard case times and assumed increasing utilization of ORs to project which surgical cases would be in ORs, and which would be in procedure rooms.

The applicant’s assumptions and methodology used to project utilization are summarized in the table below. The applicant uses federal fiscal years to project utilization in this part of the application, but its actual fiscal years are calendar years; however, that discrepancy does not meaningfully impact the outcome of this review.

SCSP Historical, Interim, and Projected Utilization							
	Historical	Interim			OY 1	OY 2	OY 3
	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SCP Surgical Cases (Total) (3.33% CAGR)	6,604	6,824	7,051	7,285	7,528	7,778	8,037
SCP Orthopedic Surgical Cases (-0.51% CAGR)	1,977	1,967	1,957	1,947	1,937	1,927	1,917
FMRH OP Surgical Cases (Total) (11.78% CAGR)	8,749	9,779	10,105	10,441	10,788	11,147	11,518
FMRH OP Orthopedic Cases (Total) (17.28% CAGR)	2,908	3,159	3,431	3,727	4,049	4,398	4,778
SCP Shift of Cases to SPSC (100%)	--	--	--	--	1,937	1,927	1,917
FMRH Shift of Cases to SPSC (ramp-up)	--	--	--	--	1,250	1,750	2,250
Total Cases at SPSC	--	--	--	--	3,187	3,677	4,167
Surgical Cases in ORs	--	--	--	--	2,386	2,545	2,705
Total ORs	--	--	--	--	2	2	2
Outpatient Case Times (hours)	--	--	--	--	1.10	1.10	1.10
Total Surgical Hours	--	--	--	--	2,625	2,800	2,975
Standard Hours per OR per Year (Group 6)	--	--	--	--	1,312	1,312	1,312
Total Surgical Hours/Standard Hours per OR per Year	--	--	--	--	2.0	2.1	2.3
Surgical Cases in Procedure Rooms	--	--	--	--	801	1,132	1,463

NOTE: The figures in these tables are found in Section Q of the application.

However, projected utilization is not reasonable and adequately supported based on the following:

- The applicant does not adequately explain why it projects the number of orthopedic surgical cases at FMRH to shift to SPSC. The applicant provides a letter from doctors who state that approximately 75% of outpatient orthopedic surgical cases can be safely performed in an ASF; however, the shift in cases is less than 75%. The applicant provides no other information in the application as submitted to explain how it projected which cases would shift.
- The applicant projects utilization of procedure rooms based on utilization of ORs; however, the letter provided by the applicant from doctors who have reviewed outpatient cases from FMRH states that it is the doctor’s discretion as to where an outpatient surgical case is performed. There is nothing in the letter or the application as submitted to suggest that utilization of procedure rooms will be based on utilization of ORs, and the applicant does not explain this contradiction.
- The applicant’s projections of surgical cases in future years are not consistent with the methodology provided by the applicant.

The applicant states that it projected growth in surgical cases at both SCP and FMRH based on the 5-year historical CAGR. However, the projected growth in both overall outpatient surgical cases and outpatient orthopedic surgical cases at FMRH is not consistent with the 5-year CAGR represented. The applicant provides no information in the application as submitted to explain why it projected a specific growth rate and then did not utilize that growth rate in its projections.

Access to Medically Underserved Groups

In Section C, page 55, the applicant states:

“SPSC will comply with applicable Federal civil rights laws and will not discriminate on the basis of age, race, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation and gender identity or expression. SPSC will not exclude people or treat them differently because of age, race, ethnicity, religion, culture, language, physical or mental disability, socioeconomic status, sex, sexual orientation and gender identity or expression.”

In Section C, page 55, the applicant provides the estimated percentage of patients it projects to serve in its third full fiscal year of operation, for each medically underserved group, as shown in the following table.

Medically Underserved Groups	Percentage of Total Patients
Low income persons	6.0%
Racial and ethnic minorities	21.0%
Women	58.0%
Persons with disabilities	--
Persons 65 and older	41.1%
Medicare beneficiaries	41.1%
Medicaid recipients	4.4%

In Section C, page 55, the applicant states it does not track the percentage of patients with disabilities.

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the following:

- The applicant provides a statement that it will provide access to the proposed services for underserved groups.
- The applicant provides a copy of the FirstHealth of the Carolinas non-discrimination policy it will use at SPSC in Exhibit C.6.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not conforming to this criterion for all the reasons described above.

- (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, ... persons [with disabilities], and other underserved groups and the elderly to obtain needed health care.

C

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

In Section C, pages 61-62, the applicant explains why it believes the needs of the population presently utilizing the services to be reduced and relocated will be adequately met following completion of the project. On page 61, the applicant states:

“SCoP will continue to operate four ORs and will convert the two vacated ORs to [procedure rooms]. All orthopedic surgical procedures are projected to shift from SCoP to SPSC as all orthopedic surgeons will be moving to SPSC. The two locations are less than four miles from each other.”

The information is reasonable and adequately supported based on the following:

- There will still be four ORs at SCP available to patients.
- The new ASF will be located less than four miles away from SCP.

On Form D.3 in Section Q, the applicant provides projected utilization, as illustrated in the following table.

SCP Projected Utilization through 1st FFY (CY 2026)					
	Historical	Interim			FY 1
	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026
ORs	6	6	6	6	4
Outpatient Surgical Cases	6,604	6,824	7,051	7,285	5,591
Outpatient Case Times (hours)	1.10	1.10	1.10	1.10	1.10
Total Surgical Hours	7,264	7,506	7,756	8,014	6,150
Standard Hours per OR per Year (Group 6)	1,312	1,312	1,312	1,312	1,312
Total Surgical Hours / Standard Hours per OR per Year	5.5	5.7	5.9	6.1	4.7

Immediately following Form D.3 in Section Q, the applicant provides the assumptions and methodology used to project utilization, which is summarized below.

- The applicant compares CAGRs for different intervals between FFYs 2017-2022 for both total surgical cases at SCP and orthopedic surgical cases at SCP. The applicant uses the

5-year CAGR of 3.33% for projecting growth in total surgical cases at SCP. The 5-year CAGR of 3.33% is the lowest of the CAGRs calculated by the applicant.

- The applicant projects growth in orthopedic surgical cases by using the 5-year CAGR of -0.51%, resulting in a slight decline in orthopedic surgical cases over time.
- The applicant assumes all orthopedic surgeries will shift to SPSC when the facility opens on January 1, 2026 and subtracts them from the total surgical cases projected for SCP.

The applicant’s assumptions are summarized in the table below.

SCP Historical, Interim, and Projected (FY 1) Utilization					
	Historical	Interim			FY 1
	CY 2022	CY 2023	CY 2024	CY 2025	CY 2026
SCP Total Surgical Cases (3.33% CAGR)	6,604	6,824	7,051	7,285	7,528
SCP Orthopedic Surgical Cases (-0.51% CAGR)	1,977	1,967	1,957	1,947	1,937
SCP Total Surgical Cases (before/after shifts)	6,604	6,824	7,051	7,285	5,591
Outpatient Case Times in Hours (per 2023 SMFP)	1.0	1.0	1.0	1.0	1.0
Total Surgical Hours	6,604	6,824	7,051	7,285	5,591
Standard Hours per OR per Year (Group 6)	1,312	1,312	1,312	1,312	1,312
Total ORs	6	6	6	6	4
Total Surgical Hours/Standard Hours per OR per Year	5.0	5.2	5.4	5.6	4.3

The applicant used a higher outpatient case time than the one listed in the 2023 SMFP for SCP; however, the net result of that change is there will potentially be even more availability at SCP for existing patients, and thus that discrepancy has no impact on this review.

Projected utilization is reasonable and adequately supported based on the following:

- The applicant projects utilization based on historical utilization.
- The applicant uses historical utilization as the basis for projections even when the historical growth rate is negative.

Access to Medically Underserved Groups

In Section D, page 63, the applicant states:

“SCoP will continue to increase overall surgical utilization and expand access to health care services for the medically underserved by providing surgical procedures to those who are indigent, lack health insurance, or are otherwise medically underserved. SCoP is committed to providing services to all of the listed categories of patient [sic] and will not discriminate against anyone due to age, race, color, religion, ethnicity, gender, disability, or ability to pay.”

The applicant adequately demonstrates that the needs of medically underserved groups that will continue to receive services at SCP will be adequately met following completion of the project for the following reasons:

- The applicant will still have access at the existing facility for patients.
- The applicant provides a statement saying it is committed to continuing to provide access to medically underserved groups at SCP.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately demonstrates that the needs of the population currently using the services to be reduced and relocated will be adequately met following project completion for all the reasons described above.
- The applicant adequately demonstrates that the project will not adversely impact the ability of underserved groups to access these services following project completion for all the reasons described above.

- (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.

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

In Section E, pages 66-67, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application to meet the need:

- Maintain the Status Quo: the applicant states the existing ORs are too small to properly accommodate the range of orthopedic surgeries that can be offered in ASFs and would not allow for the establishment of a Center of Excellence in orthopedic surgery; therefore, this was not an effective alternative.

- Renovate Existing Space Instead of Constructing a New ASF: the applicant states it could not locate an existing building that could be purchased and renovated to accommodate the proposed facility; therefore, this was not an effective alternative.
- Develop the ASF in a Different Part of Moore County: the applicant states the proposed location is less than four miles from FHRM and across the street from many physicians; therefore, developing the ASF in a different part of Moore County was not an effective alternative.

However, the applicant does not adequately demonstrate that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The applicant does not demonstrate the need for the proposed project because projected utilization is not reasonable and adequately supported. The discussion projected utilization found in Criterion (3) is incorporated herein by reference. A project which cannot provide reasonable and adequately supported utilization projections is not the most effective alternative to meet the need.
- The applicant does not demonstrate that the financial feasibility of the proposal is reasonable and adequately supported. The discussion regarding financial feasibility found in Criterion (5) is incorporated herein by reference. If the applicant cannot demonstrate that developing the project is financially feasible, the applicant cannot demonstrate the proposed alternative is the most effective alternative to meet the need.
- The applicant does not demonstrate that the proposed project is not an unnecessary duplication of existing or approved health service capabilities or facilities. The discussion about unnecessary duplication found in Criterion (6) is incorporated herein by reference. A project that is unnecessarily duplicative cannot be the most effective alternative to meet the need.
- The applicant does not provide credible information to explain why it believes the proposed project is the most effective alternative.
- The application is not conforming to all statutory and regulatory review criteria. An application that cannot be approved cannot be an effective alternative to meet the need.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for the reasons stated above. Therefore, the application is denied.

- (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.

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

Capital and Working Capital Costs

On Form F.1a in Section Q, the applicant provides the projected capital cost, as shown in the table below.

SPSC Proposed Capital Expenditure			
Category	Capital Expenditure		
	Southern Pines Surgery Center Properties	Southern Pines Surgery Center	Combined Total
Construction/Renovation Contracts/Site Prep	\$14,730,000	\$0	\$14,730,000
Medical equipment	\$0	\$8,764,529	\$8,764,529
Non-Medical Equipment	\$0	\$221,000	\$221,000
Consultant Fees (CON)	\$0	\$50,000	\$50,000
Construction Soft Costs, Contingency	\$683,000	\$0	\$683,000
Remaining Buildout Soft Costs, Contingency	\$1,295,000	\$0	\$1,295,000
Surgery Center of Pinehurst OR Acquisition	\$0	\$1,200,000	\$1,200,000
IT/Low Voltage	\$0	\$823,000	\$823,000
Total	\$16,708,000	\$11,058,529	\$27,766,529

In Exhibit F.1, the applicant provides the assumptions and methodology used to project capital costs. Based on the information provided in Exhibit F.1, it appears the applicant inadvertently included the CON Consultant Fee twice in its projected capital cost; this does not impact the outcome of these findings.

The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- In Exhibit F.1, the applicant provides an itemized list of construction costs as well as costs such as medical equipment, IT, furniture, and more.
- Exhibit F.1 also contains a letter dated April 4, 2023, from a licensed architect, which matches the projected capital cost (with the exception of the doubled consultant fee).

In Section F, page 70, the applicant projects start-up costs of \$855,191 and initial operating costs of \$4,000,000 over an initial operating period of 12 months for a total projected working capital cost of \$4,855,191. In Section F, page 72, the applicant states the entire

projected working capital cost of \$4,855,191 will be funded by cash or accumulated reserves of Southern Pines Surgery Center, LLC.

In Section F, page 71, the applicant provides the assumptions and methodology used to project the working capital needs of the project. The applicant adequately demonstrates that the projected working capital needs of the project are based on reasonable and adequately supported assumptions based on the following:

- The applicant identifies the individual components of the projected startup expenses and the expected timeframe for the startup period.
- The applicant explains the assumptions used in projecting the initial operating expenses.

Availability of Funds

In Section F, pages 68 and 72, the applicant states that \$26,566,529 of the capital costs and all of the \$4,855,191 of working capital costs will be funded with cash or accumulated reserves, and \$1,200,000 of the capital cost will be funded via an upfit allowance in a proposed lease term sheet.

In Exhibit F.2, the applicant provides documents explaining the allocation of costs and committing the necessary funding to provide those costs, as detailed below.

Funding from Southern Pines Surgery Center Properties, LLC

- Southern Pines Surgery Center Properties, LLC will fund \$16,708,000 of the projected capital costs and will not fund any of the projected working capital costs.
- Southern Pines Surgery Center Properties, LLC has two parent companies. Pinehurst Surgical Clinic Realty, LLC has 75% ownership equity and FirstHealth of the Carolinas, Inc. has 25% ownership equity. The percentage of ownership equity roughly corresponds to the proportion of funding each parent company will provide.
- Immediately following Form F.3b in Section Q, the applicant provides a Lease Term Sheet that documents an upfit allowance of \$50 per square foot and describes the leased property as having 24,000 square feet in a commercial building (\$50 per square foot X 24,000 square feet = \$1,200,000 in upfit allowance).
- After the \$1,200,000 in upfit allowance is subtracted from the \$16,708,000 in projected capital costs, Pinehurst Surgical Clinic Realty, LLC will be responsible for \$11,631,000 in projected capital costs (75%) and FirstHealth of the Carolinas, Inc. will be responsible for \$3,877,000 in projected capital costs (25%).

Pinehurst Surgical Clinic Realty, LLC

- The applicant provides a letter dated April 10, 2023 from Pinehurst Surgical Clinic Realty, LLC, stating that it will transfer \$11.7 million in cash to fund its portion of the projected capital costs. The letter states the \$11.7 million will be funded from the proceeds of a commercial loan.
- The applicant provides a letter dated April 10, 2023 from a vice president at First Citizens Bank, stating that subject to final approval of loan documents and the application under review, it anticipates providing Pinehurst Surgical Clinic Realty, LLC with a loan of approximately \$11.7 million.

FirstHealth of the Carolinas, Inc.

- The applicant provides a letter dated April 8, 2023 from the Chief Executive Officer of FirstHealth of the Carolinas, Inc., stating it will transfer \$3.9 million in cash to fund its portion of the projected capital costs. The letter states the funding will come from cash/cash equivalents.
- The applicant provides the Consolidated Financial Statements and Supplementary Information for FirstHealth of the Carolinas, Inc. and Affiliates for the years ending September 30, 2022 and 2021. As of September 30, 2022, FirstHealth of the Carolinas, Inc. had adequate cash and assets to fund its portion of the proposed capital costs.
- The applicant provides a letter dated April 10, 2023 from Southern Pines Surgery Center Properties, LLC, stating that it will be responsible for approximately \$15.6 million in funding for the proposed capital costs (after the \$1,200,000 upfit allowance), that the funds will be transferred to the company from Pinehurst Surgical Clinic Realty, LLC and FirstHealth of the Carolinas, Inc., and commits the funding to develop the proposed project.

Funding from Southern Pines Surgery Center, LLC

- Southern Pines Surgery Center, LLC will fund \$11,058,529 of the projected capital costs and all of the \$4,855,191 in projected working capital costs.
- Southern Pines Surgery Center, LLC has two parent companies. PSC OCOE, LLC has 75% ownership equity and FirstHealth of the Carolinas, Inc. has 25% ownership equity. The percentage of ownership equity roughly corresponds to the proportion of funding each parent company will provide.
- PSC OCOE, LLC will be responsible for approximately \$8,293,897 in projected capital costs (75%) and FirstHealth of the Carolinas, Inc. will be responsible for approximately \$2,764,632 in projected capital costs (25%). PSC OCOE, LLC will be responsible for approximately \$3,641,693 in projected working capital costs (75%) and FirstHealth of

the Carolinas, Inc. will be responsible for approximately \$1,213,798 (25%) in projected working capital costs.

PSC OCOE, LLC

- The applicant provides a letter dated April 10, 2023 from PSC OCOE, LLC, stating that it will transfer \$12.1 million in cash (approximately \$8.4 million for projected capital costs and \$3.7 million in projected working capital costs) to fund its portion of the projected capital and working capital costs. The letter states the \$12.1 million will be funded from the proceeds of a commercial loan.
- The applicant provides a letter dated April 10, 2023 from a vice president at First Citizens Bank, stating that subject to final approval of loan documents and the application under review, it anticipates providing PSC OCOE, LLC with a loan of approximately \$12.1 million.

FirstHealth of the Carolinas, Inc.

- The applicant provides a letter dated April 10, 2023 from the Chief Executive Officer of FirstHealth of the Carolinas, Inc., stating it will transfer \$4.1 million in cash (\$2.8 million in projected capital costs and \$1.3 million in projected working capital costs) to fund its portion of the projected capital and working capital costs. The letter states the funding will come from cash/cash equivalents.
- The applicant provides the Consolidated Financial Statements and Supplementary Information for FirstHealth of the Carolinas, Inc. and Affiliates for the years ending September 30, 2022 and 2021. As of September 30, 2022, FirstHealth of the Carolinas, Inc. had adequate cash and assets to fund its portion of the proposed capital and working capital costs.
- The applicant provides two letters, each dated April 10, 2023, from Southern Pines Surgery Center, LLC. The letters state that Southern Pines Surgery Center, LLC will be responsible for approximately \$11.1 million in funding for the proposed capital costs and approximately \$4.9 million for the proposed working capital costs, that the funds will be transferred to the company from PSC OCOE, LLC and FirstHealth of the Carolinas, Inc., and commits the funding to develop the proposed project.

The applicant adequately demonstrates the availability of sufficient funds for the capital and working capital needs of the project based on the following:

- The applicant provides documentation from Pinehurst Surgical Clinic Realty, LLC, PSC OCOE, LLC, and FirstHealth of the Carolinas, Inc., committing to funding the proposed project.

- The applicant provides adequate documentation of the availability of cash and cash equivalents from Pinehurst Surgical Clinic Realty, LLC, PSC OCOE, LLC, and FirstHealth of the Carolinas, Inc., that will be used to fund the proposed project.
- The applicant provides documentation from Southern Pines Surgery Center Properties, LLC and Southern Pines Surgery Center, LLC, that commits to using the funding transferred from Pinehurst Surgical Clinic Realty, LLC, PSC OCOE, LLC, and FirstHealth of the Carolinas, Inc., to develop the proposed project.

Financial Feasibility

The applicant provided pro forma financial statements for the first three full fiscal years of operation following project completion. On Form F.2b, the applicant projects revenues will exceed operating expenses in the first three full fiscal years following project completion, as shown in the table below.

Revenues and Operating Expenses – SPSC			
	1st Full FY CY 2026	2nd Full FY CY 2027	3rd Full FY CY 2028
Total Surgical Cases/Procedures	3,187	3,677	4,167
Total Gross Revenues (Charges)	\$55,545,214	\$67,292,064	\$80,075,697
Total Net Revenue	\$12,108,857	\$14,669,670	\$17,456,502
Total Net Revenue per Surgical Case/Procedure	\$3,799	\$3,990	\$4,189
Total Operating Expenses (Costs)	\$11,883,002	\$13,536,925	\$15,297,749
Total Operating Expenses per Surgical Case/Procedure	\$3,729	\$3,682	\$3,671
Net Income/(Loss)	\$225,854	\$1,132,745	\$2,158,753

The assumptions used by the applicant in preparation of the pro forma financial statements are provided immediately following Forms F.2b and F.3b in Section Q. However, the applicant does not adequately demonstrate that the financial feasibility of the proposal is reasonable and adequately supported because projected utilization is not based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference. Therefore, projected revenues and operating expenses, which are based in part on projected utilization, are also questionable.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is not conforming to this criterion because the applicant does not adequately demonstrate sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of revenues and operating expenses for all the reasons described above.

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

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

On page 47, the 2023 SMFP defines the service area for ORs as “...the single or multicounty grouping shown in Figure 6.1.” Figure 6.1 on page 53 of the 2023 SMFP shows Moore County as its own OR service area. Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 6B on pages 73-74 of the 2023 SMFP shows Moore County has one hospital and two ASFs offering ambulatory surgical services. Information about each of the facilities is shown in the table below.

Moore County ORs – Hospitals & ASFs					
Facility	Hospital/ASF	Specialty*	Location	ORs**	(Surplus)/Deficit
FirstHealth Moore Regional Hospital	Hospital	NA	Pinehurst	17	(3.19)
The Eye Surgery Center of the Carolinas	ASF	Single	Southern Pines	3	(1.21)
Surgery Center of Pinehurst	ASF	Multi	Pinehurst	6	(1.94)
Total				26	(6.34)

*The CON statutes designate ASFs as “specialty” or “multispecialty” – there is no “single specialty” ASF. “Single” is a simplification used for clarity.

**Number of ORs in Adjusted Planning Inventory

As shown in the table above, every facility with ORs in Moore County has a surplus of OR capacity.

In Section G, page 79, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved diagnostic center services in Moore County. The applicant states:

“SPSC proposes to acquire two ORs from SCoP and relocate them within four miles of their current location in Moore County. Although the two ORs are currently utilized by all surgical specialties at SCoP, there are enough orthopedic cases performed to fill two ORs with the remaining 4 ORs fully utilized by the surgical specialties staying at SCoP. The development of SPSC will not result in an unnecessary duplication of existing or approved health service facilities and will be the first Orthopedic Center of Excellence in the Sandhills region.”

However, the applicant does not adequately demonstrate that the proposal would not result in an unnecessary duplication of existing or approved services in the service area because the applicant does not demonstrate that projected utilization is reasonable and adequately supported. The discussion regarding projected utilization found in Criterion (3) is

incorporated herein by reference. A project which cannot provide reasonable and adequately supported utilization projections cannot demonstrate that the project is not an unnecessary duplication of existing or approved services in the service area.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion for all the reasons described above.

- (7) The applicant shall show evidence of the availability of resources, including health manpower and management personnel, for the provision of the services proposed to be provided.

C

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

On Form H in Section Q, the applicant provides projected full-time equivalent (FTE) staffing for the proposed services, as shown in the table below.

Proposed Staffing in FTEs – SPSC – FYs 1-3 (CYs 2026-2028)			
Position	FY 1 – CY 2026	FY 2 – CY 2027	FY 3 – CY 2028
Business Office Coordinator	1.0	1.0	1.0
Director of Nursing	1.0	1.0	1.0
Executive Director	1.0	1.0	1.0
Insurance Verification Specialist	1.0	1.0	1.0
Medical Records Technician	2.0	2.0	2.0
Nursing Assistant	2.0	2.0	2.0
Surgical Technologist	4.0	5.0	6.0
Orthopedic Care Coordinator	1.0	1.0	1.0
Purchasing Coordinator	1.0	1.0	1.0
Radiology Technician	1.0	1.0	1.0
Receptionist/Billing Secretary	1.0	1.0	1.0
Staff Nurse (ORs, Pre-Op, Recovery)	9.5	10.5	12.0
Sterile Processing Technician	3.0	4.0	4.0
Total FTEs	28.5	31.5	34.0

The assumptions and methodology used to project staffing are provided immediately following Form H in Section Q. Adequate operating expenses for the health manpower and

management positions proposed by the applicant are budgeted on Form F.3b in Section Q. In Section H, pages 81-83, the applicant describes the methods to be used to recruit or fill new positions and its proposed training and continuing education programs and provides supporting documentation in Exhibit H.3.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services based on the following:

- The applicant states that projected staffing is “*based on expected volume with appropriate staffing requirements*” and projected salaries are based on the current experience at SCP.
- In Exhibit H.3, the applicant provides numerous job position requirements as well as its proposed policy regarding continuing education and maintenance of records relating to continuing education.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (8) The applicant shall demonstrate that the provider of the proposed services will make available, or otherwise make arrangements for, the provision of the necessary ancillary and support services. The applicant shall also demonstrate that the proposed service will be coordinated with the existing health care system.

C

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

Ancillary and Support Services

In Section I, page 85, the applicant identifies the necessary ancillary and support services for the proposed services. In Section I, page 86, the applicant explains how each ancillary and support service is or will be made available and provides supporting documentation in Exhibit I.1. The applicant adequately demonstrates that the necessary ancillary and support services will be made available based on the following:

- In Exhibit I.1, the applicant provides a letter dated April 10, 2023, from a Manager of Southern Pines Surgery Center, LLC, committing to providing the necessary ancillary and support services.
- In Exhibit I.1, the applicant provides a letter dated April 5, 2023, from a partner with Providence Anesthesiology Associates, committing to provide anesthesia services at SCSP.

Coordination

In Section I, page 87, the applicant describes its existing and proposed relationships with other local health care and social service providers. The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system based on the following:

“As [a] (sic) new North Carolina limited liability company, SPSC does not have previous working relationships with [the] (sic) existing healthcare system. However, [Pinehurst Surgical Clinic and FirstHealth of the Carolinas], the members of SPSC, are, respectively, the largest surgical medical practice and hospital in Moore County and surrounding counties.”

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (9) An applicant proposing to provide a substantial portion of the project's services to individuals not residing in the health service area in which the project is located, or in adjacent health service areas, shall document the special needs and circumstances that warrant service to these individuals.

NA

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered. Therefore, Criterion (9) is not applicable to this review.

- (10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the

project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:

- (i) would be available under a contract of at least 5 years duration;
- (ii) would be available and conveniently accessible through physicians and other health professionals associated with the HMO;
- (iii) would cost no more than if the services were provided by the HMO; and
- (iv) would be available in a manner which is administratively feasible to the HMO.

NA

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review.

(11) Repealed effective July 1, 1987.

(12) Applications involving construction shall demonstrate that the cost, design, and means of construction proposed represent the most reasonable alternative, and that the construction project will not unduly increase the costs of providing health services by the person proposing the construction project or the costs and charges to the public of providing health services by other persons, and that applicable energy saving features have been incorporated into the construction plans.

C

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

In Section K, page 90, the applicant states that the project involves constructing 24,000 square feet of new space. Line drawings are provided in Exhibit K.1.

In Section K, pages 92-93, the applicant identifies the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal, and power at the site. Supporting documentation is provided in Exhibit K.4. The site appears to be suitable for the proposed ASF based on the applicant's representations and supporting documentation.

In Section K, page 91, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal because the applicant states the project architect has estimated the necessary costs to develop the proposed ASF according to applicable construction requirements and codes.

In Section K, page 91, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges

to the public for the proposed services because the applicant states that, based on the expertise of the project architect, the proposed construction is necessary to develop the proposed facility.

In Section K, page 91, the applicant identifies any applicable energy saving features that will be incorporated into the construction plans.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

(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 ... persons [with disabilities], 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;

NA

SPSC is not an existing facility. Therefore, Criterion (13b) is not applicable to this review.

For informational purposes, in Section L, page 96, the applicant provides the historical payor mix during FFY 2022 for SCP, where the ORs will originate from, as shown in the table below.

SPC Historical Payor Mix FFY 2022	
Payment Source	% of Total Patients
Self-Pay	0.6%
Medicare*	16.8%
Medicaid*	1.3%
Insurance*	50.1%
Other (Other government)	31.2
Total	100.0%

*Including any managed care plans

- (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 ... persons [with disabilities] to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

NA

SPSC is not an existing facility. Therefore, Criterion (13a) is not applicable to this review.

For informational purposes, in Section L, page 97, the applicant states that SCP, where the ORs for SPSC will originate from, has no historical obligation to provide any uncompensated care, community service, or access by minorities and persons with disabilities to programs receiving federal assistance, and that SCP has not had any patient civil rights access complaints filed against it within the last 18 months prior to filing the application.

- (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

C

In Section L, page 98, the applicant projects the following payor mix for the proposed services during the third full fiscal year of operation following completion of the project, as shown in the table below.

SPSC Projected Payor Mix CY 2028	
Payment Source	% of Total Patients
Self-Pay	1.6%
Medicare*	31.4%
Medicaid*	4.4%
Insurance*	41.1%
Other (Other government)	21.5%
Total	100.0%

*Including any managed care plans

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 1.6% of services will be provided to self-pay patients, 31.4% of services to Medicare patients, and 4.4% of services to Medicaid patients.

In Section L, page 98, the applicant states that charity care is not listed because charity care patients are found in all payor categories, and that charity care represents 5.0% of surgical cases.

On page 98, the applicant provides the assumptions and methodology used to project payor mix during the third full fiscal year of operation following completion of the project. The projected payor mix is reasonable and adequately supported based on the following:

- The applicant projects payor mix based on historical payor mix at the facility where the ORs will originate.
- The applicant projects payor mix based on historical payor mix at both facilities where patients are projected to originate from.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (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.

C

In Section L, page 99, the applicant adequately describes the range of means by which patients will have access to the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

- (14) The applicant shall demonstrate that the proposed health services accommodate the clinical needs of health professional training programs in the area, as applicable.

C

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

In Section M, page 101, the applicant describes the extent to which health professional training programs in the area will have access to the facility for training purposes and provides supporting documentation in Exhibit M.1. The applicant adequately demonstrates that health professional training programs in the area will have access to the facility for training purposes based on the following:

- The applicant states that while it does not exist and therefore does not have any existing affiliations with health professional training programs, two of the parent companies of the applicant (FirstHealth of the Carolinas, Inc. and Pinehurst Surgical Clinic) have many existing affiliations with health professional training programs and SPSC will provide access to those health professional training programs.
- The applicant provides the following documentation in Exhibit M.1:
 - A list of existing affiliations with health professional training programs through the parent companies of the applicant.
 - Letters from FirstHealth of the Carolinas, Inc., and Pinehurst Surgical Clinic, committing to extending existing affiliations with health professional training programs to SPSC.
 - Letters sent to five local community colleges and universities, offering SPSC as a potential training location for any health professional training programs.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (15) Repealed effective July 1, 1987.
- (16) Repealed effective July 1, 1987.
- (17) Repealed effective July 1, 1987.
- (18) Repealed effective July 1, 1987.

- (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.

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

On page 47, the 2023 SMFP defines the service area for ORs as “...the single or multicounty grouping shown in Figure 6.1.” Figure 6.1 on page 53 of the 2023 SMFP, shows Moore County as its own OR service area. Thus, the service area for this project is Moore County. Facilities may also serve residents of counties not included in their service area.

Table 6B on pages 73-74 of the 2023 SMFP shows Moore County has one hospital and two ASFs offering ambulatory surgical services. Information about each of the facilities is shown in the table below.

Moore County ORs – Hospitals & ASFs					
Facility	Hospital/ASF	Specialty*	Location	ORs**	(Surplus)/Deficit
FirstHealth Moore Regional Hospital	Hospital	NA	Pinehurst	17	(3.19)
The Eye Surgery Center of the Carolinas	ASF	Single	Southern Pines	3	(1.21)
Surgery Center of Pinehurst	ASF	Multi	Pinehurst	6	(1.94)
Total				26	(6.34)

*The CON statutes designate ASFs as “specialty” or “multispecialty” – there is no “single specialty” ASF. “Single” is a simplification used for clarity.

**Number of ORs in Adjusted Planning Inventory

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 103, the applicant states:

“Choice helps promote competition and competition helps promote better alternatives for patients. SPSC will complement the needs and growing demands of the patients, staff, and physicians within the service area. The project and its members will promote a community based ASF that will be open to all patients and physicians within the service area.”

Regarding the impact of the proposal on cost effectiveness, in Section N, page 104, the applicant states:

“SPSC will provide an economical choice for outpatient surgical services to the patients in the service area. An ASF will allow SPSC to focus on developing an efficiently operated ASF through the facility’s design, policies and procedures, staffing, and space utilization. An ASF typically provides a less expensive option to the insurer and, therefore, to the patient for similar ambulatory procedures performed in a hospital setting.

...

SPSC will operate a cost-effective alternative to performing ambulatory surgery procedures at the local hospital. With the rising demand for outpatient surgical services that is driven by a growing community, an aging population, and the increased number of orthopedic procedures performed in ASFs, SPSC expects that competition with existing providers will remain robust. The project will not hinder any existing provider’s ability to compete; rather, it will offer patients a convenient and cost-effective option for outpatient surgery.”

See also Sections C, F, and Q of the application and any exhibits.

Regarding the impact of the proposal on quality, in Section N, pages 104-106, the applicant states:

“SPSC is committed to developing and carrying out a performance improvement program. The objective is to make certain a mechanism is in place, which will ensure the occurrence of an ongoing evaluation of various aspects of SPSC’s operation, both medical and non-medical. Moreover, at such time as this evaluation process reveals questions associated with a facet of SPSC’s operation, the program will provide a methodology to monitor, analyze, and improve performance. ...

...

The QA/PI Program is designed to ensure the delivery of the highest quality of care to SPSC’s patients and to increase the probability of desired patient outcomes. The risk management program is designed to protect life and welfare of SPSC’s patients and personnel as well as protecting the assets of the facility and, therefore, is considered an integral part of the QA/PI Program. Medical staff, as well as clinical, business, and support staff will receive QA/PI Program training through planned in-service meetings.”

See also Sections C and O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N, page 106, the applicant states:

“SPSC will not discriminate against any class of patient based on age, sex, religion, race, handicap, ethnicity, or ability to pay. SPSC will actively participate in both the Medicaid and Medicare programs. In the third year of the project, Medicare patients are projected to account for 31.4 percent of outpatient surgical cases and Medicaid patients are projected to account for 4.4 percent of outpatient surgical cases. In the third year of the project, SPSC is projected to provide over \$1.6 million in charity care and to write-off over \$800,000 in unpaid patient accounts. As part of SPSC’s commitment to serve all patients regardless of their ability to pay, it should be noted that one of the members of SPSC, FirstHealth of the Carolinas, operates a non-profit hospital that cares for all patients regardless of their ability to pay.”

See also Sections C, D, and L of the application and any exhibits.

However, the applicant does not adequately demonstrate the proposal would have a positive impact on cost-effectiveness because the applicant does not adequately demonstrate:

- the need the population to be served has for the proposal. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference;
- that the proposal would not result in an unnecessary duplication of existing and approved health services. The discussion regarding unnecessary duplication found in Criterion (6) is incorporated herein by reference; and
- that projected revenues and operating costs are reasonable. The discussion regarding projected revenues and operating costs found in Criterion (5) is incorporated herein by reference.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is not conforming to this criterion based on all the reasons described above.

(19) Repealed effective July 1, 1987.

(20) An applicant already involved in the provision of health services shall provide evidence that quality care has been provided in the past.

NC

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

In Section O, page 108, the applicant states that Form O in Section Q contains a list of all existing and approved facilities providing the same service components included in this proposal that are owned, operated, or managed by the applicant or a related entity in North Carolina. Form O in Section Q is blank. In Section O, page 110, in response to questions requiring the applicant to document that facilities in Form O have provided quality care during the 18 months preceding the submission of the application, the applicant states that the questions are not applicable because the proposed facility is not an existing facility.

However, according to publicly available information, the applicant or a related entity owns Surgery Center of Pinehurst as well as four hospitals offering OR services in North Carolina. Thus, the application contains conflicting information about the facilities offering OR and surgical services owned by the applicant or a related entity. The applicant did not identify those facilities or provide evidence that quality care has been provided at those facilities during the 18 months immediately preceding submittal of the application. Therefore, the application is not conforming to this criterion.

(21) Repealed effective July 1, 1987.

G.S. 131E-183 (b): The Department is authorized to adopt rules for the review of particular types of applications that will be used in addition to those criteria outlined in subsection (a) of this section and may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. No such rule adopted by the Department shall require an academic medical center teaching hospital, as defined by the State Medical Facilities Plan, to demonstrate that any facility or service at another hospital is being appropriately utilized in order for that academic medical center teaching hospital to be approved for the issuance of a certificate of need to develop any similar facility or service.

NA

The applicant proposes to develop a new orthopedic specialty ASF, Southern Pines Surgery Center (SPSC), by relocating two existing ORs from Surgery Center of Pinehurst (SCP) and developing two procedure rooms.

The Criteria and Standards for Surgical Services and Operating Rooms promulgated in 10A NCAC 14C .2100 are not applicable to this proposed project because the applicant does not propose to add new ORs to the existing OR inventory in Moore County. Therefore, there are no administrative rules applicable to this review.