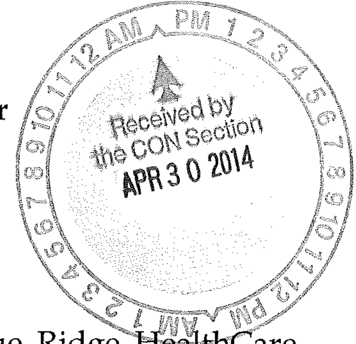
Comments on Caldwell Surgery Center

submitted by

Blue Ridge HealthCare System, Inc.



In accordance with N.C. GEN. STAT. § 131E-185(a1)(1), Blue Ridge HealthCare System, Inc. (BRHC) submits the following comments related to an application to develop a new freestanding ambulatory surgery center. BRHC's comments include *"discussion and argument regarding whether, in light of the material contained in the application and other relevant factual material, the application complies with the relevant review criteria, plans and standards." See* N.C. GEN. STAT. § 131E-185(a1)(1)(c). In order to facilitate the Agency's review of these comments, BRHC has organized its discussion by issue, noting some of the general CON statutory review criteria and specific regulatory criteria and standards creating the non-conformity relative to each issue, as they relate to the following application:

- **Caldwell Surgery Center (CSC), Project ID # E-10261-14**

GENERAL COMMENTS

While BRHC understands that freestanding ambulatory surgery centers (ASCs) can offer some benefits in terms of lower costs and charges, it does not believe that the proposed application should be approved, for the reasons discussed below. Among other factors, CSC has failed to demonstrate the need for the proposed project in Caldwell County, as Caldwell County residents are currently predominantly choosing to receive outpatient surgery for non-eye cases at hospitals, rather than ASCs. Caldwell Memorial Hospital (CMH) already operates an ambulatory surgery center, Hancock Surgery Center, which could be converted into a freestanding ASC with lower capital expense. At the same time, the operating rooms' current location at Hancock Surgery Center is central for the entire county and could thus be more effective at reducing the outmigration of Caldwell County residents to facilities in other counties, a central goal of the proposed project. The current location is also closer to emergency services, in the event that an ASC patient experiences a complication and requires hospital services. The proposed CSC application is not the most effective alternative for providing access to ambulatory surgery services, nor does it comply with all required Certificate of Need criteria.

Application-Specific Comments

CSC's application should not be approved as proposed. BRHC identified the following specific issues, each of which contributes to CSC's non-conformity:

(1) Failure to demonstrate that the proposed project is the least costly or most effective alternative;
(2) Inconsistent and unclear information about the applicant entity;
(3) Unsupported and unreasonable financial assumptions;
(4) Understated capital costs and lack of documentation of available funds;
(5) Failure to demonstrate the need for the proposed project; and,
(6) Failure to demonstrate that the proposed ASC will be a multi-specialty ambulatory surgery program.

Each of the issues listed above are discussed in turn below. Please note that relative to each issue, BRHC has identified the statutory review criteria and specific regulatory criteria and standards creating the non-conformity.

Failure to Demonstrate that the Proposed Project is the Least Costly or Most Effective Alternative

BRHC believes that CSC has failed to demonstrate that the proposed project is the least costly or most effective alternative. As detailed in a later section, CSC's application fails to demonstrate the need for the proposed ASC. CSC also fails to demonstrate that the proposed project is the least costly or most effective alternative to meeting the need that it identifies.

Specifically, CSC proposes to move operating room capacity from the center of Caldwell County to a southern, outlying community near the Burke County and Catawba County lines. This location is simply not as convenient for the majority of Caldwell County residents. A central location would be more effective at reducing the outmigration of Caldwell County residents to facilities in other counties, a central goal of the proposed project. Additionally, the operating rooms are currently co-located with other healthcare services, such as emergency room services. If an ambulatory surgery patient has emergency at the proposed CSC, emergency services will not be available on-site as they are today. The application lists several alternatives considered by the applicant, including "[c]*onverting the Hancock Surgery Center from Hospital-Based to a Freestanding ASC*" (page 60 of the application). As stated in the CSC application, the Hancock Surgery Center has more than half of its useful life remaining. Thus, CSC is proposing to vacate a facility that could be used for at least 12 more years in order to develop a new facility. Moreover, CSC states that Hancock Surgery Center may be used as an interim location for CSC's proposed ASC. Thus, it is

clear that while the existing facility delivers outpatient surgery services today, could be used for a freestanding facility in the future, and could be used for at least twelve more years, CSC is proposing to build an entirely new facility to replace it. The Hancock Surgery Center could be converted to a freestanding ASC at a lower capital expense and offer the same services proposed at CSC. This alternative would maintain the operating rooms in their central location in the county as well as near emergency services. Given these facts, CSC has failed to demonstrate the proposed project is the least costly or most effective alternative.

Based on these issues, the application should be found non-conforming with Criterion 4.

Inconsistent and Unclear Information about Applicant Entity

The application provides inconsistent and unclear information about the nature of the applicant entity.

- Section I.11 states that the applicant is a proprietary corporation. Because the co-applicant, Caldwell Memorial Hospital, Inc., (CMH) is a not-for-profit corporation as stated in Section I.12, then the other applicant, SVSC, LLC is the only remaining applicant that could be a proprietary (i.e., for-profit) corporation. However, the application also states that SCSV, LLC will have only one member, CMH. The use of the term "member" is typical for limited liability companies, but is not proper for corporations. The application does include a lessor, Brackett Flagship Properties; however, its legal status is not identified, it is not a co-applicant, and the application makes it clear that it is not intended to be an applicant. Thus, the identity of the proprietary corporation involved in the application is unclear.
- Exhibit 2, which purports to include information about SCSV, LLC adds to the confusion by providing articles of organization for the LLC, but then includes language discussing the nature of a corporation, which SCSV, LLC will not be. It discusses the intended 501(c)(3) status, which applies to corporations, not limited liability companies, except in very limited circumstances. If SCSV, LLC adds physician members, for example, it cannot be granted not-for-profit status under Section 501(c)(3) of the IRS code.
- Further, because the applicant states that it intends to explore the option of physician ownership, the membership of the LLC will not indefinitely be limited to a not-for-profit corporation and the applicant cannot assume that this non-profit status will be conferred to the income of the applicant, particularly given the conflicting information.

- Ultimately, given the conflicting information, it is unclear whether the applicant is for-profit (proprietary), as stated in Section I.11, or not-for-profit, as discussed in Exhibit 2 relative to an unidentified corporation.
- As a for-profit corporation, the applicant would be subject to increased taxation, including sales tax and income tax. If Section I is correct and the applicant is a proprietary corporation, then the pro forma income statement has understated its expenses by failing to include tax expense.
- As an additional but related issue, the application is unclear with regard to who will be the manager of the entity, SCSV, LLC. While the application states that CMH will manage the facility, the legal entity, SCSV, LLC, was established such that the members would not be managers by default (see Articles of Organization in Exhibit 2). As such, a manager or managers for the entity must be established. Even as the sole member currently, CMH is not the manager of the entity. The management of the entity is separate from the management of the facility; the facility manager is not established in perpetuity but is selected by the manager(s) of the entity. The application fails to establish such a manager.

Based on the issues described above, the applicant entity is unclear and an applicant may be missing; the profit status of at least one applicant is uncertain; and the manager of the LLC entity has not been established. As a result, the application should not be approved, and is non-conforming with Criterion 5.

Unsupported and Unreasonable Financial Assumptions

CSC's financial projections include incorrect and unsupported financial assumptions; as a result, the financial feasibility of the proposed project is not demonstrated by the application. The management agreement for the facility as shown in Exhibit 5 states that the management fee will be *"equal to twelve (12) percent of net revenue or $109,545 per month in Year 1, inflated at a rate of four percent"* (page 63 of the Exhibits). The proforma financial statements on page 102 calculate the management fee based on 12 percent of net revenue, which is lower than the annual fee at $109,545 per month. The following table demonstrates the understatement of management fees in each of the three project years:

Impact of Understate Management Fees

Year	*PY1*	*PY2*	*PY3*
As shown in Financials (12% of Net Revenue)	$1,119,376	$1,164,151	$1,210,717
Based on $109,545 per month, inflated four percent annually	$1,314,540	$1,367,122	$1,421,806
Understatement of Management Fees	**$195,164**	**$202,971**	**$211,089**

CSC's understatement of its management fees also indicates that it has understated its initial operating expenses, as an increased amount of expenses will be incurred during the initial operating period. As shown in Exhibit 34, CSC has documented financing of $600,000 for total start-up and initial operating expenses. Given this understatement of expenses, CSC has not demonstrated that is has access to sufficient funds to cover its total start-up and initial operating expenses.

CSC's financial statements include no support for its projected reimbursement, including the rates for each procedure, the number of procedures per case, or the projected average reimbursement for operating room and procedure room cases. Exhibit 20, which is also reproduced on page 241 of the application, shows projected reimbursement by procedure. At the bottom of the page, CSC provides its assumption for "*Average Reimbursement for Surgery Cases Performed in Procedure Room.*" However, CSC does not provide any source for this information or statement on how these reimbursement figures were derived that could be used to assess their validity. Moreover, near the bottom of the table, CSC calculates "*Weighted Average of CSC Reimbursement per Procedure.*" Given its placement in the table, it appears as though this weighted average is based only on the Top 20 procedures to be performed at the facility rather than all of the procedures to be performed at the facility. If so, this may result in an overstatement of the average reimbursement for operating room cases, which would impact the financial feasibility of the proposed project. Finally, CSC calculates "*Reimbursement Per Surgery Case (OR Cases Only)*" by multiplying the "*Weighted Average of CSC Reimbursement per Procedure*" by 1.6 procedures per case. CSC provides no justification for the 1.6 procedures per case figure. Absent any information about this statistic, the financial feasibility of the project cannot be adequately demonstrated.

On page 76 of the application, CSC states that "[t]*he proposed project is expected to have a similar payor mix as the historical patient percentages for ambulatory surgery at the hospital because CSC and its physicians are committed to provide high levels of access to the medically underserved population of Caldwell County.*" This assumption is

simply unreasonable given the differences between the surgical specialties offered at the CMH and those projected to be performed at CSC and the differences in the geographic locations of the two facilities and the demographics of the surrounding communities. As stated explicitly in the application on page 48 and assumed in the projected procedures to be performed in the facility as shown in the financial statements, CSC is assumed to provide Orthopedic & Spine, Podiatry, and General Surgery and Vascular cases only. By contrast, CMH provides these specialties as well as Obstetrics and GYN, Otolaryngology, and Endoscopy on an outpatient surgery basis, as shown in its 2014 Hospital License Renewal Application. Given the difference in service mix between the two facilities, it is unreasonable to assume that the payor mix will be equivalent. For example, otolaryngology patients tend to be, on average, younger and more likely to be on Medicaid. The absence of that service line from CSC's facility would thus result in a fewer Medicaid patients on average.

Moreover, the proposed CSC will be located in a community that is younger and more affluent than CMH's community. CSC will be located in ZIP code 28630 per page 2 and CMH is located in ZIP code 28645 (please note that the application contains numerous typographical errors, which erroneously state that the hospital is located in ZIP code 28745). According to the 2010 U.S. Census data summarized in the table below, CSC's ZIP code has a lower percentage of age 65 and over, a lower median age, and a higher median household income than CMH's ZIP code.

Comparison of CSC and CMH ZIP Codes

	CMH ZIP Code 28645	*CSC ZIP Code 28630*
Percent of Population 65 and Over	17%	13%
Median Age	42.1	39.9
Median Household Income	$32,036	$43,797

Source: U.S. Census Bureau, 2010 Census Data.

Communities with more individuals aged 65 and older are likely to have more Medicare patients. Communities with higher incomes are likely to have a higher percentage of Commercial/Managed Care patients. Given these differences in the surrounding communities, it is unlikely that two facilities with identical service offerings would have the exact same payor mix, never mind two facilities which have substantially different services. Thus, CSC's payor mix is based on unreasonable assumptions.

Given these factors, CSC should be found non-conforming with Criteria 5 and 13(c).

Understated Capital Costs and Lack of Documentation of Available Funds

The application does not include sufficient capital costs, nor does it demonstrate the availability of funding for the requisite capital costs. The application contains multiple conflicting statements regarding the capital costs for the project and who is responsible for the capital costs.

- On page 3, the application says that all capital costs will be borne by SCSV, LLC.
- In Section VIII, the application states that the lessor is not an applicant because it will not provide any of the capital costs associated with the new institutional health service and will lease the space to the applicant.
- In Section VIII, the application states again that SCSV will incur all capital costs for the development of the ambulatory surgical facility.
- On the capital cost table on page 85, however, the application provides no building or site costs and states that they will be provided by the developer. However, as is clear from the drawings in Exhibit 22, the sole purpose and tenant of the building is the ASC; it is not a physician office building and there are no other tenants or space for other tenants. Thus, the building is an essential part of the new institutional health service, and the costs for it must be included in the CON application. Further, if those costs are being incurred in order for the ASC to be developed, they must be included in the capital cost for the CON, no matter who is incurring them.
- In Section VIII, the application provides a source of funding for the equipment and land only, not the building and other related fees.
- As shown in Exhibit 38, the construction costs and related fees, exclusive of equipment and land, total $8,148,188. The application fails to provide any source of funding for these costs.

Whether intentionally or in error, the application fails to include all of the capital costs necessary to develop the ASC and is fatally flawed. If in error, it is clear that the funding of more than $8 million in costs has not been included in the project. If intentional, then the applicant has failed to consider that the development of the building to house the ASC is an essential part of the new institutional health service.

Because the building will clearly be used solely for development of the new ambulatory surgical facility, which is a new institutional health service, any certificate of need must include the cost of the building. Moreover, the building will clearly be used only to develop a regulated health service facility, the ASC. As such, N.C.G.S. § 131E-176(16)(b) applies, as the cost to develop the health service facility well exceeds $2 million.

Even if the ASC's facility could somehow be classified as a physician office building despite being constructed for the sole purpose of housing the ASC, no evidence of a notification of exemption for a physician office building has been provided. Finally, in other CON applications in which only a portion of a physician office building was being used to house a new institutional health service, applicants provided all costs associated with the development of that portion of the space to be used for the new institutional health service, irrespective of who was developing it. This approach is in keeping with the requirements of the CON Act that all necessary costs be accounted for in an application.

As a result of the failure to include necessary capital costs and funding, the application should be found non-conforming with Criterion 5.

Failure to Demonstrate the Need for the Proposed Project

CSC states that the need for the proposed project, and, accordingly, its ability to achieve the projected market share, is driven by the lack of access to freestanding ambulatory surgery center services in Caldwell County. However, the data provided in the application does not support that position. On page 36 of this application, CSC provides data which shows that the vast majority of patients who leave Caldwell County for ambulatory surgery services seek care at hospitals, not ASCs. In fact, of the 1,774 Caldwell County residents that sought care at an ASC, 65 percent went to Greystone Surgery Center, a single specialty ophthalmological ASC. CSC will not provide ophthalmology surgery and thus cannot serve the highest number of patients leaving the county for freestanding ASC services. Given the fact that most Caldwell County patients who leave the county seek outpatient surgery at hospitals, it is likely that most are doing so as a result of physician referral relationships and patient preference. CSC's application does not provide a reasonable basis to support its ability to change such patterns; therefore, the market share assumptions and need for the proposed project has not been demonstrated

Moreover, Caldwell County's ambulatory surgery use rate, as shown on page 34, is 29 percent higher than the North Carolina use rate. As such, Caldwell County residents clearly do not have an issue with regard to accessing outpatient surgery services and they have historically chosen to access those services in hospital settings. In its decision in the 2003 MRI Planning Area 15 Review, the Agency stated that a comparison of use rates can indicate access to services, in that case, for MRI services:

Accessibility to MRI services may also be assessed by a comparison of MRI utilization rates. Counties with higher MRI use rates (i.e., number of county residents who received MRI services per 1,000 population) may reflect higher access to MRI services, and counties with lower MRI use rates may reflect less access to MRI services. The following table shows the total number of residents who received MRI procedures during 2002 by county, and the MRI use rate per 1,000 population.

COUNTY OF ORIGIN	MRI PATIENTS (1)	2002 POPULATION (2)	MRI USE RATE PER 1,000 POPULATION
Randolph	5,473	133,836	40.89
Davidson	6,233	150,799	41.33
Rockingham	6,565	92,589	70.90
Guilford	31,462	428,794	73.37

(1) Based on MRI patient origin data reported to the Division of Facility Services for 2002.
(2) North Carolina State Office of Demographics population estimates by county for July 2002.

As indicated by the table above, Randolph County and Davidson County had the lowest MRI use rates of all of the counties in MRI Service Area 15.

(*See* pages 56-57.)

In an effort to demonstrate the need for the proposed project, CSC has made unreasonable assumptions including projecting to achieve in excess of 100 percent market share of specific outpatient service lines in Caldwell County. On page 44 of its application, CSC states that it uses "*market share assumptions of 38% in Year 1, 42.0% in Year 2 and 46.0% in Year 3.*" These market share assumptions are simply impossible given that CSC projects to provide only Orthopedic & Spine, Podiatry, General Surgery and Vascular cases. According to databases compiled by the Medical Facilities Planning Section from the 2013 License Renewal Applications, Orthopedic, General Surgery, Vascular, and Podiatry cases account for at most 43.8 percent of total outpatient surgical cases in North Carolina in 2012.

North Carolina Outpatient Surgery by Specialty

Specialty	*Hospitals*	*Freestanding ASCs*	*Total*	*% of Total*
Orthopedics*	110,501	31,633	142,134	22.1%
Opthalmology	71,917	62,033	133,950	20.9%
General Surgery	111,842	8,420	120,262	18.7%
ENT	42,877	24,755	67,632	10.5%
OBGYN	52,028	6,066	58,094	9.0%
Urology	36,530	2,846	39,376	6.1%
Plastic Surgery	14,372	2,609	16,981	2.6%
Neurosurgery	12,917	1,427	14,344	2.2%
Other-Not Podiatry^	12,501	1,451	13,952	2.2%
Oral Surgery	12,435	1,149	13,584	2.1%
Podiatry^	5,439	6,208	11,647	1.8%
Vascular	7,078	188	7,266	1.1%
Cardiothoracic	2,922	0	2,922	0.5%
Total	**493,359**	**148,785**	**642,144**	**100.0%**
Subtotal for CSC Specialties	**234,860**	**46,449**	**281,309**	**43.8%**

*Spine cases are assumed to be included in the Orthopedic service line consistent with CMH's License Renewal Application.

^Podiatry is not separately identified on the License Renewal Application form as a specialty area. However, many facilities, including CMH, record their Podiatry cases in one of two Other categories on the form and note that the Other category includes Podiatry. In order to be as conservative as possible, BRHC included all cases in both Other categories where Podiatry is recorded by the facility on the License Renewal form. In many instances, Podiatry is listed alongside other specialties and so the Other cases include specialties types beyond Podiatry. Those surgical cases recorded in the two Other categories where Podiatry was not listed are including the Other-Not Podiatry specialty in the table above.
Source: Medical Facilities Planning Section Databases for Hospitals and Ambulatory Surgery Centers, compiled from 2013 License Renewal Applications.

Assuming that outpatient surgical volume in Caldwell County has a service mix similar to the rest of the state, the specialties proposed by CSC account for, at most, 43.8 percent of total outpatient surgery volumes in the county. Therefore, it is simply unreasonable and impossible for CSC to achieve 46 percent market share of total outpatient surgery for the county, as only 43.8 percent of the total cases in the county are for surgical services that CSC will provide. In fact, CSC has assumed that it will achieve 105 percent market share of Orthopedic, General Surgery, Vascular, and Podiatry cases in the county, as shown in the table below.

	Year 3
Projected Ambulatory Surgery Cases for Caldwell Population (see page 44)	7,106
Percent of Total Ambulatory Surgery Cases in CSC Specialties	43.8%
Projected Ambulatory Surgery Cases for Caldwell Population in CSC Specialties	3,113
Projected Caldwell Surgery Center Cases in Caldwell County (see page 44)	3,269
CSC Effective Market Share of CSC Specialties in Caldwell County	**105.0%**

Administrative Law Judge Donald W. Overby made a similar determination in his Recommended Decision in cases 10 DHR 5724 and 5275. In determining that Holly Springs Surgery Center's (HSSC) application did not conform with Criterion 3, the decision states that *"Mr. Carter noted that the number of cases represented by the three specialty types for which HSSC did obtain physician support letters – orthopedic surgery, general surgery, and neurosurgery- is insufficient to result in a 60% market share by project year three in the Holly Springs census tract, as projected by HSSC"* (Findings of Fact #78, page 24). In that instance, HSSC's projections resulted in an effective market share above 100 percent in a single census tract; by contrast, CSC projections show an effective market share of over 100 percent in an entire county, Caldwell County.

CSC's market share assumptions are unreasonable and unachievable on their face. CSC does make statements in its application that it expects to recruit an ENT surgeon in the future to practice at CSC. CSC's utilization methodology, top 20 procedures, physician support, projected medical staff, and financial statements all fail to include ENT cases. Moreover, the addition of ENT does not make CSC's market share projections more reasonable. If CSC were to provide ENT, its effective market share in Caldwell County would be nearly 85 percent, as shown in the table below.

	Year 3
Projected Ambulatory Surgery Cases for Caldwell Population (see page 44)	7,106
Percent of Total Ambulatory Surgery Cases in CSC Specialties plus ENT (10.5%)	54.3%
Projected Ambulatory Surgery Cases for Caldwell Population in CSC Specialties	3,861
Projected Caldwell Surgery Center Cases in Caldwell County (see page 44)	3,269
CSC Effective Market Share of CSC Specialties plus ENT in Caldwell County	**84.7%**

These market share projections are more unreasonable in light of CSC's assumption that CMH will retain 21 percent market share of outpatient surgery in Caldwell County following the development of the project. It is unreasonable to project that CMH will retain 37 percent of its existing patients if CSC is proposing to serve more than 100 percent of outpatient Orthopedic, General Surgery, Vascular, and Podiatry cases in the county, given that CMH and Hancock Surgery Center only provided 426 cases outside of these specialties in

FFY 2012 (per page 42), which equates to 6.1 percent market share according to the total of 6,991 Caldwell County ambulatory cases shown on page 34.

In addition, CSC states on page 37 that "[w]*hen the project is complete all of the outpatient surgery cases that are now performed at the Hancock Surgery Center will shift to the Caldwell Surgery Center.*" This assumption is also simply unreasonable. As noted in Caldwell Memorial Hospital's 2014 Hospital License Renewal Application, Hancock Surgery Center provides Obstetrics and GYN as well as Otolaryngology surgical services, neither of which is projected to be performed at CSC. CSC's utilization methodology, top 20 procedures, physician support, projected medical staff, and financial statements all assume that the facility will only provide Orthopedic & Spine, Podiatry, and General Surgery and Vascular cases as shown in the excerpt from page 48 below.

Step 9 provides the projected surgery cases at Caldwell Surgery Center by surgical specialty based on the expected composition of the medical staff, the volumes specified in the physicians' letters of support and conservative estimates for the specialties that are currently being recruited.

		7/1/2016	7/1/2017	7/2/2018
		6/30/2017	6/30/2018	6/30/2019
Projected CSC Ambulatory Cases	Draft %	YR 1	YR 2	YR 3
Orthopedic & Spine	75.0%	2,255	2,500	2,746
Podiatry	10.0%	301	333	366
General Surgery and Vascular	15.0%	451	500	549
	100.0%	3,007	3,333	3,661

See page 48.

Finally, CSC proposes to develop an unreasonable number of pre/post and PACU bays. As shown in the line drawings in Exhibit 22, CSC proposes to develop 14 pre/post bays and five PACU bays for a total of 19 spaces. CSC does not provide any justification for this number of spaces and its utilization suggests that there would be substantial overcapacity. In Project Year 3, CSC projects to provide 3,661 cases in operating rooms and 1,310 cases in procedure rooms or 4,971 cases in total. According to page 11 of the application, CSC will operate Monday through Friday or 260 days per year. As such, CSC will serve 19.1 patients per day of operation (19.1 patients per day = 4,971 ÷ 260 days per year). Given that CSC will have 19 pre/post/PACU spaces, each patient could have their own pre/post/PACU space every day - no two patients would have to use the same room. This is simply an unreasonable proposal which will result in an excess of capacity. Similarly, CSC proposes to develop three "pediatric" rooms and a "pediatric PACU". These rooms are not discussed or justified at all in the application, nor does the application indicate that pediatric services will be offered at the ASC.

As a result of these factors, the application should be found non-conforming with Criterion 3.

Failure to Demonstrate that the Proposed ASC will be a Multi-Specialty Ambulatory Surgery Program

As defined by 131E-176(15a), a "'[m]*ultispecialty ambulatory surgical program' means a formal program for providing on a same-day basis surgical procedures for at least three of the following specialty areas: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedic, or oral surgery.*" CSC proposes to provide only two of the above listed specialties, general surgery and orthopedic, according to its utilization methodology, top 20 procedures, physician support, projected medical staff, and financial statements. Based on its own representations, CSC will not provide at least three of the specialty areas as required by the General Statute.

As such, CSC must not be approved as a multispecialty ASC and if developed must apply for a CON to add specialties in the future.

SUMMARY

As described in detail above, CSC's application should be found non-conforming with the statutory review criteria, including Criteria 3, 4, 5, and 13(c), based on the numerous and substantial issues with its application. Specifically, BRHC identified the following issues with CSC's application:

(1) Failure to demonstrate that the proposed project is the least costly or most effective alternative;
(2) Inconsistent and unclear information about applicant entity;
(3) Unsupported and unreasonable financial assumptions;
(4) Understated capital costs and lack of documentation of available funds;
(5) Failure to demonstrate the need for the proposed project; and,
(6) Failure to demonstrate that the proposed ASC will be a multi-specialty ambulatory surgery program.

While BRHC understands the advantages freestanding ambulatory surgery centers can provide in some contexts, CSC fails to demonstrate the need for its proposed project and fails to demonstrate that it has proposed the least costly or most effective alternative to meet the identified need.