

**Comments in Opposition to
Project ID # G-11147-16
Cone Health**

Comments Submitted by Southeastern Orthopaedic Specialists and Alliance Healthcare Services.

Pursuant to NCGS § 131E-185, Alliance Healthcare Services and Southeastern Orthopaedic Specialists (SOS) submit these comments in opposition to Cone Health (CH).

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

- (3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.**

According to pages 9 -10, 28 and Exhibit 4 of the CH application, CH already owns and operates a total of nine (9) fixed MRI scanners. All of these fixed MRI scanners are located within the “proposed MRI service area” for the CH proposed project.

CH co-applicant The Moses H. Cone Memorial Hospital Operating Corporation owns four (4) fixed MRI scanners including two (2) fixed MRI scanners at The Moses H. Cone Memorial Hospital (Moses Cone); one (1) fixed MRI scanner at Wesley Long Hospital (Wesley Long); and one (1) fixed MRI scanner at Annie Penn Hospital (Annie Penn).

CH co-applicant The Moses H. Cone Memorial Hospital, through subsidiary corporations, owns five (5) fixed MRI scanners including two (2) fixed MRI scanners at Alamance Regional Medical Center. As represented on page 28 of the CH application, Cone Health is a joint venture partner in Diagnostic Radiology and Imaging, LLC (“DRI”) and DRI is, therefore, a “related entity.” DRI owns and operates three (3) fixed MRI scanners in Guilford County.

At page 35 of the CH application, CH notes that the “MRI service area” for planning purposes is defined as Guilford County; at page 57, CH asserts that Guilford County is its proposed service area. However, at page 36, CH defines its Primary Service Area as Guilford County and its Secondary Service Area as Rockingham, Randolph, Alamance, Forsyth, Caswell and Davidson Counties. This Secondary Service Area is clearly a part of CH’s “proposed MRI service area” for this proposed project because, in Exhibit 13 to the CH application, CH projects to provide fully 20.7% of its total projected MRI procedures to residents of the Counties included within its Secondary Service Area.

The Performance Standard Rule requires applicants for a fixed scanner to demonstrate that the existing fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the “proposed MRI service area” performed an average of 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data. 10A NCAC 14C .2307(b)(1).

The applicant must also demonstrate that the average annual utilization of the existing, approved and proposed fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the “proposed MRI service area” are reasonably expected to perform a stated number of weighted MRI procedures dependent upon the number of fixed MRI scanners in the MRI service area. 10A NCAC 14C .2307(b)(3).

The Performance Standard Rule requires these showings of utilization for all scanners in the applicant’s “proposed MRI service area” which is not the same as the “MRI service area” which is defined by rule as the Magnetic Resonance Imaging Planning Areas. If the Performance Standard Rule only required utilization demonstrations for scanners in the State-defined Magnetic Resonance Imaging Planning Area, the term “MRI service area” would have been used instead of the term “proposed MRI service area.”

As explained below, in its application as submitted, CH does not demonstrate that the nine (9) existing fixed MRI scanners which the applicant or a related entity owns a controlling interest in and locates in the “proposed MRI service area” each performed at least 3,328 weighted MRI procedures in the most recent 12 month period for which the applicant has data.

In addressing this portion of the required Performance Standard Rule, at page 29 of its application, CH presents an average number of weighted MRI procedures for **only** the scanners located in the Guilford County portion of its proposed MRI service area. According to Table 9P of the 2016 SMFP, the total number of weighted MRI scans performed on the one (1) fixed MRI scanner at Annie Penn, as reported on the 2015 Hospital License Renewal Application, was 2,939. According to Table 9P of the 2016 SMFP, the total number of weighted MRI scans performed on the two (2) fixed MRI scanners at Alamance Regional, as reported on the 2015 Hospital License Renewal Application, was 5,652 or 2,826 per scanner. Neither of the utilization volumes at Annie Penn Hospital or Alamance Regional meets the performance standard.

CH does not provide the assumptions and methodology to project utilization for each of the nine (9) MRI scanners in its proposed MRI service area. Instead, CH presents projections for only the scanners located in the Guilford County portion of its proposed MRI service area.

In summary, the CH application as submitted does not adequately demonstrate that:

- 1) Each existing MRI scanner owned by CH or a related entity and operating in its proposed MRI service area performed at least 3,328 weighted MRI scans in the most recent 12 month period for which the applicant has data; and
- 2) Projected utilization of all existing, approved and proposed fixed MRI scanners owned by the applicant or a related entity and operating in its proposed MRI service area is reasonably expected to average a number of weighted MRI procedures sufficient to demonstrate conformity with the applicable provisions of the Performance Standard Rule.

CH does not demonstrate the need the population to be served has for the proposed fixed MRI scanner.

It should be noted that between 2014 and 2015, inpatient MRI scans increased by only 117 more than outpatient MRI scans at CH, but, more importantly, CH fails to explain why MRI scans increased between 2014 and 2015. A full 50 percent of the MRI scan volume growth between 2010 and 2015 at CH occurred in 2015.

On page 67, CH projects that its three existing MRI scanners at Wesley Long and Moses Cone have sufficient capacity to perform 13,775 MRI scans or 18,357 weighted MRI scans in 2017. Between 2017 and 2020, CH only projects that MRI scan volumes will increase by 722 MRI scans or 1,016 weighted MRI scans. As a result, the proposed fixed MRI scanner will only be accommodating an additional 722 MRI scans. While it is reasonable to accept the SOS projections for MRI scan volumes, it is unreasonable to accept the CH projections when there is no corresponding decrease or reallocation of mobile MRI services contemplated in connection with the CH proposal.

In the 2014 Mecklenburg County Competitive MRI Review, the Agency found that only one of the two applicants set forth projections that were reasonable; the approved applicant was the one proposing a reallocation of mobile MRI scans in connection with its proposed implementation of a fixed MRI scanner.

- (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.**

On pages 55 to 56 of the application, CH describes the alternatives to the proposal it considered, which were limited to the Status Quo, Locating at Wesley Long Hospital, Developing a Freestanding Outpatient Setting, and the Proposed Project. On page 56, CH states that developing a fixed MRI scanner in a freestanding outpatient setting is unreasonable because the need is for inpatient MRI scans. The applicant failed to adequately demonstrate that acquiring a fixed MRI scanner to be located at Moses Cone would be the least costly or most effective alternative as compared to locating the proposed MRI scanner in a freestanding outpatient setting because, if a freestanding outpatient MRI scanner were developed, then outpatient MRI scans performed at CH could be relocated to that setting making capacity available for inpatient MRI scans at CH.

- (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.**

As discussed in Criterion (3), CH fails to demonstrate that its projected MRI scan volumes are reasonable, credible, or supported.

CH does not document the financial feasibility of the proposed MRI scanner or the MRI scanners located at the hospital where the proposed MRI scanner is to be installed.

CH does not present pro forma financial statements for the first three years of the project for the proposed fixed MRI scanner. Based on Agency Findings from other reviews, this is the type of information expected by the Agency. See the Agency Findings for the 2014 Mecklenburg County Competitive MRI Review.

At no point in the application does CH present projected utilization or financial data specific to the fixed MRI scanner that it proposes to acquire. The only MRI scan projections presented are aggregate MRI scan projections for the proposed fixed MRI scanner and the existing MRI scanners at Moses Cone and Wesley Long found on page 62.

Instead of attempting to show the financial feasibility of the proposed MRI scanner, CH elected to set forth MRI scan projections for what it refer to as "Cone Health MRI Services." On its Form C, Form D, and Form E, CH presents financial projections for the combined operation of MRI scanners at Moses Cone Hospital and Wesley Long Hospital. In other words, the Form C, Form D, and Form E do not show the financial projections for the just the proposed MRI scanner, but also include financial projections for the existing MRI scanners at the Moses Cone Hospital and the MRI scanner at Wesley Long Hospital.

CH projects that adding the proposed fixed MRI scanner will increase total MRI utilization from 13,775 MRI scans in FY2017 (the last Interim Year) to 14,497 MRI scans in Project Year 3, or a total increase of only 722 MRI scans. Even if **all** of the increase in volume projected by CH were performed exclusively on the

proposed MRI scanner, it cannot be assumed that this increase in volume of 722 MRI scans would create a “break even” for the proposed MRI scanner.

Total expenses associated with the operation of four (4) scanners are shown on Form C as \$3,323,672 in Project Year 3 which is \$830,918 per scanner [$\text{Total Expenses } \$3,323,718 / 4 = \$830,918$] in associated expenses per MRI scanner. Net revenue is shown on Form C at approximately \$560 per MRI scan [$\text{Net Revenue } \$8,115,903 / 14,497 = \$560 \times 722 = \$404,320$] in Project Year 3; total net revenue associated with 722 scans would total approximately \$404,320, which is obviously well below the over \$830,000 in average expense per MRI scanner shown on Form C.

The minimal information provided for the Form C assumptions includes errors, as follows:

Assumption – Deductions from Revenues: Assumes collection rates remain at FY2016 Budget levels with adjustments for 1% annual Medicare increase and 3% annual commercial increase from FY2017-FY2020.

Actual -

	FY2018	FY2019	FY2020
Medicare Reimb.	\$318	\$319	\$320
Commercial Reimb.	\$1,064	\$1,078	\$1,092
Medicare Increase	NA	0.3%	0.3%
Commercial Increase	NA	1.3%	1.3%

Assumptions – Personnel Rates: Assumes merit and market increases annually of 3%.

Page 90, Section VII Proposed Staffing (FY2019) for MRI Services.

	FTE	Salary	Total
MRI Supervisor	2.0	\$98,293	\$196,586
MRI Tech	11.3	\$80,849	\$913,594
Total			\$1,110,180

Actual -

	FY2017	FY2018	FY2019	FY2020
Personnel Salaries	\$1,012,578	\$1,060,812	\$1,113,897	\$1,167,083
Page 90 Salary	NA	\$1,077,847	\$1,110,180	\$1,143,485
Personnel Salaries		4.76%	5.00%	4.77%
Page 90 Salary		2.0%	2.0%	2.0%

As noted, the personnel salaries found on page 90 in Section VII are not equal to the Personnel Salaries identified in the Form C for FY2019. Additionally, the Personnel Salaries identified in the Form C have a much greater annual increase than the assumed 2.0 percent.

Assumption – Staff Support: Includes continuing education and training reflects FY2016 Budget with a 2% annual inflation rate.

Actual – No Staff Support included in the Form C.

Assumption – General & Administrative: Includes costs for space, insurance, information systems, and finance and billing. Reflects FY2016 Budget with a 2% annual inflation rate.

Actual – No General & Administrative included in the Form C.

Assumption – Depreciation-Equipment: Depreciation of equipment assumes useful life of 7 years for medical equipment, 15 years for furniture, and 3 years for computer systems.

Actual -

	FY2017	FY2018	FY2019	FY2020
Depreciation-Equipment	\$521,263	\$929,590	\$929,590	\$929,590
Annual Increase		\$408,327	\$0	\$0

Actual – Capital costs from page 99.

	Cost	Useful Life	Annual Depreciation	Total Depreciation
Medical Equipment	\$1,889,703	7	\$269,958	\$277,839
Movable Equipment	\$40,000	7	\$5,714	
Furniture / IT	\$6,500	3	\$2,167	

As noted, the Depreciation-Equipment identified in the Form C in Year 1 increases by \$408,000 from the previous year; however, using the capital costs in Section VIII and shown in the previous table, Depreciation-Equipment can never equal \$408,000.

Assumption – Lease Expense: Renovations are depreciated at an average useful life of 40 years.

Actual – No Lease Expense included in the Form C.

As noted, no Lease Expense is included in Form C, even if the line item “Lease Expense” should be labelled “Depreciation: Renovation”, the amount does not equal the calculated renovation depreciation of \$32,892 annually [$\$1,315,677 / 40 \text{ years} = \$32,892$]

The CH MRI scan projections are unsupported and unreliable. Consequently, the CH operating expenses and revenues that are based on projected MRI scans are also unreliable. Considering the above figures, the CH application fails to demonstrate financial feasibility of the proposed MRI scanner based on reasonable projections of costs and charges.

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

CH fails to adequately demonstrate the need for the proposed project. See Criterion (3) for discussion. Consequently, CH did not adequately demonstrate that its proposal will not result in unnecessary duplication of existing or approved health service capabilities or facilities.

- (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.**

On page 89, CH only identifies as existing staff positions MRI Techs and an MRI Supervisor; CH only budgets for the addition of a 0.7 MRI Tech to its staffing pattern in Project Year 2. This will increase the total number of MRI Techs serving CH from the current FTE level of 10.6 to 11.3. Based on the Job Descriptions included in Exhibit 22, neither the MRI Tech nor the MRI Supervisor appears to have responsibilities for front office coordination, patient scheduling, or pre-certification duties. SOS addresses these necessary employee functions in its application, unlike CH. CH has failed to adequately demonstrate that it has projected or budgeted for all necessary staff for its proposed project.

The application as submitted does not provide any information on the increase in MRI scan volume which is projected to occur at Moses Cone Hospital versus Wesley Long Hospital. The CH application does not provide sufficient information to demonstrate that less than one FTE of MRI Tech time will be sufficient to provide staffing for the two facilities, including the proposed MRI scanner.

Based on the applicant's failure to provide: (a) a specific statement as to hours of operation for Project Years 1 through 3; (b) information specifying what portion of the new MRI scan volume will be associated with the two different hospital sites; and (c) the current staffing at each hospital, the application as submitted fails to demonstrate conformity with Criterion 7.

- (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.**

CH failed to adequately demonstrate that its proposal will have a positive impact upon the cost effectiveness, access, and quality of the proposed services. See also Criteria (3) and (5) for discussion.

Comparative Analysis

Geographic Distribution

The *2016 State Medical Facilities Plan* identifies the need for one fixed MRI scanner in Guilford County. The following table identifies the location of the existing and approved fixed MRI scanners in Guilford County.

Facility	City/Town	# of Existing Fixed MRI Units
Cone Health	Greensboro	3
High Point Regional Health	High Point	2
Cornerstone Imaging	Greensboro	1
Greensboro Imaging	Greensboro	3
Greensboro Orthopaedics	Greensboro	1
Triad Imaging	Greensboro	1

As shown in the table above, there are 11 existing fixed MRI scanners located in Guilford County. Nine are located in Greensboro and two are located in High Point. Both SOS and CH propose to locate an additional fixed MRI scanner in Greensboro.

Fixed MRI Ownership

The following table identifies the ownership of the existing fixed MRI scanners in Guilford County, either hospital, hospital JV, or physician.

Facility	Ownership	# of Existing Fixed MRI Units
Cone Health	Hospital	3
High Point Regional Health	Hospital	2
Cornerstone Imaging	Hospital JV	1
Greensboro Imaging	Hospital JV	3
Greensboro Orthopaedics	Physician	1
Triad Imaging	Hospital	1

As shown in the table above, there are 11 existing fixed MRI scanners located in Guilford County. Ten are hospital or hospital JV owned and one is physician owned. SOS is a more effective alternative than CH because SOS proposes a joint physician management ownership and CH proposes a hospital ownership.

Demonstration of Need

SOS demonstrated that projected utilization of its proposed fixed MRI scanner is based on reasonable, credible and supported assumptions. Whereas, CH used the following questionable data points:

1. Added counties to their MRI service area due to several health services offered at their Greensboro facility, but unrelated to MRI services.
2. Using state MRI utilization rate, as opposed to county MRI utilization rates.
3. Market share for the counties in its MRI service area NOT based on any data or information included in the application.
4. Only able to support 772 MRI scans due to increase in Guilford County population.

Revenues

The third full fiscal year of operation (Project Year 3) for both SOS and CH is October 1, 2019 to September 30, 2020. SOS included professional fees (i.e., charges for interpretation of the images by a radiologist) in its charges. Both SOS and CH deduct bad debt from gross revenue.

The average gross revenue per MRI scan for Project Year 3 was calculated by dividing (total gross revenue minus professional fees) by total unweighted MRI scans. See the following table.

**Project Year 3
Average Gross Revenue per Unweighted MRI Scan**

	Total Gross Revenue	Professional Fees	Total Gross Revenue – Professional Fees	# of Unweighted MRI Scans	Average Gross Revenue per MRI Scan
CH	\$45,999,354	\$0	\$45,999,354	14,497	\$3,173
SOS	\$7,227,654	\$400,093	\$6,827,561	5,196	\$1,314

As shown in the previous table, SOS is a more effective alternative than CH because SOS projects the lowest average gross revenue per unweighted MRI procedure by \$1,859.

The average net revenue per MRI scan for Project Year 3 was calculated by dividing (total net revenue minus professional) by total unweighted MRI scan. See the following table.

Project Year 3
Average Net Revenue per Unweighted MRI Scan

	Total Net Revenue	Professional Fees	Total Net Revenue – Professional Fees	# of Unweighted MRI Scan	Average Net Revenue per MRI Scan
CH	\$8,115,903	\$0	\$8,115,903	14,497	\$560
SOS	\$2,582,941	\$400,093	\$2,182,848	5,196	\$420

As shown in the previous table, SOS is more effective as compared to CH because SOS projects the lowest average net revenue per unweighted MRI scan by \$140. The average gross revenue per MRI scan and average net revenue per MRI scan for CH's application are both questionable because projected utilization is not based on reasonable, credible and supported assumptions.

Conversely, the average gross revenue per MRI scan and average net revenue per MRI scan for SOS's application are based on projected utilization which is based on reasonable, credible and supported assumptions

Operating Costs

SOS includes professional fees (i.e. charges for interpretation of the images by a radiologist) in its charges. Both SOS and CH deduct bad debt from gross revenue.

The average operating cost per MRI scan for Project Year 3 was calculated by dividing (total operating expenses minus professional fees) by total unweighted MRI scans.

**Project Year 3
Average Operating Cost per Unweighted MRI Scan**

	Total Operating Costs	Professional Fees	Total Operating Costs – Professional Fees – Bad Debt	# of Unweighted MRI Scan	Average Cost per MRI Scan
CH	\$3,323,672	\$0	\$3,323,672	14,497	\$229
SOS	\$1,635,486	\$400,093	\$1,220,938	5,196	\$235

As shown in the previous table, there is no material difference between SOS and CH on average operating cost and both are equally as effective in relation to this factor. The average operating cost per MRI scan for CH’s application is questionable because projected utilization is not based on reasonable, credible and supported assumptions.

Net Income

SOS includes professional fees (i.e. charges for interpretation of the images by a radiologist) in its charges. Both SOS and CH deduct bad debt from gross revenue.

The average net income per MRI scan for Project Year 3 was calculated by dividing total net income by total unweighted MRI scans.

Project Year 3
Average Net Income per Unweighted MRI Scan

	Total Net Income	# of Unweighted MRI Scan	Average Net Income per MRI Scan
CH	\$4,792,231	14,497	\$331
SOS	\$947,454	5,196	\$182

As shown in the previous table, SOS is the more effective alternative as compared to CH in that SOS projects the lowest average net income per unweighted MRI scan by \$149. The average net income per MRI scan for CH's application is questionable because projected utilization is not based on reasonable, credible and supported assumptions