

**Novant Health Medical Park Hospital
Comments in Opposition to MC Kernersville, LLC d/b/a Triad Surgery Center and
The Moses H. Cone Memorial Hospital
Certificate of Need Applications to Add ORs in
Forsyth County
August 1, 2020 CON Review Cycle**

INTRODUCTION

The 2020 State Medical Facilities Plan ("2020 SMFP") recognized a need for two operating rooms ("ORs") in Forsyth County. Three applicants have filed Certificate of Need ("CON") applications for ambulatory surgery facilities ("ASFs") or additional ORs in response to the identified need including Project I.D. G-011910-20 Novant Health Medical Park Hospital ("NH Medical Park"). The other two applicants include:

- G-011914-20 MC Kernersville, LLC d/b/a Triad Surgery Center ("Triad") and The Moses H. Cone Memorial Hospital ("Cone Health"); and
- G-011915-20 North Carolina Baptist Hospital ("NCBH")

The identified areas of non-conformity of Triad's application demonstrate that its proposed Ambulatory Surgery Facility ("ASF") is not approvable. Moreover, the comparative analysis set forth below reveal that, even if Triad was approvable, NH Medical Park is the most effective applicant in this review and as such, should be approved.

OVERVIEW

Triad and its co-applicant The Moses H. Cone Memorial Hospital, propose to construct a new ASF with two ORs, one GI Endoscopy Room ("GI Endo"), and one procedure room. Triad attributes the need for this project to several factors, including the rising demand for ambulatory surgery services, the growth and aging of the Forsyth County population, the need for additional ASF capacity in the Kernersville market, and the need for a Cone Health ASF in Forsyth. However, as will be shown, each of these reasons are either applicable to all applicants or are unfounded.

Specifically, Triad claims several times throughout its application that it will enhance competition among Forsyth providers and expand access to Forsyth residents. However, Triad projects that **more than 75 percent** of its patients will originate from outside of Forsyth County. Triad only proposes to serve patients from practices within its own network, most of which operate in and serve patients from a county other than Forsyth. Accordingly, each argument that Triad makes in its application based on Forsyth County trends or data is inconsequential to its argument. It cannot be argued that there is a need for greater capacity to serve Forsyth County residents while actually proposing to serve very few of them. As will be discussed in detail below, for this reason alone, Triad should be found non-conforming with multiple review criteria including need for the project.

Most importantly, Triad’s projected utilization is unrealistic and does not expand access to Forsyth County residents, but rather, is proposed to help the Cone Health System gain a foothold in a new market. Further, though Triad proposes to construct its ASF a mere 1.9 miles from an existing Novant Health ASF, Kernersville Outpatient Surgery Center, it never once mentions the proximity. Simply put, locating a new ASF only five minutes from another existing ASF proves that Triad does not actually intend to expand access to Kernersville patients. Instead, Triad is “following the ORs” and only proposing to locate within Forsyth simply because there is a need for ORs.

NH Medical Park will show that Triad’s application and its assumptions are unreasonable, unrealistic, and non-conforming with the review criteria and performance standards. Triad cannot be approved as will be discussed in greater detail below.

NON-CONFORMITY WITH REVIEW CRITERIA

Criterion (1) and Policy GEN-3

“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.”

Triad should be found non-conforming with Criterion (1) because:

Triad does not explain how its projected utilization incorporates the concept of maximizing healthcare value for resources expended. With its far-fetched utilization projections, lack of consideration of existing alternatives, and failure to establish need, Triad does not demonstrate that its project maximizes healthcare value for resources expended. The proposed ASF does not maximize healthcare value because it is not intended to serve the needs of Forsyth County residents. Rather, this is a Guilford County project disguised as a Forsyth County application. The 2020 SMFP need determination is for Forsyth County, yet only approximately 22 percent of Triad’s patients are projected to originate from Forsyth County.¹ Moreover, Triad’s project is a duplication of its excess capacity in adjacent Guilford County. Finally, Triad’s project does not maximize value because it fails to consider alternative ASFs in very close proximity to its proposed location.

More detailed discussion of each of these factors can be found below in NH Medical Park’s comments concerning Triad’s non-conformity with Criterion (3), Criterion (4), and Criterion (6), respectively. These same factors relate to Triad’s failure to meet Criterion (1). The proposed project does not maximize healthcare value and is not an efficient use of healthcare resources. Thus, Triad’s project is not consistent with Policy GEN-3: Basic Principles and is non-conforming with Criterion (1).

¹ As will be discussed, Triad did not present clear county-level patient origin projections. NH Medical Park has estimated that 22 percent of Triad’s patient origin will be from Forsyth County.

Criterion (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.”

For the reasons discussed herein, including unsupported and unrealistic utilization projections and other important factors that have been overlooked and misrepresented in its application, Triad fails to clearly document the need for its proposed project and as such, should be deemed non-conforming with Criterion (3).

Triad’s Projected Patient Origin is Flawed and Does Not Meet the Needs of Forsyth County

While the 2020 SMFP demonstrates a need for ORs anywhere in Forsyth County, Triad purports that there is a significant demand for expanded OR capacity within a specific region of Forsyth County – the town of Kernersville. (Starting on p. 27.) Through a series of analyses, Triad paints a picture that this region is underserved and that, through its proposed ASF and two OR addition, Triad will expand surgical services access to patients in this area. However, Triad contradicts this story in its project patient origin definition for each service - ORs, GI Endo Rooms, and Procedure Rooms. Triad’s premise is false; there is no need for another ASF in Kernersville. As will be shown, this is clearly an effort to establish the first Cone Health facility in Forsyth County, and it in no way meets the published need for additional OR capacity in Forsyth County.

Importantly, Triad filled out its projected patient origin form incorrectly by combining two different geographic levels together – ZIP Codes and counties. First, Triad defined the Kernersville “region” with a combination of four Forsyth County ZIP Codes and three Guilford County ZIP Codes.² Then, Triad projected the remaining patients from whole counties, using “Other Forsyth” and ‘Other Guilford” as defined geographic regions. This mismatching of ZIP Codes and partial county regions to present projected patient origin was done to disguise the true county patient origin of the proposed project. Moreover, this response does not provide the information requested of the CON form and the required information is found nowhere else in the application. Triad’s incorrect patient origin is summarized below:

Area	% of Total
Kernersville*	29.8%
Other Forsyth County	7.1%
Other Guilford County	50.8%
Other^	12.3%
Total	100.0%

*ZIP codes 27009, 27051, 27235, 27265, 27284, 27285, and 27310.

^Other includes Alamance, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Hoke, Montgomery, Nash, New Hanover, Orange, Randolph, Rockingham, Rowan, Stokes, Surry, Wake, and Wilkes counties in North Carolina, as well as other states.

² Oddly, one of the four ZIP Codes included in the Forsyth side of Kernersville - 27285 - is a P.O. Box and as such, is not a measurable geographic area in terms of population.

There is no exact way to determine the true patient origin that Triad is projecting for Forsyth and Guilford Counties as a whole based on data in its application. However, an approximation based on population percentages for each Kernersville ZIP Code provides an estimate.³ When the Kernersville patient origin is allocated between Forsyth and Guilford County and combined with the “Other” categories for each county, the true county patient origin for Triad’s proposed ASF is even more significantly weighted towards Guilford County than Triad presents. As shown in the table below, Triad has likely proposed that up to 65.5 percent of its patients will originate from neighboring Guilford County and just 22 percent will originate from within Forsyth County for which the OR need is published. Triad simply cannot claim that its proposed project will expand access to Forsyth County residents if it does not actually serve Forsyth County.

Estimated Triad Patient Origin by County

County	Patients	% of Total
Forsyth	401	22.18%
Guilford	1,185	65.50%
Other	223	12.33%
Total	1,809	100.00%

Source: Triad Application Page 19

To justify projecting minimal volume from within Forsyth County, Triad compares its projections to the historical patient origin of all existing Forsyth County providers on page 21 of its CON application. However, according to its own analysis, all other providers served a larger percentage of Forsyth County patients than Triad proposes. Even NCBH, which is a quaternary academic medical center serving as a regional referral center for patients all across the state, has served more Forsyth County patients that Triad projects to serve – 29.7 percent compared to approximately 22 percent. Novant Health – Forsyth Medical Center is a tertiary medical center, and 53 percent of its patients are from Forsyth County. It is nonsensical that an ASF would project more out of county patients than any hospital, let alone an academic medical center with statewide referral patterns. Yet that is exactly what Triad did here.

The population Triad proposes to serve is mainly Guilford County residents. See application, pages 19 and 20. Yet the need determination is for Forsyth County. Triad implicitly acknowledges this problem but tries to minimize it by asserting there would be no need for more ORs in Forsyth County were it not for the utilization of out of county residents. (See p. 33). Just as an applicant who “generated the need” for ORs is not entitled to the ORs, the patient origin of patients whose surgical procedures contributed to the need determination does not demonstrate that Triad’s projected patient origin is based on reasonable and supported assumptions. According to page 33 of the Triad application, Guilford County residents comprise a relatively small percentage (6.3%) of Forsyth County surgical patient origin. But in Triad’s projected patient origin, 50.8% of surgical patients are projected to come from Guilford County. The 50.8% figure is understated, as some of the “Kernersville” ZIP Codes include Guilford County (27235, 27310 and 27265). See application, pages 19 and 20. These figures cannot be reconciled with Triad’s representation that this will improve access for Forsyth County residents (specifically, Kernersville) and will increase competition in Forsyth County. It will not improve access or improve competition. All it will do is move some patients out of Guilford County to Forsyth County.

³ ZIP Codes 27285, 27009, 27051 and 27284 are mostly in Forsyth County and ZIP Codes 27235, 27265, and 27310 are mostly in Guilford County according to data from Neilson Spotlight. Kernersville population data for 2020 reveals a distribution of 50.7 percent Forsyth County and 49.3 percent Guilford County.

Interestingly, Triad’s application in the 2018 Forsyth County OR review cycle projected more than 56 percent of its patients from Forsyth County. The state’s review analyst found this to be a reasonable projection stating:

“As shown in the tables above, the applicant projects 56.2% of its patients will originate from Forsyth County.... The projected patient origin is consistent with the historical patient origin of Forsyth County ambulatory surgery services.” – Page 16-17 of 2018 Forsyth County OR Review Findings

Therefore, it is contradictory that Triad now projects that well above 56 percent of its patients will come instead from Guilford and surrounding counties. Further, the basis for Triad’s projections outside of Forsyth County is unclear.

On page 29 of its application, Triad provides a misleading chart. The population of Kernersville is not 67,425. According to the U.S. Census Bureau, the 2019 population of Kernersville is 24,660⁴. The correct ratio for Kernersville on Triad’s table on page 29 is 2.47, not .89. While different sources may have different estimates, the variance in the population estimated as presented by Triad is far too large to attribute simply to source differences.

On page 31 of the application, Triad says that Kernersville needs 11.3 net ORs, or a total of 17 ORs. When the OR Deficit /Surplus by Location as presented on page 31of Triad’s application is re-done with the correct population estimates for each location, there is a need for 3 ORs in Kernersville (not 11 ORs) and a need for 2 ORs in Winston-Salem (not a surplus of 10 ORs). This table is recreated in the comparative analysis presented below in the comparative analysis.

On page 32 of its application, Triad tries to further justify its low Forsyth County patient origin by suggesting that Novant Health moved OR capacity to the Kernersville region in an attempt to serve more out-of-county residents and that Triad would simply be following this same model. This argument has no basis in fact. In reality, the two Kernersville Novant Health facilities have served much larger percentages of Forsyth County residents than Triad projects to serve. Novant Health purposefully shifted its assets to serve the Kernersville region more effectively, unlike Triad, which will be a facility serving Guilford County that just happens to be located in Forsyth County.

Triad’s Argument that Demand for Ambulatory Surgery Services & Growth In OP Surgical Volume is Impacting Need is Unsupported

Triad claims that the continuing shift from the inpatient setting to the outpatient setting for lower complexity cases is a driving factor in the need for its proposed project. According to Triad’s own analysis on page 24 of its CON application, North Carolina as a whole is only trending at 0.1 percent increase towards the OP surgery setting, with Forsyth County trending at 0.5 percent increase towards the OP setting. These trends do not show any meaningful shift. Further, two of the ORs from the 2018 Forsyth County Review were awarded to Triad Center for Surgery (2 new ORs). Novant has also recently opened Clemmons Outpatient Surgery Center (2 relocated ORs). With the newest ORs in the county being in the outpatient setting it is important to balance the OP demand with demand for hospital ORs, unlike the ASF setting Triad is proposing.

⁴ <https://www.census.gov/quickfacts/kernersvilletownnorthcarolina>

Triad’s Argument Regarding the Growth and Aging of the Forsyth County Population is Not Unique

Triad highlights Forsyth County’s population growth and aging as a basis for need for its project. (See p. 25.) For the simple reason that Triad proposes to serve very few Forsyth County residents through its proposed ASF, the argument that the Forsyth County population is growing and aging not at all relevant to its discussion of need. Even still, population growth plays a role in the need for additional OR capacity but to the extent that Forsyth County population is growing and aging, this argument supports the need for *all* projects and affects *all* applicants, not just Triad.

Triad also suggests a need for ORs in Kernersville based on local population growth. (See p. 27.) Additionally, Triad’s own data shows that Kernersville is neither the fastest growing region nor expects to add the most residents by 2025. Instead, Clemmons is growing the fastest at 1.06 percent annually; still, these fractional differences in population growth rates are meaningless. What Triad fails to highlight is the actual population sizes are so vastly different and that the percentage growth is meaningless. Though Winston-Salem is fractionally growing at the slowest rate, it is projected to add almost 14,000 residents by 2025, unlike Kernersville which projects to add less than 3,500. There will be far more total and incremental residents in Winston-Salem in need of surgery.

Population Growth by Region

	Growth	CAGR
Clemmons	2,252	1.06%
Kernersville	3,345	0.97%
Winston-Salem	13,773	0.90%

Source: Triad Application p. 27.

Triad’s Proposed Project Does Nothing to Address Geographic Access or its Purported Need for Additional ASF Capacity in Kernersville

Triad claims that residents of the Kernersville region of Forsyth County do not have equitable access to operating rooms nearby. (See p.29-30.) The addition of Triad’s proposed ASF will not meaningfully address this concern when considering Triad’s projected referral base and patient origin from Guilford County and other distant counties. Importantly, Triad’s claim that Kernersville residents should have access to a surgical provider three miles away is unreasonable. (See p. 30.) There is no standard or rule stating that surgical services must be available within this mileage range for patients. Moreover, patients residing in the Forsyth County parts of Triad’s “Kernersville region” defined by ZIP Code may live closer to Winston Salem than to the proposed ASF, while patients living in the Guilford parts of the “Kernersville region” may live closer to existing ASFs in Greensboro and High Point. No information is provided as to where the supporting surgeons practice now, so there is no information as to whether Triad’s proposed ASF would increase access to care.

Triad notes the settlement in the 2018 Forsyth County OR cycle and claims that because all of the awarded ORs are located in Winston-Salem, the uneven distribution of ORs is now worse. (See p. 30-31.) Triad claims that even with its proposed two ORs, Kernersville would still have the lowest OR inventory in the county. This analysis, however, is not meaningful. Patients do not always stay in their micro-communities for surgery, even OP surgeries, especially considering the reputation of the existing medical centers located in Winston-Salem. Kernersville is known as the heart of the Triad because it is the geographic

center of the Winston-Salem/Greensboro/High Point area⁵. Kernersville has excellent access to surgical services not only within the city limits but also close by in Winston-Salem, as well as Greensboro and High Point, which have a surplus of ORs. As will be shown, Winston-Salem is actually in greater need of additional OR capacity than Kernersville.

Triad's distance arguments ignore that its proposed location is a mere 5 minutes and 1.9 miles from an existing Novant Health ASF. It is inconsistent to suggest a patient cannot travel from Kernersville to Winston Salem (approximately 10 miles), but that they will travel from across the state to Triad's ASF. Triad projects that more than 12 percent of its volume for each service will come from patients throughout and outside of the state. (See p. 19-20.) Triad's patient origin includes Cabarrus County over an hour away, Hoke and Nash Counties over two hours away, and even New Hanover County, over three and a half hours away. Triad goes on to contradict its projected patient origin even further by stating the following:

“Rather, Cone Health believes the comparative effectiveness of an applicant should be evaluated on **geographic accessibility** and that a Kernersville location is comparatively more effective than other areas of the county.” – Page 34

A Kernersville ASF is only more comparatively effective if a patient lives in Kernersville. But the need determination was for Forsyth County, not Kernersville. It is not any more effective for patient in other parts of Forsyth County nor is it more effective for patients traveling across the state.

Triad's Utilization Projections are Flawed and not Consistent with 10A NCAC 14C .2100 and .3900

Triad projects that all of its proposed patients will be referred from nine in-network primary care physician practices, with seven of the referral sites all located in Guilford County. Importantly, Triad does not provide letters of support from these primary care clinics indicating that they would change their current referral patterns. Primary care physicians do not refer to surgery centers, surgeons do. Further, Triad presents a multi-step projection methodology for its projected utilization for which each step does not have documented, supportable assumptions.

Step 1 – Triad identifies 8,628 patient referrals from nine primary care groups. There are no letters of support from these primary care groups indicating to which surgeons they currently refer and whether they would change their referral patterns. (Triad application, Section Q Form C, page 3).

Step 2 – Triad applies varying amounts of assumed percentages of referrals by specialty that are expected to result in surgery. (Triad application, Section Q Form C, page 4). No documentation is provided for these assumptions from doctors or any other source, including actual experience in Forsyth County. Instead, Triad claims these assumed shifts are “based on discussions” with referring physicians.

Step 3 – Triad assumes that 70 percent of all referrals from these practices, across all specialties are ASF-appropriate. (Triad application, Section Q Form C pages 5-6). There is no basis for this assumption, as Triad's own application shows that the FY 2019 percent outpatient for existing surgery providers was just 67.3 percent. The percent of patients appropriate for an ASF is some subset of the outpatient percent because not all outpatient cases should be done in an ASF. More importantly, it is completely unreasonable for the ASF-appropriate percentage to be the same percent for all specialties. The following table shows the outpatient percent of cases by specialties for Forsyth County providers during FY2019.

⁵ <https://toknc.com/>

For example, orthopedics accounts for the largest percentage of Triad’s projected cases at 34 percent of total surgeries. If only 60.4 percent of orthopedic referrals have been historically performed in an outpatient setting, then an even lower percentage are appropriate for an ASF. Based on this one flaw alone, Triad’s projections are unreliable and unreasonable.

FY 2019 Surgical Cases by Specialty Performed in Forsyth County			
Excluding C-Sections			
Surgical Specialty Area	Outpatient	Total	% of Total as OP
Open Heart Surgery	-	1,579	0.0%
Cardiothoracic (Excluding Open Heart Surgery)	75	1,035	7.2%
Vascular	847	2,564	33.0%
Neurosurgery	1,847	4,888	37.8%
Other Surgeries	2,164	4,261	50.8%
Orthopedics	10,317	17,084	60.4%
General Surgery	7,903	12,815	61.7%
Podiatry	842	1,327	63.5%
Plastic Surgery	2,321	2,898	80.1%
Obstetrics and GYN (excluding C-sections)	3,572	4,382	81.5%
Urology	6,124	7,417	82.6%
Otolaryngology	6,014	6,989	86.0%
Oral Surgery/Dental	897	922	97.3%
Ophthalmology	9,296	9,357	99.3%
Total Surgical Cases	52,219	77,518	67.4%

Source: Forsyth County Surgical Facilities 2020 LRAs

Step 4 – Next, Triad applies a percentage of referrals who would seek surgery at the proposed surgery center from each referring physician practice. (Triad application, Section Q Form C pages 7-9). While drive times are noted as back up, the percentages are simply “made up” with no other basis for each amount. Such percentages range from just 5 percent to 100 percent and such percentage is again applied uniformly across all surgical specialties. Triad fails to provide any supporting documentation from the referring practices attesting to the reasonableness of its assumed referral capture. Additionally, Triad does not provide a single patient or community letter confirming willingness to use the proposed ASF.

Step 5 –Triad next projects for the first three project years using Forsyth County OP growth rates. This is flawed for several reasons. First, because Triad primarily proposes to serve Guilford County residents, it does not make sense to base growth in its surgical volume based on Forsyth County rates.

Finally, and most importantly, Triad created these unsupported projections. It is clear it simply asked the supporting physicians to put those volumes in their letters of support because the surgeon letters exactly match the projections, which are based on primary care referral data on not on the surgeon’s own data. The projections were not based on the physicians’ actual historical volume; instead, they are based only

on multiple theoretical assumptions attempting to link primary care referrals to surgical volume. This same flaw exists in the GI Endo and procedure room projections.

Triad's Projections Ignore the Surplus of Available ORs in Guilford County and Within Cone Health to Serve These Patients

Triad completely fails to address the existing OR inventory in Guilford County and the surplus that exists both in the county and for Cone Health. As shown in the excerpt from the 2020 SMFP below, Cone Health has a surplus of 8.31 ORs operating in Guilford County, which contributes to the county-wide surplus of 25.89 ORs. In fact, there is not a single surgery provider/location in Guilford County that does not have a surplus of ORs. Triad does not consider how its proposed project, which is estimated to serve more than 65 percent of its patients from Guilford, will redirect patients and reduce utilization of these already under-utilized ORs. This will undoubtedly create an even larger surplus at Cone Health facilities in Guilford County.

Table 6B: Projected Operating Room Need for 2022

A	B	C	D	E	F	G	H	I	J	K	L	M	N		
Service Area	License	Facility	Inpatient Cases	Final Inpatient Case Time	Ambulatory Cases	Final Ambulatory Case Time	Total Adjusted Estimated Surgical Hours	Growth Factor	Projected Surgical Hours for 2022	Projected Surgical ORs Required in 2022	Adjusted Planning Inventory	Projected OR Deficit/ Surplus (Surplus shows as a "-.")	Service Area Need		
Guilford	AS0009	Greensboro Specialty Surgical Center	0	0.0	1,304	46.9	1,018	4.24	1,062	0.81	3	-2.19			
Guilford	AS0018	Surgical Center of Greensboro	0	0.0	13,806	52.6	12,099	4.24	12,612	9.61	13	-3.39			
<i>Surgical Care Affiliates Total</i>											<i>10.42</i>	<i>16</i>	<i>-5.58</i>		
Guilford	AS0047	High Point Surgery Center	0	0.0	4,424	60.0	4,424	4.24	4,612	3.51	6	-2.49			
Guilford	AS0152	Premier Surgery Center†††	0	0.0	9	93.5	14	4.24	15	0.01	2	-1.99			
Guilford	H0052	High Point Regional Health^/^^/†††	3,064	137.7	2,602	89.4	10,911	4.24	11,373	7.58	10	-2.42			
<i>Wake Forest Baptist Health Total</i>											<i>11.11</i>	<i>18</i>	<i>-6.89</i>		
Guilford	AS0161	Valleygate Dental Surgery Center of the Triad***	0	0.0	57	0.0	0		0	0.00	0	0.00			
Guilford	AS0033	Surgical Eye Center	0	0.0	2,892	24.0	1,157	4.24	1,206	0.92	4	-3.08			
Guilford	AS0063	Piedmont Surgical Center	0	0.0	652	90.0	978	4.24	1,019	0.78	2	-1.22			
Guilford	H0073	Kindred Hospital - Greensboro	261	58.0	16	53.0	266	4.24	278	0.19	1	-0.81			
Guilford	H0159	Cone Health	13,289	167.0	15,957	119.0	68,636	4.24	71,547	36.69	45	-8.31			
Guilford/Caswell Total															0

Source: 2020 SMFP, Chapter 6

Based on numerous flaws and inconsistencies, Triad fails to demonstrate the need for its proposed project as required by Criterion (3) for the reasons described above. Triad’s project is non-conforming with Criterion (3).

Criterion (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.”

Triad does not consider multiple alternatives, including the proximity of NH Kernersville Medical Center or NH Kernersville Outpatient Surgery Center, to the proposed project. Also, Triad does not discuss its available OR capacity in Guilford County. A more logical alternative to meet the internal system need that Triad identifies is to reallocate its surplus OR inventory in Guilford County and to construct a new ASF in that county. Triad fails to demonstrate that these existing ORs are not an alternative to its proposed ASF. Triad also fails to demonstrate that these existing ORs within its network are not accessible to patients.

Clearly, Triad does not meet Criterion (4) as it does not adequately discuss the existing alternatives to its project, both within its own health system and outside of it, and does not demonstrate that its project is the most effective way to expand access to OR surgical services for residents of Forsyth County. Triad should be found non-conforming with Criterion (4).

Criterion (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.”

Triad’s proposed project is not financially feasible for several reasons. These are detailed below.

Project Cost – Triad does not include any consulting fees but clearly a consultant prepared the application, or at least supported the analysis and projections. Additionally, all cost assumptions say they are “based on Cone Health experience.” No documentation is provided to support this claim. Further, no equipment list or furnishing list is provided to back up these cost line items. Given the wide range of surgical specialties proposed, there will be extensive surgical equipment required, none of which is documented.

Charges – Triad claims that its charges are based on “Cone Health average charges.” No back up or other documentation is provided to support this. Also, no explanation of which existing Cone Health facilities make up these averages is provided. Charges must be based on a specific mix of surgical cases by specialty and specific to a freestanding facility to be reasonable and accurate. It is not clear that Triad has considered this.

Payor Mix and Contractual Allowances – Triad projects very little Medicaid and Charity care, far less than existing providers in Forsyth County currently provide. If Triad were to serve a higher portion of these groups to align with existing providers, and contractual allowances increased, the proposed project may not be profitable. Additionally, Triad claims that its contractual allowances are, again, “based on Cone Health experience.” It makes no effort to explain which existing Cone Health facilities were used to make this assumption, what specialties these facilities offer comparable to the proposed ASF, or how their charges were “adjusted to reflect a freestanding charge structure” (Form F.2 Assumptions).

Medical Supplies – Triad does not appear to adjust the medical supply cost to the proposed ASF. No information is provided detailing which Cone Health facility the cost is based on, and what specialties are offered at this unknown facility comparable to the proposed ASF.

Most importantly, the assumptions used by Triad to prepare its pro forma statements are not reasonable and adequately supported because its projected utilization is not based on reasonable and adequately supported assumptions. Because projected revenues and expenses are based in part on the projected utilization of the facility, they are neither feasible nor accurate. Thus, Triad should be found non-conforming with Criterion (5).

Criterion (6)

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

As described above, the proposed project will inevitably result in unnecessary duplication of existing health service capabilities. Triad has more than enough available capacity to serve the patients it projects within existing Guilford County facilities. Cone Health (including Moses Cone Memorial Hospital, Moses Cone Surgery Center, and Wesley Long Surgery Center) has a surplus of over eight ORs, with more than enough capacity to serve the patients projected in the application, and many may be closer to home. As discussed elsewhere, most of the patients proposed to be served by this ASF originate in Guilford County, and the providers Triad expects to use this facility are Cone Health doctors in Guilford County. Other providers in Guilford County, e.g., Wake Forest Baptist Health and SCA, also have a significant surplus of ORs. See 2020 SMFP, Table 6B, p. 74. This surplus will only be exacerbated if Triad were successful in redirecting its own system referrals away from existing Guilford County facilities to the proposed ASF.

As it relates to cost-effective alternatives, it appears that Triad did not consider the existing and approved providers in Kernersville. For instance, Triad proposes to develop one GI/endo room; however, a new endoscopy center, Kernersville Endoscopy Center, is under development in Kernersville. Kernersville also has two other providers that provide GI/endo services. Triad fails to show a need for the additional GI/endo room it proposes in addition to the existing and approved GI/endo providers in Kernersville. Additionally, Novant Health Kernersville Outpatient Surgery Center (“NHKOS”) has 2 ORs and available capacity. In FY 2019, NHKOS was utilized at 73.5 percent of its capacity. Clearly, these respective existing and/or approved facilities have capacity to accommodate any purported need for GI/Endo and OR services in Kernersville, and Triad’s proposed project will simply result in a duplication of services.

Triad does not adequately demonstrate that the two ORs it proposes to develop in Forsyth County are needed or will be used by Forsyth County residents. Thus, it is clear that Triad’s project is a duplication of existing services and should be found non-conforming with Criterion (6).

Criterion (13c)

“The applicant shall demonstrate the contribution of the proposed service in meeting the health-related needs of the elderly and of members of medically underserved groups, such as medically indigent or low income persons, Medicaid and Medicare recipients, racial and ethnic minorities, women, and handicapped persons, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:

(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

Triad says it will increase access to underserved groups including Medicaid and self-pay/charity care patients. This is not consistent with its minimal projections of less than 1.5 percent self-pay and 1.1 percent Medicaid patients shown in Section Q, Form F.2 in comparison to its historical cumulative payor mix across all Guilford County facilities and compared to the two existing Cone Health ASFs separately. As shown below, Triad intends to primarily serve commercial patients, and provide far less care to self-pay patients and Medicaid patients than historically provided at other Cone Health facilities including ASFs. The project will not serve a reasonable percentage of underserved population. Instead, this proposed project is solely dedicated to serving well-insured and Medicare ACO patients, with over 95 percent of patients belonging to these two payor groups. The projected payor mix for both Triad’s GI Endo rooms and procedure rooms mirror the OR mix.

Payor Mix Comparison

	Projected OR Cases	Cumulative Cone Health*	Moses Cone Surgery Center	Wesley Long Surgery Center
Self-Pay	1.48%	5.24%	4.40%	3.93%
Commercial	62.70%	44.88%	49.60%	51.07%
Medicare	33.12%	34.22%	22.08%	33.20%
Medicaid	1.13%	12.36%	19.56%	9.66%
Other	1.56%	3.29%	4.35%	2.14%
Total	100.00%	100.00%	100.00%	100.00%

Source: Triad Application, Section Q, Form F.2 & 2020 Cone Health

LRA

*Payor Mix of Ambulatory Surgical Cases Only

Although Triad did not fill in the percentages for charity care on the table on page 80 in its application, simple math based on the information reported in the Form F.2 shows that charity care (the amount of the self-pay revenue is equal to the charity care adjustment on Form F.2) is never greater than 1.48 percent of total gross revenue. Interestingly, Triad attempts to explain its abnormally higher commercial payor mix by explaining that the Kernersville region has a higher average income than other regions in Forsyth. (See p. 81.) This logic is flawed in that income levels of the immediate Kernersville geographic area only contributes approximately 30 percent of patients based on project patient origin. Lastly, in Triad’s Section Q, Form F.2 Assumptions for Charity Care, it states that “Charity care is equal to gross revenue for self-pay.” Therefore, it is unclear whether charity care is considered separately from self-pay

patients. It should also be noted that poverty levels in Kernersville are significantly lower than Winston-Salem (approximately 14 percent vs. 22 percent). This is an important factor as emphasized in the 2018 Forsyth County OR Review Findings. Thus, not only does Triad not project to serve a significant amount of underserved populations, but also the proposed location of Kernersville will not expand access to the most impoverished parts of Forsyth County

Triad does not intend to provide a reasonable amount of care to underserved populations, including low income persons, with its proposed project. As such, Triad should be found non-conforming with Criterion (13c).

Criterion (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.”

Triad’s CON application will not enhance competition in the service area, nor will it have a positive impact upon cost-effectiveness, quality, and access. Based on Triad’s one-line response to this criterion did not adequately consider any impact it would have on other providers within the county. The only unique aspect of Triad’s application is its partnership with the THN ACO, which discounts its competition and access arguments rather than supports them. Triad has made it clear in its application that the proposed project will expand access for only its own patients within the ACO network, which it is already serving. This project will neither enhance competition nor expand access to any other groups. Moreover, Triad cannot hope to enhance competition or increase access to high quality services within Forsyth County if it does not actually propose to serve Forsyth County residents. THN is not the applicant and will not be involved in the management of the ASF. THN’s existence is not a reason to support this project.

As previously stated, Triad has significant capacity at other Cone Health facilities to serve Triad’s projected patients from where the patients are expected to originate from – Guilford County. This is especially true with the surplus of 8 ORs at nearby Moses Cone and the distance of referring physician practices from the facility. Based on this surplus of ORs, the proposed project represents a duplication of existing services without enhancing access to care.

Based on these issues, Triad’s application should be found non-conforming with Criterion (18a).

FAILURE TO MEET PERFORMANCE STANDARDS

Triad fails to adequately support the projections for its proposed project. As discussed above, the basis for each step in Triad’s projections are based on unsupported assumptions with no supporting documentation or research. Many of the assumptions were completely fabricated with no basis in experience or fact. As such, Triad cannot reasonably be assumed to meet the Performance Standards laid out in 10A NCAC 14C .2103.

COMPARATIVE ANALYSIS

Pursuant to N.C. Gen. Stat. § 131E-183(a)(1) and the 2020 SMFP, there is a need for two additional ORs in Forsyth County; thus, although there are three identified applicants, only one can be approved in this

review. It is clear that the applications of both MC Kernersville, LLC d/b/a Triad Surgery Center (“Triad”) and North Carolina Baptist Health (“NCBH”) contain major flaws, particularly with respect to Criterion (3), that should result in denial of both applications. Therefore, there should be no need for a comparative review. Nonetheless, NH Medical Park has provided the following comparative review between the three applicants.

Conformity with Applicable Statutory and Regulatory Review Criteria

As previously stated, the Triad and NCBH applications are not conforming with all applicable statutory and regulatory review criteria for reasons discussed throughout NH Medical Park’s Comments in Opposition. Therefore, the applications submitted by Triad and NCBH are not effective alternatives with respect to this comparative. Regardless, NH Medical Park has prepared the following comparative analysis.

NH Medical Park is conforming with all applicable statutory and regulatory review criteria. Therefore, the applications submitted by NH Medical Park is the most effective alternative with respect to conformity with statutory and regulatory review criteria.

Project Timeline

The table below highlights several items from each applicant’s project timelines. NCBH proposes to offer services two years later than Triad and NCBH. This is due to the timeline of another OR project which must be completed before the two proposed ORs can be implemented as discussed in NH Medical Park’s written comments in opposition. NH Medical Park and Triad project similar services offered dates; however, because Triad does not provide equipment timelines for ordering, installation, or operational periods, its timeline is neither complete nor accurate. Therefore, NH Medical Park is the most effective alternative in regard to this comparative factor.

Project Timelines

	NH Medical Park	NCBH	Triad
Financing Obtained	NA	2/1/2021	NA
Construction / Renovation Completed	4/28/2022	6/1/2024	4/1/2022
Equipment Ordered	12/29/2021	1/1/2024	NA
Equipment Installed	4/21/2022	5/1/2024	NA
Equipment Operational	5/18/2022	6/15/2024	NA
Building / Space Occupied	6/2/2022	6/15/2024	5/1/2022
Licensure Obtained	6/16/2022	NA	6/1/2022
Services Offered (required)	7/1/2022	7/1/2024	6/1/2022
Medicare and/or Medicaid Certification Obtained	NA	NA	7/15/2022
Facility or Service Accredited	NA	NA	10/15/2022

Source: Section P for each applicant

Geographic Accessibility

Winston-Salem, Kernersville, and Clemmons are the three population centers in the county. Located near the center of Forsyth County, Winston-Salem is identified as a city and has an estimated 2019 population

of 247,945⁶. Kernersville, located on the eastern Forsyth/Guilford county line, is identified as a town and has an estimated 2019 population of 24,660⁷. Lastly, Clemmons, located in southwestern Forsyth County, is considered a village with an estimated 2019 population of 20,867⁸.

Triad proposes to develop new ORs in Kernersville. NCBH and NH Medical Park both propose to develop new ORs in Winston-Salem.

The table below lists the existing and approved Forsyth County ORs by location, facility name, and type of OR. It should be noted that all Forsyth County ORs are located in one of the three population centers within the county: Winston-Salem, Kernersville, and/or Clemmons.

Existing and Approved Forsyth County ORS (According to the 2020 SMFP)

		IP ORs	OP ORs	Shared ORs	C-Sec / Trauma / Burn	CON Adjust -ments	Total ORs
Winston-Salem	NH FMC Main	5		15	-2		18
	NH Hawthorne Outpatient Surgery		4				4
	NH Medical Park Hospital			10			10
	NH Orthopedic Outpatient Surgery		2				2
	NCBH	4		36	-2	11	49
	Piedmont Outpatient Surgery Center		2				2
	Traid Center for Surgery					2	2
	Total Winston-Salem ORs	9	8	61	-4	13	87
Kernersville	NH Kernersville Medical Center			4			4
	NH Kernersville Outpatient Surgery		2				2
	Total Kernersville ORs	0	14	4	0	0	6
Clemmons	NH Clemmons Medical Center			5			5
	NH Clemmons Outpatient Surgery Center					2	2
	Clemmons Medical Park Ambulatory Surgery Center		3				3
	Total Clemmons ORs	0	3	5	0	2	10
Total Forsyth County ORs		9	25	70	-4	15	103

Source: 2020 SMFP

Notes: NH Orthopedic Outpatient Surgery closed in October 2019, and these ORs were transferred to Clemmons Outpatient Surgery Center (Project ID #G-11300-17). NH Forsyth was awarded 2 ORs during a settlement agreement (Project ID #G-11517-18).

The three population centers in Forsyth County, Winston-Salem, Kernersville, and Clemmons, include 77% of the county's total population. The following table compares the number of ORs in the three areas with the 2019 estimate of the total population in each location and the resulting OR deficit or surplus by area.

	2019 Population Estimate	Percent of Total County Population Centers	OR Need Based on % Population	# of Existing/ Approved ORs	OR Deficit/ Surplus (-)
Winston-Salem	247,945	84.5%	89	87	2
Kernersville	24,660	8.4%	9	6	3

⁶ <https://www.census.gov/quickfacts/winstonsalemcitynorthcarolina>

⁷ <https://www.census.gov/quickfacts/kernersvilletownnorthcarolina>

⁸ <https://www.census.gov/quickfacts/clemmonsvillagenorthcarolina>

Clemmons	20,867	7.1%	7	10	-3
Total Population Centers*	293,472	100%	105	103	2

Source: www.census.gov/quick facts; 2020 SMFP

*Total Population Center population represents 77.3% of the total Forsyth County Population

As shown by the table above, Winston-Salem has a deficit of two ORs, Kernersville has a deficit of 3 ORs, and Clemmons has a surplus of three ORs, which results in a need for two ORs in Forsyth County as a whole.

Socioeconomic level is another geographic comparison for each of the population centers. The following table provides the percent of persons living in poverty for each area.

Percent of Persons in Poverty, 2019

	Percent of Population
Winston-Salem	21.70%
Kernersville	14.20%
Clemmons	7.20%

Source: www.census.gov/quick facts

Note that Winston-Salem has the highest percentage of persons living in poverty in 2019 (21.7 percent), followed by Kernersville (14.2 percent), and then Clemmons (7.2 percent).

While Kernersville shows a slightly higher deficit of ORs (three ORs) than Winston-Salem (two ORs), Winston-Salem clearly has a higher percentage of persons living in poverty than any of the other population centers. Thus, based on the demographics of the three population centers in Forsyth County and the existing OR inventory, Winston-Salem is the most effective location for new ORs, followed by Kernersville, with Clemmons being the least effective location.

NH Medical Park and NCBH proposed to develop new ORs in Winston-Salem. Triad proposes to develop new ORs in Kernersville. Therefore, based on the proposed location for each applicant’s project, the applications submitted by NH Medical Park and NCBH are the more effective proposals; the application submitted by Triad being the least effective alternative based on its proposed location.

Physician Support

All applicants document adequate physician support of their proposed projects. Therefore, with regard to the demonstration of physician support, the proposals are equally effective.

Expanding Access to Forsyth County Residents

MC Kernersville, LLC, proposes to develop Triad Surgery Center on the Guilford/Forsyth County line in Kernersville. Triad proposes to serve a significantly smaller percent of patients from Forsyth County than the other applicants. Triad admits throughout its application that the purpose of its project is to serve the

patients being referred from its pool of nine in-network physician practices. Of these nine referring practices, seven are located within Guilford County. Further, Triad states that the purpose of its proposed ASC is to expand access for members of its ACO to seek outpatient surgical services within its network of providers. The purpose of the need published in the 2020 SMFP is to increase access for patients of Forsyth County. This provider would not improve access for Forsyth County residents.

Novant Health, Inc., the parent organization of Medical Park Hospital, Inc., serves Forsyth County residents by providing surgical services at the following existing and approved facilities in Forsyth County:

- Novant Health Forsyth Medical Center
- Novant Health Medical Park Hospital
- Novant Health Clemmons Medical Center
- Novant Health Kernersville Medical Center
- Novant Health Clemmons Outpatient Surgery Center
- Novant Health Kernersville Outpatient Surgery Center
- Novant Health Hawthorne Outpatient Surgery Center

North Carolina Baptist Health serves Forsyth County residents by providing surgical services at the following existing and approved facilities in Forsyth County:

- North Carolina Baptist Hospital
- Wake Forest Baptist Health Outpatient Surgery Center

The table below summarizes each applicant’s projected patient origin by county for the third fiscal year of each project. As shown, NH Medical Park projects to serve more patients from within Forsyth County than either of the other two applicants. NCBH and Triad project to serve a similar percentage of patients from Forsyth County. However, NCBH, as a regional referral center also projects a wide service area with the most patients coming from all other North Carolina counties. As discussed in detail in response to Criterion (3) in NH Medical Park’s Opposition Statement to Triad, Triad failed to correctly document patient origin by combining the patient origin of Forsyth and Guilford Counties together for its definition of the Town of Kernersville. Without knowing the exact patient origin by county, Triad proposes to serve less than 35 percent of patients from Forsyth County including Kernersville ZIP codes that extend into Guilford County. When estimated based on the split of Kernersville population between Forsyth and Guilford County, however, it can be reasonably assumed that Triad proposes to serve less than 23 percent of patients from Forsyth County and over 65 percent of its patients from Guilford County alone.

Projected Patient Origin - Third FFY

	NH Medical Park	NCBH	Triad
Forsyth	50.8%	25.9%	22.2%
Guilford*	-	10.3%	65.5%
Other NC	46.8%	54.6%	-
All Other**	2.4%	9.3%	12.3%

Source: Projected Patient Origin Tables

* NH Medical Park projects Guilford patients within its "Other NC Counties" bucket which includes 52 other counties and makes up 13.6% of projected patients

**Triad does not split out Other NC Counties and Other States

Thus, in regard to increasing access to surgical services for Forsyth County residents, NH Medical Park is the most effective alternative as it is focused on serving Forsyth County residents and proposes to serve the most Forsyth County residents. NCBH is the next best alternative because it projects to serve more patients from Forsyth County than Triad, despite its historical tendency to pull patients from across the state due to its provider status. Triad primarily projects to serve patients from Guilford County and therefore is clearly not an effective alternative to meet the OR need identified in Forsyth County.

Patient Access to Lower Cost Surgical Services

Currently, there are 103 existing and approved ORs in Forsyth County (excluding two dedicated C-Section and two Trauma/Burn ORs). Surgical services can be provided in either an outpatient or inpatient setting under a hospital license or in an outpatient setting licensed as an ASC that does not operate under a hospital license. The NC CON Section has recognized that many but not all outpatient surgical services can be either performed in a hospital licensed operating room or in a non-hospital licensed operating room or ASC. Because of the full comprehensive, 24/7 care provided in the acute care setting, the cost of services in a hospital licensed operating room is often higher than that of a non-hospital licensed ASC which provides limited services and standard hours of operation. It is important to consider that, along with inpatient surgical services, there are some outpatient surgical services that must be performed in a hospital setting. This is especially true for medically complex patients.

The table below provides the Forsyth County Surgical Cases by Setting and Facility according to the 2020 LRAs of Forsyth County providers.

FY 2019 Forsyth Surgical Cases by Setting and Facility

Facility	Type of OR	Inpatient	Ambulatory (Outpatient)	Total	Percent Inpatient	Percent Ambulatory
NH - Forsyth Main	Hospital Inpatient/Shared	7,367	5,672	13,039	56.5%	43.5%
NH - Kernersville	Hospital Shared	1,161	1,983	3,144	36.9%	63.1%
NH - Clemmons	Hospital Shared	1,763	1,617	3,380	52.2%	47.8%
NH - Medical Park	Hospital Shared	814	8,616	9,430	8.6%	91.4%
NCBH	Hospital Inpatient/Shared	14,271	18,753	33,024	43.2%	56.8%
POSC	ASC	-	2,353	2,353	0.0%	100.0%
WFBH-OSC	ASC	-	1,125	1,125	0.0%	100.0%
NH - Hawthorne OP	Hospital Ambulatory	-	8,286	8,286	0.0%	100.0%
NH - Orthopedic OP	Hospital Ambulatory	-	1,961	1,961	0.0%	100.0%
Total		25,376	50,366	75,742	33.5%	66.5%

Source: 2020 LRAs

In FY 2019, 33.5 percent of all surgical services were provided in the inpatient setting, while 66.5 percent were provided in the ambulatory setting. Note that because POSC was a demonstration project, those two ORs are included in the inventory for Forsyth County, but are not included in the 2020 SMFP's need determination calculation.

The following table provides the FY 2019 surgical cases performed by Forsyth County providers according to the care setting.

FY 2019 Forsyth County Providers' Surgical Cases by Setting

Setting	% of Total
Hospital	
Inpatient	33.5%
Outpatient	48.4%
ASC	4.6%
Hospital Ambulatory	13.5%
Total	100.0%

Source: 2020 LRAs

It is clear that despite the fact that a majority of surgical cases performed in Forsyth County are performed on an outpatient basis, most of these are performed in the hospital outpatient setting. Because Triad proposes an ASC which is inherently less costly than the hospital setting, Triad would be more effective than NCBH and NH Medical Park by this comparative factor. However, In the State's findings related to the 2018 Durham County OR Review, the analyst noted that this comparative factor may be of little value (See 2018 Durham County OR Review, Project ID #'s: J-11626-18 and J-11631-18, Page 78). This is likely due to the varied nature of the needs of individual patients which impact the most appropriate care setting.

Moreover, there are two freestanding ASCs approved but either newly operational (Clemmons Outpatient Surgery Center) or not yet operational (Triad Center for Surgery affiliated with OrthoCarolina). These ASCs will accommodate additional growth in demand for freestanding ASC services. Triad Center for Surgery was approved pursuant to the need recognized in the 2018 SMFP. Thus, to accommodate the demand for hospital services including inpatient and more complex patient surgery, it is important to consider the need for additional hospital-based surgery services in regard to the 2020 SMFP need determination to balance OR access by setting. For this reason, although Triad offers the lower cost setting due to its status as a proposed ASC, NH Medical Park and NCBH are more effective in terms of balancing the need for hospital-based and freestanding ASC settings.

Patient Access to Multiple Services

The following table illustrates the surgical specialties (as defined on the North Carolina Hospital License Renewal Application) that the individual CON applicants in this review propose to provide:

Proposed Services to be Offered

Specialty and Related Sub-specialties	NH Medical Park (IP and OP)	Triad (OP only)	NCBH (IP and OP)
Cardiothoracic, excluding Open Heart			X
Open Heart*			
General Surgery	X	X	X
Neurosurgery, including Spine Surgery	X	X	X
Obstetrics and Gynecology, excluding C-Section	X	X	X
Ophthalmology	X	X	X
Oral Surgery /Dental	X		
Orthopedic, including Spine Surgery	X	X	X
Otolaryngology (ENT)	X	X	X
Plastic Surgery	X	X	X
Podiatry		X	X
Urology	X	X	X
Vascular			X
Other:			
Pain Management	X		

Source: G-011914-20 Triad Surgery Center Section Q Form C Assumptions; 2019 LRAs

*Note per NCBH’s 2019 LRA, it does not have dedicated open heart surgery ORs.

NH Medical Park and NCBH are existing acute care hospitals offering a full continuum of care. Thus, as shown in the table above, NH Medical Park and NCBH propose access to a broad range of specialties. In

comparison, Triad proposes to develop a separately licensed ASC with two ORs. Each applicant proposes to offer adequate access to multiple specialties; however, NH Medical Park and NCBH offer access to a broader range of specialties and are more effective alternatives than Triad. Moreover, it should be noted that there are significant flaws in the utilization projection methodology presented by Triad that call into question the volume of cases by specialty as projected. NH Medical Park and NCBH are most effective under this comparative factor.

Access by Underserved Groups

Projected Charity Care

The following table shows each applicant’s projected charity care to be provided in the project’s third full operating year.

Surgical Charity Care, PY 3

	As a percent of Gross Revenue	As a percent of Surgical Cases
NH Medical Park	1.9%	2.2%
NCBH*	N/A	2.5%
Triad	1.5%	N/A

Source: Form F.2 for each applicant; 2020 LRAs

**NCBH provides total self-pay write offs including charity care. NCBH’s projected charity care in Section L does not align with its projected charity care in Form F.2.*

Note that both NCBH and NH Medical Park project to hold their FY 2019 payor mix constant through Project Year 3. In Form F.2, both Triad and NH Medical Park project charity care as a percent of gross revenue. However, NCBH projects charity care as a percent of surgical cases.

NH Medical Park projects more charity care than Triad when comparing charity care as a percent of gross revenue. NCBH projects more charity care than NH Medical when comparing charity care as a percent of surgical cases; however, as previously discussed, NCBH’s charity care projections are inconsistent between Section L and Form F.2.

Due to differences in the methods used by each applicant to project charity care, it is not possible to make conclusive comparisons with regard to Charity Care. However, it appears that Triad projects a lower percent of charity care than any other provider. As discussed in relation to Criterion (5) and (13), NCBH’s payor mix and write offs by payor cannot be reconciled in relation to the assumptions provided. Based on all of these factors including quantitative and non-quantitative, NH Medical Park is the most effective alternative.

Projected Medicare

The following table provides each applicant’s projected Medicare as a percent of gross revenue in the applicants’ third full fiscal year of operation following completion of their projects (PY3). The information provided is based on each applicant’s Section Q pro forma financial statements. In general, the application proposing to serve the higher percent of total surgical cases to Medicare patients is the more effective alternative with regard to this comparative factor.

Surgical Medicare as a Percent of Gross Revenue, PY 3

	Medicare Gross Revenue	Total Gross Revenue	% of Total
NH Medical Park	\$ 95,524,760	\$ 224,376,276	42.6%
NCBH*	\$ 1,101,978,436	\$ 2,754,737,513	40.0%
Triad	\$ 4,023,399	\$ 12,146,623	33.1%

Source: Form F.2 for each applicant

**Note: NCBH Medicare revenue cannot be reconciled with assumptions of payor mix by patients/case volume.*

NH Medical Park projects that 42.6 percent of its gross revenue will be Medicare recipients. NCBH projects that 40 percent of its gross revenue will be Medicare recipients. Finally, Triad projects that 33.1 percent of its gross revenue will be Medicare recipients. In addition, as noted previously, there appears to be inconsistencies with NCBH’s projected gross revenue which render it impossible to confirm. Thus, the application submitted by NH Medical Park is the most effective application with regard to serving Medicare recipients.

Projected Medicaid

The following table provides each applicant’s projected Medicaid as a percent of gross revenue in the applicants’ third full fiscal year of operation following completion of their projects (PY3). The information provided is based on each applicant’s Section Q pro forma financial statements. In general, the application proposing to serve the higher percent of total surgical cases to Medicaid patients is the more effective alternative with regard to this comparative factor.

Surgical Medicaid as a Percent of Gross Revenue, PY 3

	Medicaid Gross Revenue	Total Gross Revenue	% of Total
NH Medical Park	\$ 9,384,260	\$ 224,376,276	4.2%
NCBH*	\$ 464,465,454	\$ 2,754,737,513	16.9%
Triad	\$ 137,248	\$ 12,146,623	1.1%

Source: Form F.2 for each applicant

**Note: NCBH Medicaid revenue cannot be reconciled with assumptions of payor mix by patients/case volume.*

NH Medical Park projects that 4.2 percent of its gross revenue will be Medicaid recipients. NCBH projects that 16.9 percent of its gross revenue will be Medicaid recipients. Finally, Triad projects that 1.1 percent of its gross revenue will be Medicaid recipients. Due to differences in service lines and care settings, it is not possible to make conclusive comparisons with regard to Medicaid recipients. However, while it seems that NCBH is the most effective alternative for this comparative factor, as noted in NH Medical Park’s Written Comments in Opposition to NCBH, there appears to be inconsistencies with NCBH’s projected gross revenue which render it impossible to confirm. Thus, the application submitted by NH Medical Park is the most effective application with regard to serving Medicaid recipients.

Projected Self-Pay

The following table provides each applicant’s projected self-pay as a percent of gross revenue in the applicants’ third full fiscal year of operation following completion of their projects (PY3). The information provided is based on each applicant’s Section Q pro forma financial statements. In general, the application proposing to serve the higher percent of total surgical cases to self-pay patients is the more effective alternative with regard to this comparative factor.

Surgical Self-Pay as a Percent of Gross Revenue, PY 3

	Self-Pay Gross Revenue	Total Gross Revenue	% of Total
NH Medical Park	\$5,345,775	\$ 224,376,276	2.4%
NCBH	\$ 173,515,068	\$ 2,754,737,513	6.3%
Triad	\$ 179,839	\$ 12,146,623	1.5%

Source: Form F.2 for each applicant

NH Medical Park projects that 2.4 percent of its gross revenue will be self-pay. NCBH projects that 6.3 percent of its gross revenue will be Medicaid self-pay. Finally, Triad projects that 1.5 percent of its gross revenue will be self-pay. While it seems that NCBH is the most effective alternative for this comparative factor, as noted in NH Medical Park’s Written Comments in Opposition to NCBH, there appears to be inconsistencies with NCBH’s projected gross revenue which render it impossible to confirm. Further, Triad explicitly states that it assumes that charity care is equal to gross revenue for self-pay. It does not appear that all applicants have defined self-pay the same way. Due to differences in the methods used by each applicant to project self-pay gross revenue, it is not possible to make conclusive comparisons with regard to projected self-pay. However, it appears that Triad is not the most effective alternative.

Projected Average Net Revenue per Case

The following table shows the projected average net surgical revenue per OR and per surgical case in the third year of operation for each of the applicants, based on the information provided in the applicants’ pro forma financial statements. In general, the application proposing the lowest average net revenue is the more effective alternative with regard to this comparative factor.

**Revenue per OR and per Surgical Case
PY3**

	Net Revenue	# of ORs	# of Cases	Net Revenue/OR	Net Revenue/Case
NH Medical Park	\$101,255,263	12	10,693	\$8,437,939	\$9,469
Triad	\$6,462,116	2	1,809	\$3,231,058	\$3,572
NCBH	\$656,941,979	51	35,576	\$12,881,215	\$18,466

Source: Form F.2 for each applicant

Triad projects the lowest average net expense per surgical case and per OR in the third operating year, NH Medical Park projects the second lowest, and NCBH projects the highest net revenue. As noted in the 2018 Forsyth County OR Review findings, this comparative factor may be of little value. Further, all three applicants vary significantly in the types of services proposed which inevitably impacts net revenue. Lastly, because Triad will solely operate as an outpatient surgery center, it cannot accurately be compared against the other applicants, which are medical centers. Thus, due to significant differences in facility types and the number and types of surgical services proposed by facilities, it is not possible to make conclusive comparisons with regard to net revenue per case.

Projected Average Operating Expense per Case

The following table compares the projected average operating expense in the third year of operation for each of the applicants, based on the information provided in the applicants’ pro forma financial statements. Generally, the application proposing the lowest average operating expense is the more effective alternative with regard to this comparative factor.

**Operating Expense per OR and Surgical Case
PY3**

	Operating Expense	# of ORs	# of Cases	Operating Expense/OR	Operating Expense/Case
NH Medical Park	\$70,853,346	12	10,693	\$5,904,446	\$6,626
Triad	\$4,889,692	2	1,809	\$2,444,846	\$2,703
NCBH	\$618,448,439	51	35,576	\$12,126,440	\$17,384

Source: Form F.3 for each applicant

Triad projects the lowest average operating expense per surgical case and per OR in the third operating year, NCBH projects the second lowest, and NCBH projects the highest operating expense. However, as noted in the 2018 Forsyth County OR Review findings, this comparative factor may be of little value. Further, all three applicants vary significantly in the types of services proposed which inevitably impacts operating expenses. Thus, due to differences in facility types and the number and types of surgical services proposed by facilities, it is not possible to make conclusive comparisons with regard to net revenue per case.

Summary

The following is a summary of the comparative analysis performed on the proposed projects, ranking the proposals based on effectiveness for each comparative factor herein. As discussed at length throughout the written comments in opposition, NH Medical Park contends that neither Triad nor NCBH are conforming with all applicable statutory and regulatory review criteria. Thus, technically, the aforementioned comparative factors do not apply to Triad and NCBH, and NH Medical Park is the most effective alternative. Nonetheless, NH Medical Park has provided the summary of the comparative factors for all applicants.

As noted in the 2018 Forsyth County OR Review findings, due to significant differences in the types of surgical facilities (acute care quaternary teaching medical center vs acute care tertiary medical center vs ASC), types of surgical services to be offered (higher acuity vs lower acuity), number of total operating rooms (two vs as many as 49, excluding trauma/burn ORs), total revenues and expenses, and the differences in presentation of pro forma financial statements, the comparatives may be of less value and result in less than definitive outcomes than if all applications were for like facilities of like size, proposing like services, and reporting in like formats.

Comparative Factor	NH Medical Park	NCBH	Triad
Conformity with Review Criteria	Yes	No	No
Project Timeline	Most Effective	Least Effective	Less Effective
Geographic Accessibility	More Effective	More Effective	Less Effective
Physician Support	Equally Effective	Equally Effective	Equally Effective
Expanding Access to Forsyth County Residents	Most Effective	Less Effective	Least Effective
Patient Access to Lower Cost Surgical Services	Less Effective	Less Effective	More Effective
Patient Access to Multiple Services	More Effective	More Effective	Less Effective
Access by Underserved Groups: Charity Care	More Effective	Inconclusive	Less Effective
Access by Underserved Groups: Medicare	More Effective	Inconclusive	Less Effective
Access by Underserved Groups: Medicaid	More Effective	Inconclusive	Less Effective
Access by Underserved Groups: Self-Pay	More Effective	Inconclusive	Less Effective
Projected Average Net Revenue per Case	Inconclusive	Inconclusive	Inconclusive
Projected Average Operating Expense per Case	Inconclusive	Inconclusive	Inconclusive

Even if Triad and NCBH were conforming with all applicable statutory and regulatory review criteria, NH Medical Park is still the most effective alternative for the following reasons:

- NH Medical Park has the most effective project timeline
- NH Medical Park proposes effective geographic accessibility
- NH Medical Park has adequate physician support
- NH Medical Park is most effective in expanding access to Forsyth County residents
- NH Medical Park offers patient access to multiple services
- NH Medical Park provides the more effective access by underserved groups

CONCLUSION

Triad’s application is not approvable as it does not conform to Criteria (1), (3), (4), (5), (6), (13a), (18a), and the Performance Standards for OR services. NH Medical Park’s application meets all applicable criteria and standards for surgical services and operating rooms. In addition, for each of the comparative analysis factors provided in this analysis, NH Medical Park is determined to be the superior applicant as detailed above.

Regardless of the comparative factors, only NH Medical Park clearly meets all CON Review Criteria and the Performance Standards for surgical services and operating rooms, presenting clear and reasonable documentation throughout its application. Further, as a hospital that specializes in surgical services, NH Medical Park is dedicated to continuing to meet the OR needs of Forsyth County. Triad fails to prove a need for its proposed project. Even if Triad met the CON Review Criteria and Performance Standards, which it does not, NH Medical Park is the best applicant on a comparative basis to ensure enhanced access to high quality surgical care for its patients and the residents of Forsyth County. Thus, NH Medical Park should be approved.