ATTACHMENT - REQUIRED STATE AGENCY FINDINGS

FINDINGS
C = Conforming
CA = Conditional
NC = Nonconforming
NA = Not Applicable

DECISION DATE: September 19, 2014
PROJECT ANALYST: Gregory F. Yakaboski
TEAM LEADER: Lisa Pittman

PROJECT I.D. NUMBER: J-10280-14 / Rex Hospital, Inc., Rex Surgery Center of Wakefield, LLC, and Rex Wakefield MOB, LLC / Convert an existing ambulatory surgery center operating under a hospital license to a separately licensed freestanding ambulatory surgical center at the same location / Wake County

REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES

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

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

NA

Rex Hospital, Inc., Rex Surgery Center of Wakefield, LLC, and Rex Wakefield MOB, LLC **[RSCW, LLC]** proposes to reorganize the existing, Rex Surgery Center of Wakefield [**RSC]** from a hospital licensed ambulatory surgical center owned by Rex Hospital, Inc. into a separately licensed, freestanding ambulatory surgery center (ASC). The proposed project does not involve the construction of a new facility or movement to a new location. The proposed project does not involve the addition of any new health service facility beds, services or equipment for which there is a need determination in the 2014 State Medical Facilities Plan (SMFP). There are no policies in the 2014 SMFP that are applicable to this review. Therefore, this criterion is not applicable.

(2) Repealed effective July 1, 1987.

(3) The applicant shall identify the population to be served by the proposed project, and shall demonstrate the need that this population has for the services proposed, and the extent to which all residents of the area, and, in particular, low income persons, racial and ethnic

minorities, women, handicapped persons, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicants, propose to reorganize the existing, RSCW from an ambulatory surgical center owned by Rex Hospital, Inc. and operating under the hospital license into a separately licensed ASC at the same location in the existing facility. The applicant does not propose any new or expanded services. RSCW currently has three operating rooms and one procedure room and the reorganized and separately licensed RSCW, LLC will still have three operating rooms and one procedure room on the same property in the same building. Furthermore, no new positions will result from the proposed project.

Population to be Served

In Section III.6, pages 80-81, the applicants provide projected patient origin for the proposed ASC in the first two years of operation (FY2017-FY2018), as shown in the tables below.

Operating Rooms
Patient Origin: July 1, 2016 – June 31, 2018

County	Year 1: % of Total Patients	Year 2: % of Total Patients
Wake	60.5%	60.5%
Franklin	19.1%	19.1%
Granville	2.7%	2.7%
Johnston	2.3%	2.3%
Vance	2.1%	2.1%
Nash	2.0%	2.0%
Durham	1.6%	1.6%
Orange	1.3%	1.3%
Other*	8.4%	8.4%
Total	100.0%	100.0%

Please note that Rex assumes that patients are equal to cases.
*Other includes Alamance, Ashe, Beaufort, Brunswick, Carteret, Chatham, Cleveland, Cumberland, Duplin, Edgecombe, Gaston, Guilford, Halifax, Harnett, Haywood, Hertford, Hoke, Lincoln, Mecklenburg, Montgomery, Moore, Northampton, Onslow, Pender, Person, Pitt, Randolph, Rockingham, Sampson, Warren, Wayne, and Wilson counties in North Carolina and other states.

Procedure Room Cases
Patient Origin: July 1, 2016 – June 31, 2018

County	Year 1: % of Total Patients	Year 2: % of Total Patients
Wake	60.5%	60.5%
Franklin	19.1%	19.1%
Granville	2.7%	2.7%
Johnston	2.3%	2.3%
Vance	2.1%	2.1%
Nash	2.0%	2.0%
Durham	1.6%	1.6%
Orange	1.3%	1.3%
Other*	8.4%	8.4%
Total	100.0%	100.0%

Please note that Rex assumes that patients are equal to cases.
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On page 81, the applicants state

> *"Rex Surgery Center of Wakefield expects that patient origin through the project years will closely match the historical patient origin of the current facility. Consequently, future patient origin for the proposed ASC is based on the most recent full fiscal year's (FY2013) patient origin at Rex Surgery Center of Wakefield."*

The applicants adequately identified the population proposed to be served.

Need for the Project

In Section III.1(a), pages 59-70, the applicant describes the factors supporting the need for the proposed project:

- The population growth in Wake and Franklin counties, including the aging of the population (pages 60-62.).
- The continuing shift of surgical volume from inpatient to outpatient and the demand for ambulatory surgical services (pages 62-65 and 67-69).
- The need for hospital-physician collaborative ownership of a facility (pages 65-66);
- The ability to establish a more efficient and cost-effective structure, permitting a reduction in charges to patients and third party payors (pages 66-67).

Utilization

In Section IV.1, page 88, the applicant provides projected utilization of the both the operating rooms and the procedure room for the first two full fiscal years (FY2017 and FY2018) following project completion, as illustrated in the tables below:

Operating Rooms: FY2017 – FY2018

Operating Rooms	First Full FY (7/1/16-6/31/17)	Second Full FY (7/1/17 – 6/31/18)
# of Rooms	3	3
Total Cases	2,796	3,333

Procedure Rooms: FY2017 – FY2018

Operating Rooms	First Full FY (7/1/16-6/31/17)	Second Full FY (7/1/17 – 6/31/18)
# of Rooms	1	1
Total Cases	363	432

In Section III.1, pages 70-76 and IV.1(d), page 88, the applicant provides the assumptions and methodology used to project utilization for the proposed project set forth below:

Operating Rooms

Data utilized to support the projected utilization is derived from the surgical volume from expected physician investors shifting their surgical cases to the proposed ASC and the historical and projected volume from the existing Rex Surgery Center of Wakefield.

The Existing Rex Surgery of Wakefield

- 5.6% growth in operating room case volume from FY2010 through FY2013 [see table on page 70]
- Primary service area is Franklin and Wake counties. Approximately 80% of existing patients originate from Franklin and Wake counties. (see page 71)
- The first three full FY's of the proposed project are FY2017, FY2018 and FY2019.
- According to the North Carolina Office of State Budget and Management (NC OSBM) the combined projected population growth for Franklin and Wake counties from 2013 through 2019 is 2.0%. (see table on page 71 and Exhibit 15)
- The applicant assumed that *"the surgical cases historically performed at Rex Surgery Center of Wakefield will grow at a rate of 2.0 percent, the rate equal to the population growth rate of its primary service area, Franklin and Wake counties."*

- According to market research from *The Advisory Board* three service lines (orthopedics, general surgery and ENT), all of which are and will be provided at the proposed ASC, are expected to grow 4.0, 5.0 and 4.0 percent, respectively, over the next five years. (See Exhibit 17 for *The Advisory Board* market research). Also, the applicants cite The Advisory Board in stating that *"outpatient surgical procedures are expected to grow 15.8 percent over the next five years."* (See pages 71-72)

Existing Cases

On page 71, the applicants provide a table illustrating historic, interim and projected cases based on a 2.0% growth rate, see below

Existing cases performed at Rex Surgery Center of Wakefield: Historic, Interim and Projected

FY2013	FY2014	FY2015	FY2016	PY1 FY2017	PY2-FY2018	PY3-FY2019	Growth Rate
1,712	1,746	1,780	1,816	1,852	1,888	1,926	2.0%

Cases Expected to Shift to the Proposed ASC

- Furthermore, the applicants have identified physicians interested in investing in the proposed ASC and who have committed in writing to shifting historic case volume from their practices currently performed at other facilities to the proposed ASC. See Exhibit 29. The physician groups and historic case volume expected to shift to the proposed ASC are illustrated in the table below.

Physician Group	Current Number of Cases
Orthopaedic Specialists of North Carolina	600
Rex Surgical Specialists	348
Carolina Ear, Nose & Throat	799
Total	1,747

See Exhibit 29.

- Moreover, the applicants state that "*the above surgical cases that the physician investors have committed to shifting are all currently performed in a hospital-based operating room setting. The shift of these cases to a lower cost, high-quality setting will result in benefits to both the patient and the participating physician practices, as participation in an ASC will help with physician recruitment and attract interested patients."* (See page 72)

- The applicant then projected growth of these 1,747 cases at the 2.0% growth rate identified above starting in FY2013 through FY2019

Existing cases expected to be "shifted" to the proposed ASC: Historic, Interim and Projected

FY2013	FY2014	FY2015	FY2016	PY1 FY2017	PY2- FY2018	PY3- FY2019	Growth Rate
1,747	1,782	1,817	1,853	1,890	1,927	1,965	2.0%

*Please note that Rex has opted to use FY2013 data instead of annualized 2014 data due to the adverse weather conditions experienced in the area in the first quarter. Rex believes that using FY2013 as a base year for projections will result in the most accurate projections for the proposed facility.

- In addition, the applicants state "*Please note that Rex Surgery Center of Wakefield believes that additional physicians will invest in the proposed project and shift cases to the facility; however, it has based its projections only on the documented support in Exhibit 29."* (See page 72.)

- Next, rather than adding all the cases being "shifted" by the incoming investing physicians the applicants assume a "ramp up" over time as follows: PY1- 50% of the cases shifted to the proposed ASC; PY2- 75% of the cases shifted to the proposed ASC; PY3- 100% of the cases shifted to the proposed ASC. In support of the reasonableness of these assumptions the applicants state on page 73:

    1. The projected cases to be shifted only represent a portion of the total cases performed by the investing physicians as only those cases that are ASC-appropriate can be shifted;

    2. Due to the physicians being part owners of the proposed ASC they are incentivized to perform cases at the proposed ASC;

    3. Due to the lower cost of ASC's compared to hospital-based facilities payors are being more aggressive in educating patients to utilize ASC's when and where available and appropriate;

    4. Lower charges and co-pays incentivize patients to utilize ASC's as opposed to hospital based facilities.

    5. The projected cases being shifted to the proposed ASC are only from physicians that are currently interested in investing in the proposed ASC. The applicants expect additional surgeons (both investors and non-investors) to shift cases to the proposed ASC in the future.

Existing and Shifting Cases Combined

- On page 74 the applicants provide a table illustrating the combination of the existing cases and the shifted cases resulting in the projected utilization for the first three PY's (2017-2019)

FY	Existing Cases	Potential Cases to Shift	Percentage Shifted	Actual Cases Shifted	Total Cases

2016	1,816	1,853			1,816
2017 (PY1)	1,852	1,890	50%	945	2,796
2018 (PY2)	1,888	1,927	75%	1,445	3,333
2019 (PY3)	1,926	1,965	100%	1,965	3,891

- In addition, on page 74, the applicants provided a table showing the operating rooms needed in terms of the projected total cases, see below

	FY2013	**FY2014**	**FY2015**	**FY2016**	**PY1 FY2017**	**PY2-FY2018**	**PY3-FY2019**
Cases	1,712	1,746	1,780	1,816	2,796	3,333	3,891
Surgical Hours (OR cases x 1.5 hours)	2,568	2,619	2,671	2,724	4,195	5,000	5,836
ORs Needed (Hours/1,872)	1.4	1.4	1.4	1.5	2.2	2.7	3.1

In further support of the proposed project the applicants reference the conversion of the Rex Surgery Center of Cary from an existing hospital-based ASC into a separately licensed ASC. The project was approved in 2007 and completed in 2011. The applicant state that "…operating room cases at Rex Surgery Center of Cary have grown 20 percent annually since 2010, the last year of operation as a hospital-based ASC." (See pages 68-69 and 75-76)

Procedure Room

The applicants anticipate that the utilization of the procedure room will increase with the projected increase in surgical volume. The applicants utilize the ratio of procedure room cases to operating room cases in FY 2013 as a benchmark and keep that ratio constant as illustrated in the table below

	FY2013	Ratio	PY1: FY2017	PY2: FY2018	PY3: FY2019
OR Cases	1,712		2,796	3,333	3,891
Procedure Room Cases	222	0.13	363	432	505

The projected utilization of the operating rooms and procedure room at the proposed ASC is based on reasonable, credible and supported assumptions. The applicants adequately demonstrate the need for the proposed project.

Access

The applicants project 19.6% of the patients utilizing the operating rooms will be covered by Medicare (7.0%) and Medicaid (12.6%). The applicant projects 41.0% of the patients utilizing the procedure room will be covered by Medicare (5.4%) and Medicaid (35.6%). The applicants demonstrate adequate access for medically underserved groups to the proposed services.

In summary, the applicants adequately identify the population to be served, adequately demonstrate the need the population projected to be served has for the proposed project, and demonstrate all residents of the service area, and, in particular, underserved groups, are likely to have access to the services proposed. Therefore, the application is conforming to this criterion.

(3a) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the applicant shall demonstrate that the needs of the population presently served will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly to obtain needed health care.

NA

(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.

CA

In Section III.8, pages 82-84, the applicants discuss the alternatives it considered prior to submitting this application, which include:

a) Maintaining the status quo, which the applicants state was rejected because it does not allow the ability to partner with physicians which could hinder the facility's ability to capitalize on continuous improvements in quality and efficiencies associated with collaboration and would prevent the possibility of reduced charges through the establishment of more than one charge structure.
b) Implementing the reorganized facility at another location or as a newly built facility, which the applicants state was rejected as cost-prohibitive since the proposed project can be developed in its existing space and maintain its operations at its current location. Thus, the proposed project would avoid costs associated with the move to another location or as a newly built facility.

After considering those alternatives, the applicants state the alternative represented in the application is the most effective alternative.

Furthermore, the application is conforming to all other statutory review criteria, and thus, is approvable. A project that cannot be approved cannot be an effective alternative.

In summary, the applicants adequately demonstrate that the proposal is the least costly or most effective alternative to meet the identified need. Therefore, the application is conforming to this criterion and approved subject to the following conditions:

1. **Rex Hospital, Inc., Rex Surgery Center of Wakefield, LLC, and Rex Wakefield MOB, LLC shall materially comply with all representations made in the certificate of need application.**

2. **Rex Hospital, Inc., Rex Surgery Center of Wakefield, LLC, and Rex Wakefield MOB, LLC shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditure in Section VIII of the application and that would otherwise require a certificate of need.**

3. **Rex Hospital, Inc., Rex Surgery Center of Wakefield, LLC, and Rex Wakefield MOB, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.**

(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.

C

In Section VIII.1, page 127, the applicants project the capital cost for the project will be $466,000 ($250,000 in construction contracts/materials; $116,000 in consultant fees; and $100,000 for contingency and escalation). In Section VIII.3, the applicant states Rex Healthcare will finance the capital costs with accumulated reserves. In Section IX.1, the applicant projects no start-up expenses or initial operating expenses. In Exhibit 19, the applicant provides a letter from the Chief Financial Officer for Rex Healthcare and Rex Hospital, which states

> *"As a requirement of the certificate of need application process, I have been asked to document the availability of funds for the proposed project to convert an existing hospital-based surgical facility, Rex Surgery Center of Wakefield, to a separately licensed ambulatory surgery center (ASC).*
>
> *As the Chief Financial Officer of Rex Healthcare and Rex Hospital, I am responsible for the financial operations of Rex Hospital, which includes the existing hospital-based surgical facility. As such, I am very familiar with the organization's financial position. The total capital expenditure for this project is estimated to be $466,000. Rex Healthcare will fund the capital cost from existing accumulated cash reserves. This expenditure will not impact any other capital projects currently underway or planned for at this time. For*

verification of the availability of these funds and our ability to finance these projects internally, please refer to the line items "Cash and Cash Equivalents" and "Assets Limited As to Use" in the audited financial statements included with this certificate of need application.

There are no start-up costs related to this project. However, as noted in Section IX of the application, Rex Surgery Center of Wakefield will experience a period of approximately 60 days of expenses before its revenue as a freestanding ASC begins to be received. Simultaneous with the reorganization and conversion, Rex Hospital, Inc. will no longer incur the direct expenses for the surgery facility, but will continue to receive revenue for a period of approximately 60 days. As the owner of the operating rooms as well as the procedure room, manager of the ASC, and sole member of the Rex Surgery Center of Wakefield, LLC, Rex will use the revenue it receives to cover any necessary expenses for the ASC, until the time that its revenue exceeds its expenses, which is expected by the third month of operation."

Exhibit 26 of the application contains the Rex Healthcare, Inc. and Subsidiaries Combined Financial Statements and Independent Auditors' Report for the year ended June 30, 2013, which documents that Rex Healthcare had almost $74,000,000 million in cash and cash equivalents as of June 30, 2013. The applicants adequately demonstrate the availability of sufficient funds for the capital needs of the proposal.

In the pro forma financial statements (Form B) for the proposed ASC RSCW, LLC, the applicants project revenues will exceed expenses in each of the first three operating years, as shown below:

RSCW, LLC

	1st-FY2017 (7/1/16 – 6/30/17)	**2nd-FY2018** (7/1/17 – 6/30/18)	**3rd- FY2019** (7/1/18 – 6/30/19)
Total Revenue	$15,039,962	$18,457,859	$22,182,031
Total Expenses	$10,475,726	$11,881,589	$13,404,626
Net Income (Loss)	$4,564,236	$6,576,270	$8,777,405

Operating costs and revenues are based on reasonable assumptions including projected utilization. See the pro forma financial statements in the application for the assumptions. See Criterion (3) for discussion regarding utilization assumptions which is incorporated hereby as if set forth fully herein. The applicants adequately demonstrate that the financial feasibility of the proposal is based upon reasonable projections of operating costs and revenues, and the application is conforming with this 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.

The applicants propose to reorganize the existing, RSCW from an ambulatory surgical center owned by Rex Hospital, Inc. and operating under the hospital license into a separately licensed ASC at the same location in the existing facility.

The applicants do not propose any new or expanded services. RSCW currently has three operating rooms and one procedure room and the reorganized and separately licensed RSCW, LLC will still have three operating rooms and one procedure room on the same property in the same building. Furthermore, no new positions will result from the proposed project.

Consequently, the applicants adequately demonstrate the proposed project would not result in any unnecessary duplication of existing or approved health service capabilities or facilities in the applicant's service area. Therefore, the application is conforming with this criterion.

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

C

In Section VII.1 and VII.2, pages 117-118, the applicants provide the current and projected staffing for the second operating year of the proposed ASC, as shown below in the table.

Position	Current Staffing (FTE's)	Proposed Staffing Year 2
Director	0.5	1.0
Clinical Manager	1.0	1.0
Registered Nurses (RN)	10.0	11.6
Surgical Tech/Attendant	3.0	5.0
Team Leader/Staff Nurse	2.0	2.0
EKB/Phlebotomy Technician	1.0	1.0
Materials Specialist	1.0	1.0
Anesthesia Technician	1.5	1.5
Intake Specialist	2.1	3.0
Customer Service Rep	0.25	1.0
Customer Service Specialist	0.5	1.45
Patient Accounts Representative	0.5	1.0
Scheduling/ Customer Service Rep	0.5	1.0
Total	**23.85**	**31.55**

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In Section VII.3, page 118, the applicants state

> *"The proposed project does not involve any new services. No new <u>positions</u> will result from the proposed project. The existing surgical facility currently employs staff in each of these positions (i.e. RN's, Team Leader/Staff Nurse, Surgical Techs, etc.). Incremental FTEs are identified in Table VII.2 above. Please note that*

currently, certain staff is shared between Rex Surgery Center of Wakefield and Rex's other existing services at the Wakefield site. The proposed staffing plan (Table VII.2) includes staff in those positions that will be dedicated to Rex Surgery Center of Wakefield alone."

In Section VII.3, page 119, and VII.7, page 122, the applicants describe their recruitment and retention procedures, and indicates that they do not anticipate any difficulties identifying, hiring, and retaining qualified staff for the proposed project. In Section VII.9, page 124, the applicants identify Ronald Gore, M.D. as the current Medical Director of RSCW and his continuation as the Medical Director for the proposed ASC, RSCW, LLC. Exhibit 21 contains both a copy of Dr. Gore's curriculum vitae and a letter from Dr. Gore expressing his support for the project. Exhibit 29 contains an index and copies of letters from physician and surgeons expressing support for the proposed project. The applicants adequately demonstrate the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

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

C

In Section II.2, pages 24-25, and Exhibit 2, the applicants document that all of the necessary ancillary and support services for the proposed services will be provided by the applicants or through a *"Rex Healthcare Management Agreement"* with Rex Hospital, Inc. d/b/a Rex Healthcare. In Section V.2(b), page 91, the applicants state, *"As an existing healthcare facility in the area, Rex has established relationships with area healthcare providers."* Exhibit 20 contains a copy of a Rex transfer agreement list with eighteen facilities and a copy of a transfer agreement. Exhibit 29 contains an index and copies of letters from physician and surgeons expressing support for the proposed project. The applicants adequately demonstrate that necessary ancillary and support services will be available and that the proposed project will be coordinated with the existing health care system. Therefore, the application is conforming with this criterion.

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

NA

(10) When applicable, the applicant shall show that the special needs of health maintenance organizations will be fulfilled by the project. Specifically, the applicant shall show that the project accommodates: (a) The needs of enrolled members and reasonably anticipated new members of the HMO for the health service to be provided by the organization; and (b) The

availability of new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the applicant shall consider only whether the services from these providers:

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

NA

(11) Repealed effective July 1, 1987.

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

NA

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

(a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

In Section VI.12, page 114, the applicants report the payer mix for the RSCW for FY2013, which is summarized in the following tables:

Operating Rooms FY 2013

Payor	Current Number of Cases As a Percentage of Total Cases
Self-Pay/ Indigent	0.9%
Commercial/ Managed Care	74.0%

Medicare/ Medicare Managed Care	14.6%
Medicaid	4.8%
Other*	5.7%
Total	100.0%

*includes Workers Comp and Other Government

Procedure Rooms FY 2013

Payor	Current Number of Cases As a Percentage of Total Cases
Self-Pay/ Indigent	6.3%
Commercial/ Managed Care	52.3%
Medicare/ Medicare Managed Care	35.6%
Medicaid	5.4%
Other*	0.5%
Total	100.0%

*includes Workers Comp and Other Government

The Division of Medical Assistance (DMA) maintains a website which offers information regarding the number of persons eligible for Medicaid assistance and estimates of the percentage of uninsured for each county in North Carolina. The following table illustrates those percentages for Wake and Franklin Counties and Statewide.

County	Total # of Medicaid Eligibles as % of Total Population June 2010	Total # of Medicaid Eligibles Age 21 and older as % of Total Population June 2010	% Uninsured CY 2008-2009 (Estimate by Cecil G. Sheps Center)
Wake	10%	3.3%	18.4%
Franklin	18%	7.4%	19.7%
Statewide	17%	6.7%	19.7%

*More current data, particularly with regard to the estimated uninsured percentages, was not available.

The majority of Medicaid eligibles are children under the age of 21. This age group does not utilize the same health services at the same rate as older segments of the population, particularly the surgical services proposed in this application.

Moreover, the number of persons eligible for Medicaid assistance may be greater than the number of Medicaid eligibles who actually utilize health services. The DMA website includes information regarding dental services which illustrates this point. For dental services only, DMA provides a comparison of the number of persons eligible for dental services with the number actually receiving services. The statewide percentage of persons eligible to receive dental services who actually received dental services was 48.6% for those age 20 and younger and 31.6% for those age 21 and older. Similar information is not provided on the website for other types of services covered by

Medicaid. However, it is reasonable to assume that the percentage of those actually receiving other types of health services covered by Medicaid is less than the percentage that is eligible for those services.

The Office of State Budget & Management (OSBM) maintains a website which provides historical and projected population data for each county in North Carolina. In addition, data is available by age, race or gender. However, a direct comparison to the applicants' current payer mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities or women utilizing health services. Furthermore, OSBM's website does not include information on the number of handicapped persons.

The applicants demonstrate that medically underserved populations currently have adequate access to the applicants existing services and is conforming to this criterion.

(b) Its past performance in meeting its obligation, if any, under any applicable regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Recipients of Hill-Burton funds were required to provide uncompensated care, community service and access by minorities and handicapped persons. In Section VI.11, page 113, the applicants state:

"Rex Hospital has had no obligations to provide uncompensated care, community service or access to care by medically underserved, minorities or handicapped persons during the last three years. ... Rex Hospital is in full compliance with Title III of the ADA, the Civil Rights Act, and all other federally mandated regulations concerning minorities and handicapped persons."

In Section VI.10 (a), page 112, the applicants state that no civil rights equal access complaints have been filed against Rex in the last five years. The application is conforming to this criterion.

(c) That the elderly and the medically underserved groups identified in this subdivision will be served by the applicant's proposed services and the extent to which each of these groups is expected to utilize the proposed services; and

C

In Section VI.14, page 115, the applicants provide the projected payer mix for the second full fiscal year of operation (FY2018) for the proposed separately licensed ASC, as shown in the tables below.

Operating Rooms FY 2018

Payor	Current Number of Cases As a Percentage of Total Cases
Self-Pay/ Indigent	0.7%
Commercial/ Managed Care	74.9%
Medicare/ Medicare Managed Care	7.0%
Medicaid	12.6%
Other*	4.8%
Total	100.0%

*includes Workers Comp and Other Government

Procedure Rooms FY 2018

Payor	Current Number of Cases As a Percentage of Total Cases
Self-Pay/ Indigent	6.3%
Commercial/ Managed Care	52.3%
Medicare/ Medicare Managed Care	35.6%
Medicaid	5.4%
Other*	0.5%
Total	100.0%

*includes Workers Comp and Other Government

On page 115, the applicants state,

"Projected payor mix for Rex Surgery Center of Wakefield is based on its historical payor mix adjusted for the projected impact of the cases shifted by the physician groups interested in investing in the proposed LLC, as discussed in Section III.1.(b). It was assumed that the cases shifted by the expected physician investors would have the same payor mix as Rex Surgery Center of Wakefield's historical experience for the specific service line provided by those surgeons. As a result, the proposed payor mix is different than Rex Surgery Center of Wakefield's historic mix and changes over time as the projected shift of cases from these physicians ramps up."

The applicants demonstrate that medically underserved populations will have adequate access to the proposed services. Therefore, the application is conforming to this criterion.

(d) That the applicant offers a range of means by which a person will have access to its services. Examples of a range of means are outpatient services, admission by house staff, and admission by personal physicians.

In Section VI.9(a), pages 111-112, the applicants describe the range of means by which a person will have access to the proposed services. The information provided is reasonable and credible and supports a finding of conformity to this criterion.

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

C

In Section V.1, pages 89-90, the applicants state that the proposed project will be managed by Rex which has extensive existing relationships with area health professional training programs. The applicants state that Rex is committed to accommodating the clinical needs of health professionals as demonstrated by the more than 60 existing agreements with health professionals throughout the Southeast including, UNC, Duke University, East Carolina University, Durham Technical College and Western Carolina University. See Exhibit 19w which provides a list of the affiliate agreements. The information provided in Section V.1 is reasonable and credible and supports a finding of conformity to this criterion.

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

(18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicants propose to reorganize the existing, RSCW from an ambulatory surgical center owned by Rex Hospital, Inc. and operating under the hospital license into a separately licensed ASC at the same location in the existing facility.

In Section V.7, pages 95-97, the applicants discuss how any enhanced competition in the service area will have a positive impact on the cost-effectiveness, quality and access to the proposed surgical services. The applicants state,

> *"The proposed project will foster competition by promoting value, safety and quality, and access to services in the proposed service area … by continuing to maintain operations in its current location, the proposed service will avoid costs that would be added if the proposed project were to be implemented at another location or as a newly built facility. …. by reorganizing to an LLC, Rex will have the ability to joint venture with*

physicians through shared ownership. As physicians become owners of the LLC, the efficiency and quality of service is expected to increase… The reorganized facility will enable the introduction of a separate charge schedule, which as a separately licensed freestanding facility will be lower than the existing hospital-based schedule. As such, the proposed project will allow RSCW, LLC to further reduce charges, which will in turn enhance the financial feasibility of ambulatory surgery services for residents of Wake County and surrounding communities. By enhancing access to high quality ambulatory surgery services, the proposed project will foster competition for surgical services in Wake County and propel other providers to maximize the level of access to their services, regardless of the patient's payor source."

See also Sections II, III, V, VI and VII where the applicants discuss the impact of the project on cost-effectiveness, quality and access.

The information provided by the applicants in those sections is reasonable and credible and adequately demonstrates that any enhanced competition in the service area will have a positive impact on cost-effectiveness, quality and access to the proposed services. This determination is based on the information in the application and the following analysis:

- The applicants adequately demonstrate the need to reorganize the existing RSCW from an ambulatory surgical center owned by Rex Hospital, Inc. and operating under the hospital license into a separately licensed ASC at the same location in the existing facility and that it is a cost-effective alternative;
- The applicants adequately demonstrate that they will continue to provide quality services; and
- The applicants demonstrate that they will provide adequate access to medically underserved populations.

The application is conforming to this criterion.

(19) Repealed effective July 1, 1987.

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

C

The applicants currently provide hospital based ambulatory surgery services at Rex Surgery Center of Wakefield located at 11200 Governor Manly Way, Suite 110, Raleigh. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, Rex Hospital, Inc. has operated in compliance with all Medicare Conditions of Participation within the eighteen months immediately preceding the date of this decision. Therefore, the application is conforming to this criterion.

(21) Repealed effective July 1, 1987.

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

C

The applicants propose to convert an existing ambulatory surgery center operating under a hospital license to a separately licensed freestanding ambulatory surgical center at the same location. The following regulatory review criteria are applicable to this review:

- Criteria and Standards for Surgical Services and Operating Rooms, promulgated in 10A NCAC 14C .2100.

The application is conforming to all applicable Criteria and Standards for Surgical Services and Operating Rooms. The specific criteria are discussed below.

SECTION .2100 - CRITERIA AND STANDARDS FOR SURGICAL SERVICES AND OPERATING ROOMS

10A NCAC 14C .2102 INFORMATION REQUIRED OF APPLICANT

(a) An applicant proposing to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall identify each of the following specialty areas that will be provided in the facility:

(1) gynecology;
(2) otolaryngology;
(3) plastic surgery;
(4) general surgery;
(5) ophthalmology;
(6) orthopedic;
(7) oral surgery; and
(8) other specialty area identified by the applicant.

-C- In Section II.10, page 32, the applicants state that *"Historically, Rex Surgery Center of Wakefield has provided ambulatory surgical services for the specialties identified in items (1) through (7) above. Additional specialty areas provided at the facility include neurosurgery, urology, vascular, trauma, and dermatology surgery. ... The reorganized, separately licensed ASC will continue to offer this broad range of multispecialty ambulatory surgical services."*

(b) An applicant proposing to increase the number of operating rooms in a service area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall provide the following information:

(1) the number and type of operating rooms in each facility which the applicant or a related entity owns a controlling interest in and is located in the service area, (separately identifying the number of dedicated open heart and dedicated C-Section rooms);

(2) the number and type of operating rooms to be located in each facility which the applicant or a related entity owns a controlling interest in and is located in the service area after completion of the proposed project and all previously approved projects related to these facilities (separately identifying the number of dedicated open heart and dedicated C-Section rooms);

(3) the number of inpatient surgical cases, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units, and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases performed in the most recent 12 month period for which data is available, in the operating rooms in each facility listed in response to Subparagraphs (b)(1) and (b)(2) of this Rule;

(4) the number of inpatient surgical cases, excluding trauma cases reported by level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases projected to be performed in each of the first three operating years of the proposed project, in each facility listed in response to Subparagraphs (b)(1) and (b)(2) of this Rule;

(5) a description of and documentation to support the assumptions and methodology used in the development of the projections required by this Rule;

(6) the hours of operation of the proposed new operating rooms;

(7) if the applicant is an existing facility, the average reimbursement received per procedure for the 20 surgical procedures most commonly performed in the facility during the preceding 12 months and a list of all services and items included in the reimbursement;

(8) the projected average reimbursement to be received per procedure for the 20 surgical procedures which the applicant projects will be performed most often in the facility and a list of all services and items included in the reimbursement; and

(9) identification of providers of pre-operative services and procedures which will not be included in the facility's charge.

-NA- The applicants do not propose to increase the number of ORs in a service area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program.

(c) An applicant proposing to relocate existing or approved operating rooms within the same service area shall provide the following information:

(1) the number and type of existing and approved operating rooms in each facility in which the number of operating rooms will increase or decrease (separately identifying the number of dedicated open heart and dedicated C-Section rooms);

(2) the number and type of operating rooms to be located in each affected facility after completion of the proposed project and all previously approved projects related to these facilities (separately identifying the number of dedicated open heart and dedicated C-Section rooms);

(3) the number of inpatient surgical cases, excluding trauma cases reported by Level I, II, or III trauma centers, cases reported by designated burn intensive care units, and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases performed in the most recent 12 month period for which data is available, in the operating rooms in each facility listed in response to Subparagraphs (c)(1) and (c)(2) of this Rule;

(4) the number of inpatient surgical cases, excluding trauma cases reported by level I, II, or III trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and dedicated C-section rooms, and the number of outpatient surgical cases projected to be performed in each of the first three operating years of the proposed project, in each facility listed in response to Subparagraphs (c)(1) and (c)(2) of this Rule;

(5) a detailed description of and documentation to support the assumptions and methodology used in the development of the projections required by this Rule;

(6) the hours of operation of the facility to be expanded;

(7) the average reimbursement received per procedure for the 20 surgical procedures most commonly performed in each affected facility during the preceding 12 months and a list of all services and items included in the reimbursement;

(8) the projected average reimbursement to be received per procedure for the 20 surgical procedures which the applicant projects will be performed most often in the facility to be expanded and a list of all services and items included in the reimbursement; and

(9) identification of providers of pre-operative services and procedures which will not be included in the facility's charge.

-NA- The proposed project does not involve the relocation of existing or approved operating rooms within the same service area.

(d) An applicant proposing to establish a new single specialty separately licensed ambulatory surgical facility pursuant to the demonstration project in the 2010 State Medical Facilities Plan shall provide:

(1) the single surgical specialty area in which procedures will be performed in the proposed ambulatory surgical facility;

(2) a description of the ownership interests of physicians in the proposed ambulatory surgical facility;

(3) a commitment that the Medicare allowable amount for self-pay and Medicaid surgical cases minus all revenue collected from self-pay and Medicaid surgical cases shall be at least seven percent of the total revenue collected for all surgical cases performed in the proposed facility;

(4) for each of the first three full fiscal years of operation, the projected number of self-pay surgical cases;

(5) for each of the first three full fiscal years of operation, the projected number of Medicaid surgical cases;

(6) for each of the first three full fiscal years of operation, the total projected Medicare allowable amount for the self-pay surgical cases to be served in the proposed facility, i.e. provide the projected Medicare allowable amount per self-pay surgical case and multiply that amount by the projected number of self-pay surgical cases;

(7) for each of the first three full fiscal years of operation, the total projected Medicare allowable amount for the Medicaid surgical cases to be served in the facility, i.e. provide the projected Medicare allowable amount per Medicaid surgical case and multiply that amount by the projected number of Medicaid surgical cases;

(8) for each of the first three full fiscal years of operation, the projected revenue to be collected from the projected number of self-pay surgical cases;

(9) for each of the first three full fiscal years of operation, the projected revenue to be collected from the projected number of Medicaid surgical cases;

(10) for each of the first three full fiscal years of operation, the projected total revenue to be collected for all surgical cases performed in the proposed facility;

(11) a commitment to report utilization and payment data for services provided in the proposed ambulatory surgical facility to the statewide data processor, as required by G.S. 131E-214.2;

(12) a description of the system the proposed ambulatory surgical facility will use to measure and report patient outcomes for the purpose of monitoring the quality of care provided in the facility;

(13) descriptions of currently available patient outcome measures for the surgical specialty to be provided in the proposed facility, if any exist;

(14) if patient outcome measures are not currently available for the surgical specialty area, the applicant shall develop its own patient outcome measures to be used for monitoring and reporting the quality of care provided in the proposed facility, and shall provide in its application a description of the measures it developed;

(15) a description of the system the proposed ambulatory surgical facility will use to enhance communication and ease data collection, e.g. electronic medical records;

(16) a description of the proposed ambulatory surgical facility's open access policy for physicians, if one is proposed;

(17) a commitment to provide to the Agency annual reports at the end of each of the first five full years of operation regarding:

- *(A) patient payment data submitted to the statewide data processor as required by G.S. 131E-214.2;*
- *(B) patient outcome results for each of the applicant's patient outcome measures;*
- *(C) the extent to which the physicians owning the proposed facility maintained their hospital staff privileges and provided Emergency Department coverage, e.g. number of nights each physician is on call at a hospital; and*
- *(D) the extent to which the facility is operating in compliance with the representations the applicant made in its application relative to the*

single specialty ambulatory surgical facility demonstration project in the 2010 State Medical Facilities Plan.

-NA- The applicants are not proposing to establish a new single specialty separately licensed ambulatory surgical facility pursuant to a demonstration project in the 2011 State Medical Facilities Plan.

10A NCAC 14C .2103 PERFORMANCE STANDARDS

(a) In projecting utilization, the operating rooms shall be considered to be available for use five days per week and 52 weeks a year.

-C- In Section II.10, page 45, the applicants state that in projecting utilization they *"assumed that the operating rooms and the procedure room will be available at least 5 days per week and 52 weeks per year."*

(b) A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C-section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall:

(1) demonstrate the need for the number of proposed operating rooms in the facility which is proposed to be developed or expanded in the third operating year of the project based on the following formula: {[(Number of facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus (Number of facility's projected outpatient cases times 1.5 hours)] divided by 1872 hours} minus the facility's total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-section operating rooms or demonstrate conformance of the proposed project to Policy AC-3 in the State Medical Facilities Plan titled "Exemption From Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects;" and

(2) The number of rooms needed is determined as follows:

(A) in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;

(B) in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole

number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and

(C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.

-C- In Section II.10, page 47, and Section III.1, the applicants state that the Wake County Service Area has more than 10 ORs. The following table illustrates projected surgical cases at the proposed ambulatory surgical facility in Project Year 3.

	Inpatient Cases	Outpatient Cases	Total Hours	Hours/ 1,872
Project Year 3	----	3,891	5,836	3.1

As shown in the table above, projected surgical hours at the proposed ambulatory surgical center supports a need for three (3) ORs. The applicants adequately demonstrate the proposal is conforming to this Rule.

(c) A proposal to increase the number of operating rooms (excluding dedicated C-section operating rooms) in a service area shall:

(1) demonstrate the need for the number of proposed operating rooms in addition to the rooms in all of the licensed facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project based on the following formula: {[(Number of projected inpatient cases for all the applicant's or related entities' facilities, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus (Number of projected outpatient cases for all the applicant's or related entities' facilities times 1.5 hours)] divided by 1872 hours} minus the total number of existing and approved operating rooms and operating rooms proposed in another pending application, excluding one operating room for Level I or II trauma centers, one operating room for facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all of the applicant's or related entities' licensed facilities in the service area; and

(2) The number of rooms needed is determined as follows:

(A) in a service area which has more than 10 operating rooms, if the difference is a positive number greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5; and if the difference is a negative number or a positive number less than 0.5, then the need is zero;

(B) in a service area which has 6 to 10 operating rooms, if the difference is a positive number greater than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3, and if the difference is a negative number or a positive number less than 0.3, then the need is zero; and

(C) in a service area which has five or fewer operating rooms, if the difference is a positive number greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2; and if the difference is a negative number or a positive number less than 0.2, then the need is zero.

-NA- The applicants do not propose to increase the number of ORs (excluding dedicated C-section ORs) in the service area.

(d) An applicant that has one or more existing or approved dedicated C-section operating rooms and is proposing to develop an additional dedicated C-section operating room in the same facility shall demonstrate that an average of at least 365 C-sections per room were performed in the facility's existing dedicated C-section operating rooms in the previous 12 months and are projected to be performed in the facility's existing, approved and proposed dedicated C-section rooms during the third year of operation following completion of the project.

-NA- The applicants do not propose to develop an additional dedicated C-section OR in a facility with one more existing or approved dedicated C-section ORs.

(e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall:

(1) provide documentation to show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the same specialty area as proposed in the application is currently utilized an average of at least 1,872 hours per operating room per year, excluding dedicated open heart and C-Section operating rooms. The hours utilized per operating room shall be calculated as follows: [(Number of projected inpatient cases, excluding open heart and C-sections performed in dedicated rooms, times 3.0 hours) plus (Number of projected outpatient cases times 1.5 hours)] divided by the number of operating rooms, excluding dedicated open heart and C-Section operating rooms; and

(2) demonstrate the need in the third operating year of the project based on the following formula: [(Total number of projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours) divided by 1872 hours] minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms and shared operating rooms in the service area. The need is demonstrated if the difference is a positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of 0.50 or greater.

-NA- The applicants do not propose to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program.

(f) The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.

-C- The applicants adequately document the assumptions and provide data supporting the methodology in Section III.1(b), pages 70-76, and Section IV, pages 87-102. See Criterion (3) for discussion of utilization which is hereby incorporated by reference as if set forth fully herein.

10A NCAC 14C .2104 SUPPORT SERVICES

(a) An applicant proposing to establish a new ambulatory surgical facility, a new campus of an existing facility, or a new hospital shall provide copies of the written policies and procedures that will be used by the proposed facility for patient referral, transfer, and follow-up.

-C- In Exhibit 11, the applicants provide copies of patient referral, transfer and follow-up policies.

(b) An applicant proposing to establish a new ambulatory surgical facility, a new campus of an existing facility, or a new hospital shall provide documentation showing the proximity of the proposed facility to the following services:

(1) emergency services;
(2) support services;
(3) ancillary services; and
(4) public transportation.

-C- In Section II.10, pages 50-51, the applicants state that support and ancillary services will be provided on-site, that emergency services are available 4.6 miles and 8 minutes from the site of the proposed ambulatory surgical facility. Public transportation is available on-site through the town of Wake Forest bus service. In addition *"ADA Paratransit (door to door service) is provided for eligible persons with disabilities whose trips originate within 3/4 miles of the Wake Forest Loop and end within the service area of Triangle Transit and the City of Raleigh."* (See page 51 of the application.)

10A NCAC 14C .2105 STAFFING AND STAFF TRAINING

(a) An applicant proposing to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to establish a new hospital, to increase the number of operating rooms in a facility, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a specialty to a specialty ambulatory surgical program shall identify, justify and document the availability of the number of current and proposed staff to be utilized in the following areas in the facility to be developed or expanded:

(1) administration;
(2) pre-operative;
(3) post-operative;
(4) operating room; and
(5) other.

-C- In Section II.10, page 53, and in Section VII., pages 117-118 and 121, Table VII.7 *"Staffing by Area of Operation-FY 2018"* the applicants provide the proposed staffing for the facility for each of the areas listed above. The applicants adequately justify and document the availability of the proposed staff.

(b) The applicant shall identify the number of physicians who currently utilize the facility and estimate the number of physicians expected to utilize the facility and the criteria to be used by the facility in extending surgical and anesthesia privileges to medical personnel.

-C- In Section II.10, page 53, the applicants state that *"privileges will be extended to all members of Rex's Medical Staff. At present, 102 physicians are credentialed at Rex Surgery Center of Wakefield … While RSCW, LLC expects that number to increase as a result of the proposed project, RSCW, LLC does not know the exact number of physicians who will utilize the facility."*

*(*c) The applicant shall provide documentation that physicians with privileges to practice in the facility will be active members in good standing at a general acute care hospital within the service area in which the facility is, or will be, located or documentation of contacts the applicant made with hospitals in the service area in an effort to establish staff privileges.

-C- In Section II.10, page 54, and Exhibit 10, the applicants state that all physicians with privileges to practice at the proposed facility will be active members in good standing and "will be required to possess the appropriate credentials from Rex or an appropriate acute care facility in Wake County."

(d) The applicant shall provide documentation that physicians owning the proposed single specialty demonstration facility will meet Emergency Department coverage responsibilities in at least one hospital within the service area, or documentation of contacts the applicant made with hospitals in the service area in an effort to commit its physicians to assume Emergency Department coverage responsibilities.

-NA- The applicants do not propose to develop a single specialty demonstration facility.

10A NCAC 14C .2106FACILITY

(a) An applicant proposing to establish a licensed ambulatory surgical facility that will be physically located in a physician's or dentist's office or within a general acute care hospital shall demonstrate that reporting and accounting mechanisms exist and can be used to confirm that the licensed ambulatory surgery facility is a separately identifiable entity physically and administratively, and is financially independent and distinct from other operations of the facility in which it is located.

-NA- The applicants do not propose to establish a licensed ambulatory surgical facility that will be physically located in a physician's or dentist's office or within a general acute care hospital.

(b) An applicant proposing to establish a licensed ambulatory surgical facility or a new hospital shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years of completion of the facility.

-C- In Section II.10, page 55, and Exhibit 10, the applicants state that the proposed ambulatory surgical facility will be accredited by the Joint Commission, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years of completion of operation.

(c) All applicants shall document that the physical environment of the facility to be developed or expanded conforms to the requirements of federal, state, and local regulatory bodies.

-C- In Section II.10, page 56, and Exhibit 10, the applicants document that the physical environment of the facility will conform to the requirements of federal, state, and local regulatory bodies.

(d) An applicant proposing to establish a new ambulatory surgical facility, a new campus of an existing facility or a new hospital shall provide a floor plan of the proposed facility identifying the following areas:

(1) receiving/registering area;
(2) waiting area;
(3) pre-operative area;
(4) operating room by type;
(5) recovery area; and
(6) observation area.

-C- Exhibit 8 contains a design schematic of the proposed ASC which identifies the areas required by this Rule. The applicants further describe the line drawings on page 56 of the application.

(e) An applicant proposing to expand by converting a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or by adding a specialty to a specialty ambulatory surgical program that does not propose to add physical space to the existing ambulatory surgical facility shall demonstrate the capability of the existing ambulatory surgical program to provide the following for each additional specialty area:

(1) physicians;
(2) ancillary services;
(3) support services;
(4) medical equipment;
(5) surgical equipment;
(6) receiving/registering area;
(7) clinical support areas;
(8) medical records;
(9) waiting area;
(10) pre-operative area;

(11) operating rooms by type;
(12) recovery area; and
(13) observation area.

-NA- The applicants do not propose to expand by converting a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or by adding a specialty to a specialty ambulatory surgical program that does not propose to add physical space to the existing ambulatory surgical facility.