

**ATTACHMENT - REQUIRED STATE AGENCY FINDINGS**

**FINDINGS**

C = Conforming

CA = Conditional

NC = Nonconforming

NA = Not Applicable

Decision Date: October 16, 2017

Findings Date: October 16, 2017

Project Analyst: Tanya S. Rupp

Team Leader: Lisa Pittman

**COMPETITIVE REVIEW**

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Project ID #: F-11343-17  
Facility: Novant Health Monroe Outpatient Surgery, LLC  
FID #: 050748  
County: Union County  
Applicant: Novant Health Monroe Outpatient Surgery, LLC  
Project: Add one OR pursuant to the need determination in the 2017 SMFP and one procedure room for a total of two ORs and one procedure room

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Project ID #: F-011348-17  
Facility: Union West Surgery Center  
FID #: 050752  
County: Union County  
Applicants: The Charlotte-Mecklenburg Hospital Authority and Union Health Services, LLC  
Project: Add a third OR pursuant to the need determination in the 2017 SMFP and one procedure room for a total of three ORs and one procedure room

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**REVIEW CRITERIA FOR NEW INSTITUTIONAL HEALTH SERVICES**

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

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

C – Both Applicants

### **Need Determination**

The 2017 State Medical Facilities Plan (2017 SMFP) includes a Need Determination for one additional operating room (OR) in the Union County Operating Room Service Area. Two applications were received by the Healthcare Planning and Certificate of Need Section (CON Section or Agency) for development of the OR. The two applicants each applied for one OR, for a combined total of two additional ORs. Pursuant to the need determination in the 2017 SMFP, only one new or additional OR can be approved in this review.

**Novant Health Monroe Outpatient Surgery, LLC [NHMOS]** (formerly Presbyterian Same Day Surgery Center-Monroe) proposes to renovate and expand its existing licensed but unutilized ambulatory surgical facility (ASC) in Monroe and add one OR and one procedure room for a total of two ORs and one procedure room. The application is consistent with the need determination for one additional OR in Union County.

**The Charlotte-Mecklenburg Hospital Authority [CMHA] and Union Health Services, LLC [UHS]** propose to renovate and expand the existing ASC, **Union West Surgery Center [UWSC]**. UWSC proposes to renovate the ASC and add one OR and one procedure room for a total of three ORs and one procedure room. The application is consistent with the need determination for one OR in Union County.

### **Policies**

There are two policies in the 2017 SMFP which are applicable to this review: Policy GEN-3: Basic Principles and Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities.

Policy GEN-3, on page 33 of the 2017 SMFP, states:

*“A certificate of need applicant applying to develop or offer a new institutional health service for which there is a need determination in the North Carolina State Medical Facilities Plan shall demonstrate how the project will promote safety and quality in the delivery of health care services while promoting equitable access and maximizing healthcare value for resources expended. A certificate of need applicant shall document its plans for providing access to services for patients with limited financial resources and demonstrate the availability of capacity to provide these services. A certificate of need applicant shall also document how its projected volumes incorporate these concepts in meeting the need identified in the State Medical Facilities Plan as well as addressing the needs of all residents in the proposed service area.”*

Policy GEN-4, on page 33 of the 2017 SMFP, states:

*“Any person proposing a capital expenditure greater than \$2 million to develop, replace, renovate or add to a health service facility pursuant to G.S. 131E-178 shall*

*include in its certificate of need application a written statement describing the project's plan to assure improved energy efficiency and water conservation.*

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

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

**NHMOS** proposes to renovate and expand its existing licensed but unutilized ambulatory surgical facility in Monroe and add one OR and one procedure room for a total of two ORs and one procedure room. NHMOS addresses Policy GEN-3 as follows:

Promote Safety and Quality – The applicant describes how it believes the proposed project would promote safety and quality in Section II.8, pages 13 – 15, Section III.1, pages 23 - 31, Section III.4, pages 40 -41, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section III.1, pages 23 - 31, Section III.4, pages 41 - 42, Section VI, pages 64 - 73, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section III.1, pages 23 - 31, Section III.4, pages 42 - 44, Section X.1, page 97 and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would maximize healthcare value.

The applicant adequately demonstrates how its projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the facility need as identified by the applicant. The application is consistent with Policy GEN-3.

NHMOS addresses Policy GEN-4 as follows:

The proposed capital expenditure for this project is greater than \$5 million. In Section III.4, pages 44 - 45, Section XI.8, pages 104 - 105, and Exhibit 15, the applicant describes its plan to assure improved energy efficiency and water conservation in the proposed facility. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with the need determination in the 2017 SMFP, Policy GEN-3, and Policy GEN-4. Consequently, the application is conforming to this criterion.

**UWSC** proposes to renovate its existing licensed ambulatory surgical facility in Indian Trail and add one OR and one procedure room for a total of three ORs and one procedure room.

UWSC addressed Policy GEN-3 as follows:

Promote Safety and Quality – The applicant describes how it believes the proposed project would promote safety and quality in Section III.1, pages 28 - 38, Section II.8, pages 19 - 21, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote safety and quality.

Promote Equitable Access – The applicant describes how it believes the proposed project would promote equitable access in Section III.1, pages 28 - 38, Section VI, pages 67 - 73, and referenced exhibits. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would promote equitable access.

Maximize Healthcare Value – The applicant describes how it believes the proposed project would maximize healthcare value in Section III.1, pages 28 - 38 and Section X.1, page 89. The information provided by the applicant is reasonable and adequately supports the determination that the applicant's proposal would maximize healthcare value.

The applicant adequately demonstrates how the projected volumes incorporate the concepts of quality, equitable access and maximum value for resources expended in meeting the identified need. The application is consistent with Policy GEN-3.

The proposed capital expenditure for this project is greater than \$2 million but less than \$5 million; therefore, Policy GEN-4 is applicable. The applicant does not address Policy GEN-4 in Section III.4, where the application requests the applicant(s) to describe how the project is consistent with each applicable policy in the SMFP. However, in Section XI.8, pages 96 - 97, the applicant describes its plan to maintain energy efficiency and water conservation, including a commitment to facility design that will meet or exceed the North Carolina Building Code requirements and will meet the United States Green Building Council LEED guidelines. The applicant states the renovations will also update plumbing design to

maximize efficiency and life cycle benefits. The applicant adequately demonstrates that the application includes a written statement describing the project's plan to assure improved energy efficiency and water conservation. Therefore, the application is consistent with Policy GEN-4.

In summary, the application is consistent with the need determination in the 2017 SMFP, Policy GEN-3 and Policy GEN-4. Consequently, the application is conforming to this criterion.

### **Conclusion**

In summary, both applicants adequately demonstrate that their proposals are consistent with the need determination in the 2017 SMFP for one new OR in Union County. However, the limit on the number of ORs to be developed in Union County is one. Collectively, the two applicants propose a total of two new ORs. Therefore, even if both applications are conforming to all statutory and regulatory review criteria, both applications cannot be approved.

NHMOS's application is conforming to the need determination, Policy GEN-3 and Policy GEN-4. UWSC's application is conforming to the need determination, Policy GEN-3, and Policy GEN-4. Therefore, both applications are conforming to this criterion. See the Summary following the Comparative Analysis for the decision.

- (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 – Both Applicants

**NHMOS** proposes to renovate its existing licensed but unutilized ambulatory surgical facility (ASC) in Monroe. The ASC was awarded a CON in 2005 and was named Presbyterian Same Day Surgery Center – Monroe (see Project ID #F-7310-05). According to the applicant on page 24, the facility operated until January 31, 2013. The facility has not operated or served patients since that date, though the license remains active. In this application, the applicant proposes to renovate and expand that facility and add one additional OR and one procedure room, for a total of two ORs and one procedure room. The applicant proposes to rename the facility **Novant Health Monroe Outpatient Surgery**. In Section I.8, page 2, the applicant describes the proposed project as follows:

*“The applicant [proposes to] develop a freestanding, separately licensed ambulatory surgical facility with a procedure room and two operating rooms based on the need*

*for one new Union County OR identified in the 2017 SMFP, plus one existing previously CON-approved OR at 2000 Wellness Blvd in Monroe, NC....”*

In Section I.10, page 2, the applicant states the building in which the ASC currently exists and will be renovated is leased by NH.

Exhibit 4 contains support letters from 19 Novant Health surgeons, 17 of whom intend to seek OR privileges at the proposed ASC in the following specialties: ENT (1), OB/GYN (8), Ophthalmology (2), Orthopedics (2), General Surgery (2) and GI Endoscopy (2).

### **Patient Origin**

In Section III.6, page 46, the applicant provides the projected patient origin for the proposed facility for the first two operating years of the project. The applicant projects that 100% of its patients will be from Union County. The applicant states on page 46 that it may serve patients from surrounding counties as well, but does not include any surrounding counties in its projected patient origin. The applicant states:

*“...the utilization projections for the proposed two operating rooms at NHMOS are based upon shifting outpatient surgical volume performed at Novant Health operating rooms in Mecklenburg County for residents of Union County. Therefore, the projected patient origin ... is based upon providing a more cost effective and accessible location for residents of Union County currently using Novant Health surgical facilities.”*

The applicant adequately identified the population proposed to be served.

### **Analysis of Need**

In Section III.1, pages 25 - 37, the applicant describes the factors which it states support the need for the proposed project, including:

- The need identified in the 2017 SMFP (page 26).
- Increased utilization of NH outpatient surgical services by Union County residents (pages 26 - 28).
- Increasing market share of Union County outpatient surgical services (pages 28 - 29).
- Population growth in NHMOS outpatient surgery market area (pages 29 - 30).
- Changes in outpatient surgery reimbursement (pages 30 - 31).
- Strong physician and surgeon support for the project, as well as from members of the community (page 25, exhibits 4, 16, 17).

Each of the factors is briefly described below:

*Need in 2017 SMFP*

The 2017 SMFP shows a need for one additional OR in Union County. The applicant states that its projected utilization shown in Exhibit 3, Table I supports a need for the additional OR in its facility in Monroe. Table 6A on page 70 of the 2017 SMFP provides the following OR inventory in Union County:

FACILITY	INPATIENT ORS	AMBULATORY ORS	SHARED ORS	EXCLUDED C-SECTION ORS
Presbyterian SD Surgery Center-Monroe*	0	1	0	0
Union West Surgery Center	0	2	0	0
Carolinas HealthCare System Union	2	0	6	-2
<b>Total</b>	<b>2</b>	<b>3</b>	<b>6</b>	<b>-2</b>

\*This is the facility that is currently closed, but licensed

There are a total of 11 licensed ORs in Union County, 2 of which are licensed dedicated C-Section ORs and are not included in the inventory for purposes of determining OR need. Novant Health’s ambulatory OR (Presbyterian Same Day Surgery Center-Monroe) is considered a “*chronically underutilized*” facility, which is defined on page 58 of the 2017 SMFP as a facility “*operating at less than 40 percent utilization for the past two fiscal years, which have been licensed long enough to submit at least three License Renewal Applications*”. Chronically underutilized facilities are excluded from the “*Adjusted Planning Inventory*” for ORs in Union County, as stated on page 72 of the 2017 SMFP. Therefore, there are a total of 8 ORs included in the OR need determination in Union County.

*Increased Utilization of Outpatient Surgical Services*

On page 26, the applicant states the overall outpatient surgical utilization by Union County residents increased by a compound annual growth rate (CAGR) of 2.6% from 2014 to 2016; and increased by 4.1% for the 12-month period from 2015 – 2016, as shown in the following table:

<b>Union County OP surgical growth – All NC Surgical Facilities</b>							
	2013	2014	2015	2016	CAGR 2013- 2016	CAGR 2014- 2016	AGR 2015- 2016
# Procedures	13,285	13,099	13,259	13,798	1.3%	2.6%	4.1%
Annual Growth Rate		-1.4%	1.2%	4.1%			

On pages 27 – 28, the applicant shows that Novant Health Matthews Medical Center and Novant Health Matthews Surgical Center in Mecklenburg County, near the Mecklenburg and Union county borders, have historically served a large portion of Union County residents. The growth in Union County residents who seek outpatient surgical services in NH Mecklenburg County facilities has increased by a CAGR of 10.3% from 2014 to 2016. The applicant states the growth in outpatient surgical services provided to Union County residents in the Matthews facilities (Novant Health Matthews Medical Center and Matthews Surgery Center) alone grew by a CAGR of 16.8% during the same time. Matthews is located near the

southeastern border of Mecklenburg County, approximately five miles from Indian Trail, which is located in Union County, near the northwestern border. Therefore, the applicant states the growth of total outpatient surgical volume for Union County residents, and specifically the growth of Union County residents seeking outpatient surgical services in NH Matthews facilities supports the need for an additional OR and utilizing the existing OR in the Indian Trail ASC.

#### *Union County Outpatient Surgical Market Share*

On pages 28 – 29, the applicant states Novant Health’s overall market share of Union County residents who seek outpatient surgical services has increased by 2.8 percentage points from FFY 2013 to FFY 2016; similarly, the market share of Union County residents seeking outpatient surgical services in the Matthews facilities alone increased by 3.2 percentage points during the same time [overall NH market share of Union County outpatient surgeries grew from 39.9% in FFY 2013 to 42.7% in FFY 2016; Matthews facilities Union County outpatient surgeries grew from 14.1% in FFY 2013 to 17.3% in FFY 2016]. The applicant states NH facilities overall and in particular in Matthews are serving an increasing number of Union County residents who seek outpatient surgical services.

#### *Population Growth of NHMOS Market Area*

On pages 28 and 29 of the application, citing information from the North Carolina Office of State Budget and Management (NCOSBM), the applicant states that the population of Union County grew by 12.8% from 2010 to 2017, or 1.8% per year, and is projected to increase by a CAGR of 1.7% from 2017 to 2021.

#### *Changes in Outpatient Services Reimbursement*

The applicant discusses what it expects to be the impact of potential changes to the Affordable Care Act and the implementation of value-based purchasing (VBP) for payments under the Medicare program for hospitals and ASCs on pages 30 – 31 of the application. The applicant states the proposed project reflects the efforts currently underway within Novant Health to address the effects of changes to the Affordable Care Act and the potential effects those changes could bring to healthcare services provided by Novant Health.

#### *Strong Physician and Community Support*

In Exhibit 4, the applicant provides copies of letters of support from Novant Health and other area physicians, in which the physicians indicate he or she will seek privileges at the ambulatory surgical facility when it becomes licensed. In Exhibits 16 and 17, the applicant provides copies of letters from Novant Health management, local government and the Novant Health Chairman of the Board, all of whom express support for the proposal.



Projected Utilization

In Section III.1(b), pages 32 – 37, the applicant provides the assumptions and a four-step methodology it used to project utilization of the two ORs in the ASC in Union County. The steps and assumptions are summarized below.

Step 1: Determine Baseline Volume for Use in Outpatient Surgical Projections

On pages 32 – 33, the applicant states it compared its own internal data with the data reflected on the Hospital License Renewal Applications (LRAs). NH’s data is reported in a *Trendstar* database and reports calendar year (CY) information, while the LRA data reports FY information. The applicant determined that CY 2016 was the most reasonable baseline data for use in its projections, since it is the most recent data available from *Trendstar*. The applicant states that NH facilities in Mecklenburg County performed 6,307 outpatient surgical procedures on Union County residents in CY 2016.

Step 2: Project Future Union County Outpatient Surgical Procedures at NH Mecklenburg Facilities

On page 34, the applicant examines four variables that it states affect growth in outpatient surgical volume at NH facilities that serve Union County residents. The applicant averaged four different variables to come up with a growth rate with which to project future outpatient surgical growth of Union County residents at NH outpatient surgical facilities, as shown in the following table:

<b>Novant Health Union County Projected OP Surgery</b>		
VARIABLE	GROWTH RATE	GROWTH RATE**
Union County Population Growth 2016 – 2021 (NCOSBM)	1.7%	CAGR
Union County OP Surgical Growth 2013 – 2016 [2015 – 2016]	4.1%	AAGR
NH Union County OP Surgical Growth 2013 – 2016 [2015 – 2016]	6.9%	AAGR
Population Growth NHMOS ZIP Code (28110)	1.1%	CAGR
<b>Average of Four Growth Rates</b>	<b>3.5%</b>	

\*Source: Table on page 34 of the application

\*\*AAGR = Average Annual Growth Rate

However, the information provided in the table is unclear. The applicant states the second and third rows represent growth from 2013 – 2016; however, the numbers in the corresponding columns represent the growth from 2015 – 2016. Therefore, the project analyst utilized the numbers that correspond to the years that the applicant indicates, as illustrated in the following table:

**Novant Health Union County Projected OP Surgery  
Calculated by Analyst**

VARIABLE	GROWTH RATE
Population Growth 2016 – 2021 (NCOSBM)	1.7% (CAGR)
Union County Outpatient Surgical Growth 2013 - 2016	1.3% (AAGR)
NH Union County Outpatient Surgical Growth 2013 - 2016	10.3% (CAGR)
Population Growth NHMOS ZIP Code (28110)	1.1% (AAGR)
<b>Average of Four Growth Rates</b>	<b>3.6%</b>

\*Source: Tables on pages 34 and 135 - 136 of the application

	HISTORICAL	PROJECTED					
	CY 2016	CY 2017	CY 2018	CY 2019	CY 2020	CY 2021	CY 2022
NH Union County Pop.*	6,307	6,525	6,751	6,985	7,227	7,477	7,736
Projected Growth Rate		3.5%	3.5%	3.5%	3.5%	3.5%	3.5%

\*Represents Union County residents being served in a NH Mecklenburg County outpatient surgical facility

Therefore, while there are inconsistencies in the table as presented in the application, when the numbers the applicant states it used are actually used, the number of ORs needed is the same. Thus, the inconsistencies are not material to the outcome of the applicant's demonstration of the need for 2 ORs in its application.

The applicant uses a growth rate to project future outpatient surgical procedures to be performed at NHMOS that is lower than the historical growth rate of outpatient surgical procedures that were performed on Union County residents in NH facilities from 2013 to 2016.

*Step 3: Determine the Percentage of Outpatient Cases That are "Acuity Appropriate" for NHMOS*

On page 35, the applicant states it analyzed total NH Union County outpatient surgical volume in Mecklenburg County facilities and input from surgeons whose letters are provided in Exhibit 4. The applicant states the data shows that 40% of NH Union County outpatient surgical volume is provided in the two NH surgical facilities in Matthews. The applicant projects, based on its analysis, that 30% of the Union County residents who currently receive outpatient surgical services at the NH Mecklenburg County facilities will shift their care to NHMOS when it opens. See the following table, which shows that from CY 2014 to CY 2016, the volume of Union County residents seeking outpatient surgical services at a NH Matthews facility increased from 35.7% to 40.0% of total NH Union County volume:

Surgical Provider	CY 2014	CY 2015	CY 2016
Total NH Outpatient Surgery	5,184	5,824	6,307
NH Outpatient Surgical Volume in Matthews	1,849	2,424	2,522
NH Matthews and Matthews Surgery Center % of Total NH Union County Volume	35.7%	41.6%	40.0%

Source: table page 35

Step 4: Calculate Projected Outpatient Surgical Volume at NHMOS

Based on the assumption in Step 3, that 30% of the outpatient surgical volume that will be served at NH facilities in Mecklenburg County will be Union County residents, the applicant projects that 100% of the projected outpatient surgical volume at NHMOS will be comprised of the 30% of patients who currently go to Mecklenburg County NH facilities for outpatient surgical procedures. See the following table, from page 36:

**Projected NHMOS Outpatient Surgery Volume, PYs 1 - 3**

	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY 2021</b>	<b>CY 2022</b>
NH Union County Pop. Served in Mecklenburg County	6,985	7,227	7,477	7,736
Percent Projected to Shift to NHMOS	30%	30%	30%	30%
Projected NHMOS Outpatient Surgery Volume	2,096	2,168	2,243	2,321
<b>CONVERT TO PROJECT YEARS</b>		<b>PY 1</b>	<b>PY 2</b>	<b>PY 3</b>
		<b>(4/19 – 3/20)</b>	<b>(4/20 – 3/21)</b>	<b>(4/21 – 3/22)</b>
Projected NHMOS Outpatient Surgery Volume		2,114	2,187	2,263

Based on that data, the applicant calculates the OR need in Union County, as shown in the following table from page 36:

**Novant Health Monroe Projected OR Need**

<b>CONVERTED TO PROJECT YEARS</b>	<b>PY 1</b>	<b>PY 2</b>	<b>PY 3</b>
	<b>(4/19 – 3/20)</b>	<b>(4/20 – 3/21)</b>	<b>(4/21 – 3/22)</b>
Projected NHMOS Volume	2,114	2,187	2,263
Projected NHMOS Outpatient Surgical Volume	3,171	3,280	3,394
ORs Needed at 1.872 Hrs per OR	1.69	1.75	1.81
OR Need Rounded per SMFP and CON Regulations	2.0	2.0	2.0

The applicant shows that approximately 40% of its outpatient surgical volume in its Mecklenburg County facilities is from Union County residents, and projects that 30% of the future volume of its Union County outpatient surgical procedures will shift to the proposed NHMOS. Further, the applicant shows that the projected volume is consistent with the OR need determination in the 2017 SMFP. Thus, the applicant’s projections of future Union County outpatient surgical volume at NHMOS is reasonable.

*Non-Surgical Minor Procedures at NHMOS*

The applicant proposes to develop one procedure room as part of this application. In Section III.1, pages 36 – 37, the applicant projects to perform 619, 640, and 662 procedures at NHMOS during PY 1, PY 2 and PY 3, respectively. In Exhibit 4 the applicant provides letters from surgeons who plan to utilize the proposed procedure room. On page 37, the applicant states that minor procedure volume is estimated based upon discussion with NHMOS surgical management staff, a review of procedure volume data for the surgeons who signed procedure room support letters and a review of other multispecialty ambulatory surgical facilities with procedure rooms in North Carolina.

Projected utilization at the proposed ASC is based on reasonable and adequately supported assumptions.

Therefore, based on the review and analysis of: 1) the information provided by the applicant in Section III, pages 26 - 37, including referenced exhibits; 2) the written comments received during the first 30 days of the review cycle; and 3) the applicant's response to the written comments submitted at the public hearing, the applicant adequately demonstrates the need to add one new OR and one procedure room at NHMOS, for a total of two ORs and one procedure room.

### **Access**

In Section VI.2, pages 64 - 66, the applicant states it will provide services to all persons regardless of race, sex, age, religion, creed, disability, national origin, sexual orientation, gender identity or expression, and/or ability to pay. Exhibit 8 contains copies of Novant Health's non-discrimination policy. In Section VI.14, page 73, the applicant projects that 54.2% of the surgical cases performed at NHMOS will be provided to Medicare or Medicaid recipients. The applicant adequately demonstrates the extent to which all residents, including underserved groups, will have access to the proposed services.

### **Conclusion**

In summary, the applicant adequately identifies the population to be served, demonstrates the need the population has for the project, and demonstrates the extent to which all residents, including underserved groups, will have access to the proposed services. Therefore, the application is conforming to this criterion.

UWSC proposes to renovate its existing ASC, Union West Surgery Center, and add one OR and one procedure room for a total of three ORs and one procedure room. The application is consistent with the need determination for one OR in Union County. In Section I.8, page 7, the applicant describes the proposed project as follows:

*“Union Health Services, LLC proposes to develop a third operating room at Union West Surgery Center in response to the need identified in the 2017 State Medical Facilities Plan for one additional operating room in Union County.”*

In Section I.10, page 8, the applicant states the building in which the ASC currently exists and will be renovated is leased by CMHA and sub-leased to UHS, which operates UWSC.

In Exhibit 16 the applicants provide 49 support letters signed by physicians and surgeons. However, 16 of those letters are dated May 17, 2017 and express support for the development of a separately licensed ASC in Huntersville, in Mecklenburg County. Those letters must have been included erroneously, as they appear to be related to Project ID #F-11349-17, which was approved in July 2017. Therefore, the analyst will not consider the 16 letters provided in Exhibit 16 which are in support of the CHS Huntersville ASC. There are 27 letters signed by CHS surgeons who currently have privileges at UWSC in the following

specialties: OB/GYN (1), Ophthalmology (5), General Surgery (2), Orthopedics (2), Podiatry (7), ENT (8) and Urology (2). Six additional CHS surgeons indicated their support for the project in separate letters.

**Patient Origin**

In Section III.6, page 50, the applicants provide the projected patient origin for the first two operating years of the project (CY 2020 and CY 2021), as shown in the following table:

**UWSC Projected Patient Origin**

COUNTY	CY 2020 # PATIENTS	CY 2020 % OF TOTAL	CY 2021 # PATIENTS	CY 2021 % OF TOTAL
Union	1,811	53.1%	1,935	53.1%
Mecklenburg	682	20.0%	729	20.0%
Lancaster, SC	389	11.4%	415	11.4%
Anson	218	6.4%	233	6.4%
Chesterfield, SC	119	3.5%	128	3.5%
York, SC	55	1.6%	58	1.6%
Other*	136	4.0%	146	4.0%
<b>Total</b>	<b>3,410</b>	<b>100.0%</b>	<b>3,644</b>	<b>100.0%</b>

\*The applicants state ‘other’ includes Cabarrus, Catawba, Cleveland, Cumberland, Forsyth, Gaston, Graham, Hertford, Iredell, Lincoln, McDowell, Montgomery, Richmond, Rowan, Rutherford, Sampson, Scotland, and Stanly counties as well as other states, based on historical patient origin.

The applicants adequately identify the population proposed to be served.

**Analysis of Need**

In Section III, pages 28 - 46, the applicants describe the factors which they state support the need for the proposed project, including:

- Need determination in the 2017 SMFP for one OR in Union County (pages 28 - 31)
- Demand for freestanding ambulatory surgery services (pages 31 – 34)
- Population growth and distribution in Union County (pages 35 – 37)
- Growth and capacity constraints at existing Union County facilities (pages 37 – 38)

Each of the factors is briefly described below:

*Need in the 2017 SMFP*

On pages 28 – 31, the applicants reiterate the methodology and need outlined in the 2017 SMFP for one additional OR in Union County. Table 6A on page 70 of the 2017 SMFP provides the following OR inventory in Union County:

FACILITY	INPATIENT ORS	AMBULATORY ORS	SHARED ORS	EXCLUDE C-SECTION ORS
Presbyterian SD Surgery Center Monroe*	0	1	0	0
Union West Surgery Center	0	2	0	0
Carolinas HealthCare System Union	2	0	6	-2
<b>Total</b>	<b>2</b>	<b>3</b>	<b>6</b>	<b>-2</b>

\*This facility is currently closed, but licensed

There are a total of 11 licensed ORs in Union County, including 2 licensed dedicated C-Section ORs and one “*chronically underutilized*” OR, all of which are excluded from the inventory for purposes of determining OR need.

NHMOS (currently named Presbyterian Same Day Surgery Center-Monroe) is a “*chronically underutilized*” facility, defined on page 58 of the 2017 SMFP as “*licensed facilities operating at less than 40 percent utilization for the past two fiscal years, which have been licensed long enough to submit at least three License Renewal Applications to the Division of Health Service Regulation.*” NHMOS has been licensed to operate as an ambulatory surgical facility since 2009, but since January 2013 has not served any patients. Thus it has submitted at least three license renewal applications to the Division of Health Service Regulation since it closed in January 2013, and its utilization has been less than 40% for each year since January 2013. NHMOS is therefore a “*chronically underutilized facility*” as defined in the 2017 SMFP. Furthermore, on page 72 of the 2017 SMFP, NHMOS is listed as “*chronically underutilized*” and thus excluded from the “*Adjusted Planning Inventory*” for ORs in Union County.

*Continued Demand for Freestanding Ambulatory Surgery Services*

On pages 31 – 34, the applicants explain how the trend in surgery over the past several decades has been to shift many surgical procedures from an inpatient to an outpatient setting. Recent and continuing reform efforts in healthcare reimbursement and in the North Carolina Medicaid program continue to encourage patients in need of a less-invasive surgical procedure to continue to select ambulatory surgical facilities for their surgical procedures. Additionally, the applicants state that advances in clinical practices and technology continue to make ambulatory surgery an attractive option for many people. The applicants state that surgical procedures performed in an outpatient setting in North Carolina increased by a CAGR of 1.5% from FFY 2013 to FFY 2016, and by 3.7% from FFY 2015 – FFY 2016. Similarly, the applicants state Union County inpatient surgical volume has been flat, but outpatient surgical volume increased by a CAGR of 7.8% from FFY 2013 – FFY 2016. See the following table from page 34:

YEAR	CHS UNION	UWSC	TOTAL OP CASES
FFY 2013	4,456	1,723	6,179
FFY 2014	4,695	1,991	6,686
FFY 2015	4,804	2,395	7,199
FFY 2016	4,987	2,744	7,731
<b>CAGR 2013 - 2016</b>	<b>3.8%</b>	<b>16.8%</b>	<b>7.8%</b>

*Population Growth and Distribution in Union County*

On pages 35 – 37, relying on data obtained from ESRI, the applicants examined population growth projections in Union County as a whole and in different areas within the county. The applicant determined that the population in the western part of Union County, which is where UWSC is located, is projected to increase by 2.2% annually from 2016 to 2021; whereas the population in the central and eastern portions of the county are projected to increase by 1.3% and 1.2%, respectively. The applicants also state the Western portion of Union County represents approximately 80% of the total county population, but only has two ORs. The other ORs in the county are located in the central portion of the county at CHS Union, located in Monroe.

*Growth and capacity constraints at existing Union County facilities*

On pages 37 – 38, the applicants state that the outpatient surgical volume at UWSC has increased faster than the surgical growth at CHS Union, in part because CHS Union has more OR capacity than UWSC (6 shared ORs and 2 inpatient ORs). In addition, UWSC’s ORs are more highly utilized than CHS Union’s ORs. See the following table, from page 37:

	FFY 2012	FFY 2013	FFY 2014	FFY 2015	FFY 2016
<b>UWSC</b>					
OP Cases	321	1,723	1,991	2,395	2,744
Total Surgical Hours	482	2,585	2,987	3,593	4,116
<b>Annual Growth</b>		<b>437%</b>	<b>16%</b>	<b>20%</b>	<b>15%</b>
<b>CHS Union</b>					
IP Cases	1,766	1,453	1,384	1,391	1,453
OP Cases	4,846	4,456	4,695	4,804	4,987
Total Surgical Hours	12,567	11,043	11,195	11,379	11,840
<b>Annual Growth</b>		<b>-12%</b>	<b>1%</b>	<b>2%</b>	<b>4%</b>

Source: 2014 – 2017 SMFPs and 2017 LRAs

On page 37, the applicants state that UWSC’s surgical growth in FFY 2016 already exceeded the projected utilization for FFY 2019 in the 2017 SMFP (the 2017 SMFP’s methodology projected that UWSC would perform 3,893 surgical hours in 2019). In FFY 2016, UWSC performed 4,116 total surgical hours.

Projected Utilization

In Section III.1(b), page 41, the applicants provide the projected utilization of the three ORs at UWSC, as shown in the following table:

	FIRST FULL FY (CY 2020)	SECOND FULL FY (CY 2021)	THIRD FULL FY (CY 2022)
# Outpatient OR Cases	3,410	3,644	3,894
# Dedicated Outpatient ORs	3	3	3

As shown in the table above, the applicants project to perform 3,894 outpatient surgical cases in the third operating year in the three operating rooms, which exceeds the annual utilization standard of 1,872 hours per operating room as required in 10A NCAC 14C.2130(b)(1) [3,894 surgical cases x 1.5 hours = 5,841 / 1,872 = 3.1]. The applicants note on page 29 that fiscal years for UWSC are calendar years; therefore, the utilization projections are provided in calendar years to match their fiscal years.

The applicant describes its methodology and assumptions for projecting utilization in Section III.1(a) and (b), pages 39 – 46 of the application.

#### *Historical Union County Outpatient Surgical Utilization and UWSC Utilization*

The applicants state that, from 2013 - 2016, UWSC's outpatient surgical utilization has increased by a CAGR of 13.7%. The applicants state that growth slowed from CY 2015 to CY 2016 due to capacity constraints and the surgeons' inability to schedule surgical time blocks because the ORs were utilized in excess of 89% of capacity. The applicants note that outpatient surgical utilization at UWSC from CY 2013 to CY 2016 increased at a higher rate than population growth in Union County during the same time. The applicants believe that the historical growth and the need in the 2017 SMFP indicate a continued need for additional capacity at UWSC.

#### *Projected Utilization at UWSC*

On page 41, the applicants project future utilization of ambulatory surgical services at UWSC at lower rates than the historical utilization. The applicants state that during the "interim" years, pending completion of the additional OR, the number of cases at the ASC will grow by one quarter of the historical growth rate of 13.7%, or a projected growth rate of 3.4% [ $13.7 / 4 = 3.425$ ]. Following completion of the additional OR at the ASC, the applicants project growth will increase to one-half the historical growth rate, or 6.9% [ $13.7 / 2 = 6.85$ ]. The applicants believe the projections are reasonable, given the historical utilization at UWSC and the fact that the utilization has already exceeded the 2019 projections in the 2017 SMFP.

#### *Factors Supporting Projected Growth*

On pages 42 – 45, the applicants provide additional information which they state supports the need for the growth projections in Section IV. Specifically, the applicants provide a table on pages 42 and 43 to illustrate the 27 support letters in Exhibit 16 which project a total of 4,369 cases that will be referred by the surgeons who signed letters. Sixteen letters in Exhibit 16 are in support of CHS Huntersville, which is a project that was recently approved, and six physician letters support the project but do not indicate privileges or projected referrals to UWSC. The applicants state that five surgeons have joined UWSC in the last year. In addition, the number of surgical cases projected to be referred by the surgeons represented in the table on pages 42 – 43 exceeds the applicants' projection of the number of cases to be performed in its third project year (4,369 cases to be referred according to the physician letters; 3,894 cases projected to be performed).



*Projected Utilization at Both Facilities*

On pages 44 – 46, the applicants project utilization for CHS Union for each of the three project years, based on a projected growth rate of one-half of the historical CAGR of outpatient surgical procedure performed at each facility from CY 2013 to CY 2016. The applicants convert projected utilization for UWSC from calendar years to project years.

Based on the Agency's review of the information provided by the applicant in Section III, pages 28 - 46, including referenced exhibits, and Section IV, page 58; comments received during the first 30 days of the review cycle; and the applicant's response to the comments received at the public hearing, the applicants adequately document the need for an additional OR at UWSC.

**Access**

In Section VI.2, page 67, the applicants state they will provide services to all persons regardless of race, sex, age, creed, national origin, or ability to pay. Exhibit 22 contains the applicants' financial policies which outline the provision of services to those who cannot pay.

In Section VI.14, page 74, the applicants project that 57.5% of surgical cases will be provided to Medicare or Medicaid recipients at UWSC. The applicants adequately demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services.

**Conclusion**

In summary, the applicants adequately identify the population to be served, demonstrate the need the population has for the project, and demonstrate the extent to which all residents, including underserved groups, will have access to the proposed services. 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 – Both Applications

- (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.

C – Both Applicants

**NHMOS:** In Section III.8, pages 47 - 48, the applicant describes the alternatives considered prior to submitting this application for the proposed project, which include:

- Maintain the Status Quo –The applicant states that maintaining the status quo is not an effective alternative because it determined that operating a freestanding ambulatory surgical facility with only one OR could not be financially viable.
- Develop a Freestanding Separately Licensed Surgery Center in Another Location – The applicant states that this is not an effective alternative because Monroe is the county seat and is located in the largest population base in Union County. Furthermore, the applicant states expanding the existing facility results in more cost savings than construction of a new facility.

After considering those alternatives, the applicant states the alternative represented in the application is the most effective alternative to meet the identified need for one OR in Union County.

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

In summary, the applicant adequately demonstrates that this proposal is its least costly or most effective alternative to meet the identified need for one additional OR in the Union County Operating Room Service Area. Therefore, the application is conforming to this criterion.

**UWSC:** In Section III.8, pages 51 - 56, the applicants describe the alternatives considered prior to submitting this application for the proposed project, which include:

- Maintain the Status Quo –The applicants state that maintaining the status quo is not an effective alternative because it ignores the need in the community for an additional OR.
- Locate the Additional OR at CHS Union – (CHS Union is a hospital owned by CMHA located in Union County) The applicants state that this is not an effective alternative because developing the OR at CHS Union would fail to address the capacity and growth issues at UWHC.
- Relocate an Existing Shared OR from CHS Union to UWHC – The applicants state this is not an effective alternative because it would not address existing capacity constraints at UWSC or the existing OR deficits at both CHS Union and UWSC. Additionally, relocating an existing OR would not address the need identified in the 21017 SMFP for an additional OR in Union County.
- Develop a New Ambulatory Surgical Center – The applicants state this is not an effective alternative because the capital costs associated with developing a new facility are high; furthermore, it would not address current capacity constraints that exist at UWSC.

After considering those alternatives, the applicant states the alternative represented in the application is the most effective alternative to meet the identified need for one OR in Union County.

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

In summary, the applicant adequately demonstrates that this proposal is its least costly or most effective alternative to meet the identified need for one additional OR in the Union County Operating Room Service Area. Therefore, the application is conforming to this 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.

C – Both Applicants

**NHMOS:** In Section VIII.1, page 87, the applicant projects the total capital cost as follows:

<b>DESCRIPTION</b>	<b>COST</b>
Site Costs	N/A
Construction/Renovation Costs	\$3,135,380
Equipment	\$3,423,387
Miscellaneous	\$1,993,720
<b>TOTAL CAPITAL COST</b>	<b>\$8,552,487</b>

Source: Table on page 87 of the application.

In Section IX.1, page 96, the applicant projects \$305,300 in start-up expenses and \$330,015 in initial operating expenses associated with the project, for a total working capital of \$635,315.

**Availability of Funds**

In Section VIII.3, page 88, the applicant states that the entire capital and working capital costs will be funded with the accumulated reserves of Novant Health, Inc. In Exhibit 7, the applicant provides an April 15, 2017 letter from the Senior Vice President of Finance at Novant Health, Inc. which documents Novant Health's intent to fund the capital and working capital costs for the proposed project. Exhibit 7 also contains an April 5, 2017 letter from the President and Chief Operating Office of Novant Health, Inc. which commits the funds to the development of the project.

In Exhibit 7 the applicant provides copies of its consolidated financial statements for years ending 2015 and 2016 for Novant Health, Inc. and Affiliates, documenting \$260,988,000 in

cash and cash equivalents and \$3,448,337,000 in total net assets as of December 31, 2016. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

**Financial Feasibility**

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In the pro forma financial statement (Form B), the applicant projects that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

	<b>1<sup>ST</sup> FULL FISCAL YEAR</b>	<b>2<sup>ND</sup> FULL FISCAL YEAR</b>	<b>3<sup>RD</sup> FULL FISCAL YEAR</b>
Total Number of Cases and Procedures	2,733	2,797	2,925
Total Gross Revenues (Charges)	\$18,425,096	\$19,193,309	\$21,689,490
Total Net Revenue	\$6,870,725	\$7,156,452	\$8,091,713
Average Net Revenue per Case/Procedure	\$2,514	\$2,559	\$2,766
Total Operating Expenses (Costs)	\$6,195,034	\$6,351,416	\$6,564,999
Average Operating Expense per Case/Procedure	\$2,267	\$2,271	\$2,244
Net Income	\$675,691	\$805,036	\$1,526,714

Totals may not sum due to rounding

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the Financials Section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates sufficient funds for the operating needs of the proposal and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

**Conclusion**

In summary, the applicant adequately demonstrates the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to this criterion.

**UWSC:** In Section VIII.1, pages 83 - 84, the applicant projects the total capital cost as follows:

<b>DESCRIPTION</b>	<b>COST</b>
Site Costs	N/A
Construction/Renovation Costs	\$1,820,000
Equipment	\$1,601,500
Miscellaneous	\$ 678,500
<b>TOTAL CAPITAL COST</b>	<b>\$4,100,000</b>

Source: Table on pages 83 - 84 of the application.

In Section IX.1, page 88, the applicant projects no start-up expenses or initial operating expenses associated with the project, since the ASC is currently operational.

**Availability of Funds**

In Section VIII.3, page 84, the applicant states that the entire capital cost will be funded with the accumulated reserves of CHS. In Exhibit 25, the applicant provides a May 15, 2017 letter from the Executive Vice President and CFO of CMHA/CHS which documents CMHA/CHS’s intent to fund the entire capital cost of the proposed project. Exhibit 25 also contains a May 15, 2017 letter from the CFO of CHS which commits the funds to the development of the project. An additional letter from a manager of UHS commits to repay the capital cost of the project to CMHA/CHS.

In Exhibit 26 the applicant provides copies of its consolidated financial statements for years ending 2015, 2014 and 2013 for The Charlotte-Mecklenburg Hospital Authority, documenting \$173,937,000 in cash and short term investments, and \$3,889,878 in net assets (total assets less total liabilities) as of December 31, 2015. The applicant adequately demonstrates that sufficient funds will be available for the capital and working capital needs of the project.

**Financial Feasibility**

The applicant provided pro forma financial statements for the first three full fiscal years of operation following completion of the project. In the pro forma financial statement (Form B), the applicant projects that revenues will exceed operating expenses in the first three operating years of the project, as shown in the table below.

	<b>1<sup>ST</sup> OPERATING YEAR (CY 2020)</b>	<b>2<sup>ND</sup> OPERATING YEAR (CY 2021)</b>	<b>3<sup>RD</sup> OPERATING YEAR (CY 2022)</b>
Total Number of Cases and Procedures	3,731	3,987	4,260
Total Gross Revenues (Charges)	\$20,874,903	\$22,975,002	\$25,286,380
Total Net Revenue	\$6,844,299	\$7,532,863	\$8,290,699
Average Net Revenue per Case/Procedure	\$1,834	\$1,889	\$1,946
Total Operating Expenses (Costs)	\$6,689,722	\$7,030,926	\$7,400,921
Average Operating Expense per Case/Procedure	\$1,793	\$1,763	\$1,737
Net Income	\$154,577	\$501,937	\$889,778

Totals may not sum due to rounding

The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See the Financials Section of the application for the assumptions used regarding costs and charges. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference. The applicant adequately demonstrates sufficient funds for the operating needs of the proposal

and that the financial feasibility of the proposal is based upon reasonable projections of costs and charges.

**Conclusion**

In summary, the applicant adequately demonstrates the financial feasibility of the project is based upon reasonable and adequately supported assumptions regarding projected utilization, revenues (charges) and operating costs. Therefore, the application is conforming to 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.

C – Both Applicants

On page 57, the 2017 SMFP states, “An operating room’s service area is the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6.1.” Figure 6.1 on page 60 of the 2017 SMFP shows Union County as a single-county OR service area. Thus, in this application, the service area is Union County. Providers may serve residents of counties not included in their service area.

The following table identifies the existing and approved Ambulatory (AMB), inpatient (IP) and shared operating rooms located in the service area of Union County, and the ambulatory and inpatient case volumes for each provider, as listed in Table 6A on page 70 of the 2017 SMFP.

**Union County Operating Room Inventory, 2017 SMFP**

	<b>IP ORs</b>	<b>AMB ORs</b>	<b>SHARED ORs</b>	<b>EXCLUDED C-SECTION ORs</b>	<b>AMB SURGERY CASES</b>	<b>IP SURGERY CASES</b>
Presbyterian Same Day Surgery Center*	0	1	0	0	0	0
Union West Surgery Center	0	2	0	0	2,395	0
Carolinas HealthCare System Union	2	0	6	-2	4,804	1,391
<b>Total Union County ORs</b>	<b>2</b>	<b>3</b>	<b>6</b>	<b>-2</b>	<b>7,199</b>	<b>1,391</b>

\*Currently closed

As the table above indicates, there are a total of 11 operating rooms, excluding the two C-Section ORs, and one “chronically underutilized” OR.

NHMOS (currently named Presbyterian Same Day Surgery Center-Monroe) is a “chronically underutilized” facility, defined on page 58 of the 2017 SMFP as “licensed facilities operating at less than 40 percent utilization for the past two fiscal years, which have been licensed long enough to submit at least three License Renewal Applications to the Division of Health Service Regulation.” NHMOS has been licensed to operate as an ambulatory surgical facility since 2009, but since January 2013 has not served any patients. Thus it has submitted at least three license renewal applications to the Division of Health Service Regulation since

it closed in January 2013, and its utilization has been less than 40% for each year since January 2013. NHMOS is therefore a “*chronically underutilized facility*” as defined in the 2017 SMFP. Furthermore, on page 72 of the 2017 SMFP, NHMOS is listed as “*chronically underutilized*” and thus excluded from the “*Adjusted Planning Inventory*” for ORs in Union County.

Table 6B: Projected Operating Room Need for 2019, on page 81 of the 2017 SMFP shows that the projected OR deficit is 0.67 (Column T), and the projected number of ORs needed in 2019 in Union County is 1 (Column U). Additionally, Table 6C: Operating Room Need Determination on page 82 of the 2017 SMFP identifies a need for 1 operating room in Union County, based on the need methodology as outlined in Step 5 on page 59 of the 2017 SMFP, which states in part:

*“For each operating room service area with six to 10 operating rooms and a projected deficit of 0.30 or greater, the “Operating Room Need Determination” is equal to the “Projected Operating Room Deficit” rounded to the next whole number. (In this step, fractions of 0.30 or greater are rounded to the next highest whole number.) For each operating room service area with six to 10 operating rooms and a projected deficit that is less than 0.30 or in which there is a projected surplus, the Operating Room Need Determination is zero. (Column U)”*

**NHMOS** proposes to add one OR and one procedure room to a licensed but unutilized ASC with one operating room in Monroe in Union County for a total of two ORs and one procedure room. The 2017 SMFP identifies the need for one additional OR in Union County. The applicant adequately demonstrates the need to add one OR and one procedure room to its existing but unutilized ASC with one OR and that the projected utilization is based on reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved operating rooms in Union County. Therefore, the application is conforming to this criterion.

**UWSC** proposes to add one OR and one procedure room to its existing facility for a total of three ORs and one procedure room. The 2017 SMFP identifies the need for one additional OR in Union County. The applicant adequately demonstrates the need to add one OR and one procedure room to its existing ASC with two ORs, and that the projected utilization is based on reasonable and adequately supported assumptions. The discussion regarding projected utilization found in Criterion (3) is incorporated herein by reference.

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved operating rooms in Union County. Therefore, the application is conforming to 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 – Both Applications

**NHMOS:** In Section VII.2, page 75, the applicant provides the proposed staffing for the facility in Operating Year 2, as shown in the following table:

POSITION	# FULL TIME EQUIVALENTS (FTES)
Administrator	1.0
CRNA	1.5
Clinical Coordinator	2.0
Registered Nurse	8.0
Surgical Technician	3.0
Certified Nursing Assistant	1.5
Sterile Processing Technician	1.0
Patient Access Specialist	1.5
<b>Total</b>	<b>19.5</b>

In Section VII.3, pages 75 - 77, and Section VII.7, pages 80 - 81, the applicant describes Novant Health's experience and process for recruiting and retaining staff. Exhibit 4 contains signed letters of support from surgeons who intend to seek privileges at the ASC. Exhibit 5 contains copies of letters from an anesthesiologist, pathologist, and radiologist who have agreed to provide support and professional coverage for NHMOS's ambulatory surgery patients. Exhibit 5 also contains a letter from William A. Walker, MD indicating his support and willingness to serve as the Medical Director for the facility. The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services. Therefore, the application is conforming to this criterion.

**UWSC** currently operates two ORs with 28 FTEs. In Section VII.2, page 76, the applicant states it projects to employ two additional registered nurses and one additional surgical technician, for a total of 27.8 FTEs as part of this project. In Section VII.3(c), page 76, the applicant states CHS Union recruits the necessary staff for UWSC and will continue to do so. In Section VII.9, page 80, the applicant states Stephen Houser, M.D. is current medical director and will remain medical director following the addition of one OR. Exhibit 11 contains a copy of a letter from Dr. Houser expressing his commitment to continue to serve as the Medical Director of UWSC. Exhibit 16 of the application contains copies of letters from area physicians and surgeons expressing support for the proposed project. The applicant adequately demonstrates 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 – Both Applications

**NHMOS:** In Sections II.1 and II.2, pages 9-11, the applicant identifies the necessary ancillary and support services, and describes how they will be provided. Exhibits 4 and 5 of the application contain copies of letters from area physicians and surgeons expressing support for the proposed project. The applicant adequately demonstrates that necessary ancillary and support services are available and that the proposed services will be coordinated with the existing healthcare system. Therefore, the application is conforming to this criterion.

**UWSC:** In Section II.2, pages 17 - 18, the applicant states the necessary ancillary and support services for the project will be provided by CHS Union or by existing support staff. Exhibit 6 contains a copy of CMC-Union's Purchased Services Agreement, and Exhibit 16 contains letters of support from physicians and other health care providers. The applicant adequately demonstrates that necessary ancillary and support services will be available and that the proposed services will be coordinated with the existing healthcare system. Therefore, the application is conforming to 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.

C – Both Applicants

**NHMOS** proposes to add one OR and one procedure room to its existing but unutilized ambulatory surgery center on Wellness Drive in Monroe, in Union County. The existing facility currently has 10,019 square feet of space, 5,345 of which the applicant proposes to renovate. In addition, the applicant proposes to add 2,279 square feet (1,338 square feet of waiting area, 516 square feet of registration area, and 425 new square feet of support space), for a total of 12,298 square feet in the finished facility. Exhibit 14 contains line drawings that identify existing receiving/registering, waiting, pre-operative, recovery and operating room as well as the proposed OR, procedure room and support areas. Exhibit 14 also contains a certified cost estimate from an architect regarding construction, upfit and renovation costs that are consistent with the project capital cost projections provided by the applicant in Section VIII.1, page 87 of the application. In Section XI.8, page 104 and Exhibit 15, the applicant describes the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicant adequately demonstrates that the cost, design and means of construction represent the most reasonable alternative. Further, the applicant adequately demonstrates that the construction cost will not unduly increase costs and charges for health services, and that applicable energy savings features have been incorporated into the construction plans. Therefore, the application is conforming to this criterion.

**UWSC** proposes to add one OR and one procedure room by renovating 4,437 existing square feet of unused space at its existing ambulatory surgical center on Highway 74 West in Indian Trail, Union County. Exhibit 7 contains the line drawings identifying reception/registration, waiting, pre-operative, operating rooms, and post-operative/recovery areas. Exhibit 29 contains the general contractor's construction cost estimate for the renovation of the existing building in which the proposed OR will be developed. The cost estimate is consistent with the project capital cost projections provided by the applicants in Section VIII, page 83 of the application. In Section XI.8, pages 96 - 97, the applicants describe the methods that will be used by the facility to maintain efficient energy operations and contain the costs of utilities. The discussion regarding costs and charges found in Criterion (5) is incorporated herein by reference. The applicants adequately demonstrate that the cost, design and means of construction represent the most reasonable alternative. Further, the applicants adequately demonstrate that the construction cost will not unduly increase costs and charges for health services, and that applicable energy savings features have been incorporated into the construction plans. Therefore, the application is conforming to this criterion.

(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 – UWSC  
NA - NHMOS

The United States Census Bureau provides demographic data for North Carolina and all counties in North Carolina. The following table contains relevant demographic statistics for the applicant's service area.

<b>Percent of Population</b>						
<b>County</b>	<b>% 65+</b>	<b>% Female</b>	<b>% Racial &amp; Ethnic Minority*</b>	<b>% Persons in Poverty**</b>	<b>% &lt; Age 65 with a Disability</b>	<b>% &lt; Age 65 without Health Insurance**</b>
Union	11%	51%	27%	11%	6%	16%
Statewide	15%	51%	36%	17%	10%	15%

Source: <http://www.census.gov/quickfacts/table>, 2014 Estimate as of December 22, 2015.

\*Excludes "White alone" who are "not Hispanic or Latino"

\*\*"This geographic level of poverty and health estimates are not comparable to other geographic levels of these estimates. Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable...The vintage year (e.g., V2015) refers to the final year of the series (2010 thru 2015). Different vintage years of estimates are not comparable."

However, a direct comparison to the applicant's current payor mix would be of little value. The population data by age, race or gender does not include information on the number of elderly, minorities, women or handicapped persons utilizing health services.

**NHMOS:** In Section VI.13, page 72, the applicant states the facility is not currently operational and thus has no current payor mix to report. In Section VI.12, page 72, the applicant provides payor mix information for the last operating year of Presbyterian Same Day Surgery Center, which was FFY 2013, as illustrated in the following table:

**Presbyterian Same Day Surgery Center Monroe  
FFY 2013 Data**

PAYOR CATEGORY	# CASES AS PERCENT OF TOTAL
Self Pay/Indigent	0.58%
Commercial Insurance	32.8%
Medicare/Medicare Managed Care	45.6%
Medicaid	15.4%
Managed Care	2.9%
Other	2.6%
<b>Total</b>	<b>100.0%</b>

The applicant does not currently provide any services in its licensed ambulatory surgical facility.

**UWSC:** In Section VI.13, page 73, the applicants provide the UWSC payor mix for CY 2016, as shown in the following table:

**UWSC CY 2016 Payor Mix**

PAYOR CATEGORY	# CASES AS PERCENT OF TOTAL
Medicare	45.7%
Medicaid	11.8%
Commercial / Managed Care	40.0%
Other*	1.8%
Self Pay	0.8%
<b>Total</b>	<b>100.0%</b>

\*Other includes workers compensation and other government payors, according to the applicant on page 73.

The applicants adequately demonstrate that they currently provide access to medically underserved populations. Therefore, the application 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 – Both Applications**

**NHMOS:** 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 71, the applicant states:

*“Novant Health’s hospitals (NHFMC and NHPMC) fulfilled their Hill-Burton obligations long ago. ... Novant Health facilities in North Carolina continue to comply with the community service obligation and there is no denial, restriction, or limitation of access to minorities or handicapped persons.”*

In Section VI.10 (a), page 71, the applicant states that no civil rights equal access complaints have been filed against NH or its affiliated licensed hospitals and surgery centers during the last five years. The application is conforming to this criterion.

**UWSC:** In Section VI.11, page 72, the applicants state, “*UWSC does not have any obligations to provide uncompensated care. ... UWSC does not discriminate with regard to ability to pay in full. Uninsured patients are offered a 50 percent discount off gross charges if the amount is paid in full at the time of service. ... Patients who are financially unable to pay for healthcare services according to these provisions and are in need of financial assistance have their cases reviewed by the medical director.*” In Section VI.10 (a), page 72, the applicant states that no civil rights access complaints have been filed against it or any related entities 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 – Both Applications

**NHMOS:** In Section VI.14, page 73, the applicant projects payor mix for the second operating year:

PAYOR	NUMBER OF CASES AS % OF TOTAL
Self Pay/Indigent	1.0%
Commercial Insurance	39.1%
Medicare/Medicare Managed Care	36.3%
Medicaid	17.9%
Other	5.7%
<b>Total</b>	<b>100.0%</b>

\*In the table in Section VI.13, on page 73, the applicant includes an extra row for “*Managed Care: 39.1%*”; however, the Pro Formas at the end of the application are consistent with the information in the above table. The extra row in the table on page 73 appears to be a typographical error.

On page 73, the applicant describes its assumptions regarding its payor mix projections, which it states are based on the historical experience of other NH outpatient surgical facilities that serve Union county residents. The applicant adequately demonstrates that the medically underserved population will have access to the proposed ambulatory surgical services. Therefore, the application is conforming to this criterion.

**UWSC:** In Section VI.14, page 74, the applicants project the payor mix during the second operating year, as shown in the table below.

**UWSC Second Operating Year  
(CY 2021)**

<b>PAYOR CATEGORY</b>	<b># CASES AS PERCENT OF TOTAL</b>
Medicare	45.7%
Medicaid	11.8%
Commercial / Managed Care	40.0%
Other*	1.8%
Self Pay	0.8%
<b>Total</b>	<b>100.0%</b>

On page 74 the applicants state the projected payor mix is based on the historical payor mix at UWSC. The applicants adequately demonstrate that medically underserved groups will have 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.

**C – Both Applications**

**NHMOS:** In Section VI.9, pages 70 - 71, the applicant describes the range of means by which a person will have access to its outpatient surgical services. The applicant adequately demonstrates that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

**UWSC:** In Section VI.9, page 71, the applicants describe the range of means by which a person will have access to its outpatient surgical services. The applicants adequately demonstrate that the facility will offer a range of means by which patients will have access to the proposed services. Therefore, the application is conforming to this criterion.

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

**C – Both Applications**

**NHMOS:** In Section V.1, page 52, the applicant states that Novant Health has extensive relationships with health education programs in the market area and that these agreements will include NHMOS once it becomes operational. In Exhibit 9 the applicant provides a list of educational institutions in the market area with which Novant Health has training arrangements, including Appalachian State University, Cabarrus College of Health Science, Central Piedmont Community College, and Cleveland Community College, among others. The information provided is reasonable and credible and supports a finding of conformity to this criterion.

**UWSC:** In Section V.1, pages 59 - 61, the applicants state that CHS Union has existing relationships with local health professional training programs in the area, including Caldwell Community College and Technical Institute, South Piedmont Community College and York Technical College, among others. Exhibit 17 contains copies of some existing agreements. The information provided 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 – Both Applicants**

On page 57, the 2017 SMFP states, “An operating room’s service area is the operating room planning area in which the operating room is located. The operating room planning areas are the single and multicounty groupings shown in Figure 6.1.” Figure 6.1 on page 60 of the 2017 SMFP shows Union County as a single-county operating room service area. Thus, in this application, the service area is Union County. Providers may serve residents of counties not included in their service area.

The following table identifies the existing and approved ambulatory (AMB), inpatient (IP) and shared operating rooms located in the service area of Union County, and the ambulatory and inpatient case volumes for each provider, as listed in Table 6A on page 70 of the 2017 SMFP.

**Union County Operating Room Inventory, 2017 SMFP**

	<b>IP ORs</b>	<b>AMB ORs</b>	<b>SHARED ORs</b>	<b>EXCLUDED C-SECTION ORs</b>	<b>AMB SURGERY CASES</b>	<b>IP SURGERY CASES</b>
Presbyterian Same Day Surgery Center*	0	1	0	0	0	0
Union West Surgery Center	0	2	0	0	2,395	0
Carolinas HealthCare System Union	2	0	6	-2	4,804	1,391
<b>Total Union County ORs</b>	<b>2</b>	<b>3</b>	<b>6</b>	<b>-2</b>	<b>7,199</b>	<b>1,391</b>

\*Currently closed

As the table above indicates, there are a total of 11 operating rooms, including the two dedicated C-Section ORs, and one “chronically underutilized” OR.

NHMOS (currently named Presbyterian Same Day Surgery Center-Monroe) is a “*chronically underutilized*” facility, defined on page 58 of the 2017 SMFP as “*licensed facilities operating at less than 40 percent utilization for the past two fiscal years, which have been licensed long enough to submit at least three License Renewal Applications to the Division of Health Service Regulation.*” NHMOS has been licensed to operate as an ambulatory surgical facility since 2009, but since January 2013 has not served any patients. Thus it has submitted at least three license renewal applications to the Division of Health Service Regulation since it closed in January 2013, and its utilization has been less than 40% for each year since January 2013. NHMOS is therefore a “*chronically underutilized facility*” as defined in the 2017 SMFP. Furthermore, in a table on page 72 of the 2017 SMFP, NHMOS is listed as “*chronically underutilized*” and thus excluded from the “*Adjusted Planning Inventory*” for ORs in Union County. Therefore, the adjusted planning inventory consists of 8 ORs in Union County.

Table 6B: Projected Operating Room Need for 2019, on page 81 of the 2017 SMFP shows that the projected OR deficit is 0.67 (Column T), and the projected number of ORs needed in 2019 in Union County is 1 (Column U). Additionally, Table 6C: Operating Room Need Determination on page 82 of the 2017 SMFP identifies a need for 1 OR in Union County, based on the need methodology as outlined in Step 5 on page 59 of the 2017 SMFP.

**NHMOS** proposes to renovate and expand an existing but unutilized ambulatory surgical facility with one OR, and develop one new OR and one procedure room, for a total of two ORs and one procedure room. The 2017 SMFP identifies a need for one additional OR in Union County. In Section V.7, pages 57 - 63, the applicant discusses how any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services. The applicant states:

*“As a licensed outpatient surgery center, NHMOS will have the opportunity to offer outpatient surgeries at a lower price point than a hospital-based outpatient surgery program. ... This approach will offer a new, more cost effective option for local access to outpatient surgical care in the Union County market area. As a result, NHMOS will also promote beneficial competition and choice with other surgery centers in neighboring counties. Competition can be a useful tool in expanding local geographic access to services, promoting cost effectiveness by putting downward pressure on costs of care, and encouraging the consistency in the delivery of quality care.*

...

*Excellent access to healthcare services is an important feature of the quality of life in the communities served by Novant Health, NHMOS and Novant Medical Group physicians. The Novant Medical Group physicians also adhere to the Novant Health Charity Care Policy, Novant Health’s eligibility criteria for charity care allows patients with annual household incomes up to 300% of the Federal Poverty Level,*



*which is \$72,900 for a family of four in 2017, to seek Charity Care coverage from Novant Health.*

...

*...Novant Health and NHMOS will continue to foster competition through cost effectiveness, patient safety, and financial accessibility to care, proactive preventative care, and access to care through the electronic health record, and diversity and inclusion.”*

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

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

- The applicant adequately demonstrates the need for the project and that it is a cost-effective alternative. The discussions regarding the analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicant adequately demonstrates it will provide quality services. The discussion regarding quality found in Criteria (1) and (20) is incorporated herein by reference.
- The applicant adequately demonstrates that it will provide access to medically underserved populations. The discussion regarding access found in Criteria (1) and (13) is incorporated herein by reference.

Therefore, the application is conforming to this criterion.

**UWSC** proposes to add one OR and one procedure room to its existing facility for a total of three ORs and one procedure room. The 2017 SMFP identifies a need for one additional OR in Union County. In Section V.7, pages 65 - 66, the applicants discuss how any enhanced competition will have a positive impact on the cost-effectiveness, quality and access to the proposed services. The applicants state:

*“The proposed project will result in the expansion of the existing freestanding ASC in Union County. Competition will be enhanced because the proposed facility will improve access to high-quality, value-based services, specifically outpatient surgery, in Union County and surrounding areas.*

...

*In addition, as UHS is currently seeking physician investment in UWSC, the proposed project will be developed with physician ownership and oversight of clinical services.*

*As such, physicians will be actively engaged in decision making ... in innovation ... and in achieving excellent patient experience and outcomes.*

...

*UWSC provides services to all persons in need of medical care, regardless of race, sex, creed, age, national origin, handicap or ability to pay in full and will continue to provide such access upon completion of the proposed project.*

...

*The proposed project, which involves the renovation of existing space in a leased facility, is less costly than the construction of a new facility or the renovation of existing hospital space. UHS has thus proposed the most value-conscious alternative for developing the additional operating room”*

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 in the application is reasonable and adequately demonstrates that any enhanced competition in the service area includes a positive impact on the 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 for the project and that it is a cost-effective alternative. The discussions regarding the analysis of need and alternatives found in Criteria (3) and (4), respectively, are incorporated herein by reference.
- The applicants adequately demonstrate they will provide quality services. The discussion regarding quality found in Criteria (1) and (20) is incorporated herein by reference.
- The applicants adequately demonstrate that they will provide access to medically underserved populations. The discussion regarding access found in Criteria (1) and (13) is incorporated herein by reference.

Therefore, 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 – Both Applicants

**NHMOS:** In Section III.4, pages 40 - 43, the applicant describes the methods used by NH to ensure and maintain quality care. NHMOS is a new limited liability company with 100% of its LLC membership interests owned by NH. As such, the applicant does not currently

provide services, however, the application often refers to NH's ownership, experience and policies as being relevant to NHMOS, as in Section II.8, pages 13-16, and Exhibit 10.

In Section I.13, pages 4 - 7, the applicant lists the facilities and programs owned by NH. NH owns and operates 11 licensed hospital facilities in North Carolina and nine licensed outpatient surgery or endoscopy centers, including four freestanding ambulatory surgery facilities like the one proposed in this application to be re-opened. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, incidents occurred at one of the 11 licensed hospitals within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems have been corrected. No incidents occurred at any of the four existing ambulatory surgical facilities with that time period. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section, and considering the quality of care provided at all 11 Novant Health facilities, the applicant provided sufficient evidence that quality care has been provided in the past. Therefore the application is conforming to this criterion.

**UWSC:** In Section II.7(b), pages 19 - 21, the applicants describe the methods to be used to ensure and maintain quality care. UHS is wholly owned by The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas HealthCare System.

In Exhibit 5, the applicant lists the facilities and programs owned and/or managed by CMHA/CHS. CHS owns and operates 24 licensed hospital facilities and licensed outpatient surgery or endoscopy centers in North Carolina, including freestanding ambulatory surgery facilities. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, incidents occurred at five of the 24 licensed hospitals within the eighteen months immediately preceding submission of the application through the date of this decision related to quality of care. As of the date of this decision, the problems have been corrected. After reviewing and considering information provided by the applicant and by the Acute and Home Care Licensure and Certification Section, and considering the quality of care provided at all 11 Novant Health facilities, the applicant provided sufficient evidence that quality care has been provided in the past. 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 – Both Applications

The Criteria and Standards for Surgical Services and Operating Rooms, promulgated in 10A NCAC 14C.2100, are applicable to this review. The specific criteria are discussed below.

**SECTION .2100 – CRITERIA AND STANDARDS FOR SURGICAL SERVICES AND OPERATING ROOMS**

**.2103 PERFORMANCE STANDARDS**

*.2103 (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- **NHMOS:** In Section II.10, page 17, the applicant states the facility will be open five days per week, 52 weeks per year.

-C- **UWSC:** In Section II.10, page 22, the applicants state the facility will be open five days per week, 52 weeks per year.

*.2103 (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:  $\{[(\text{Number of facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of facility's projected outpatient cases times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$  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- **NHMOS:** In Section II.10, pages 18 - 20, the applicant states there are a total of nine ORs in Union County, and calculates a need based on the instruction in subsection (B) above. In fact, NHMOS (currently named Presbyterian Same Day Surgery Center-Monroe) is excluded from the need determination because it is a “*chronically underutilized*” facility. Therefore, the “*Adjusted Planning Inventory*” is reduced from 9 to 8 in Table 6B on page 81 of the 2017 SMFP. However, if NHMOS were not closed and not considered a “*chronically underutilized facility,*” there would be no need for an additional OR in Union County. The applicant nevertheless demonstrates the need for one additional operating room, for a total of two ORs and one procedure room in its ambulatory surgical facility in Union County in the third operating year, as illustrated in the following table:

**NHMOS Total Projected Outpatient Surgical Cases and OR Need**

SURGICAL CASES	PY 1	PY 2	PY 3
Projected Outpatient Cases	2,114	2,187	2,263
X 1.5 = Weighted Surgical Hours	3,171	3,280	3,394
ORs Needed at 1,872 Hours per Room*	1.69	1.75	1.81
NHMOS OR Need	2	2	2

Totals may not sum due to rounding

\* Since the difference in each of the first three Project Years is a positive number that is greater than or equal to 0.3, the need is the next highest number.

The discussions regarding analysis of need, including projected utilization, and access found in Criterion (3) are incorporated herein by reference.

- C- **UWSC:** In Section II.10, pages 24 - 25, the applicant demonstrates the need for one additional operating room for a total of three ORs and one procedure room in its

ambulatory surgical facility in Union County in the third operating year, as illustrated in the following table:

**UWSC Total Projected Outpatient Surgical Cases  
and OR Need, PY 3**

	<b>UWSC</b>
Inpatient Cases	0
Outpatient Cases	3,852
Total Surgical Hours	5,778
OR Need at 1,872 hours per room	3.1
# Existing ORs	2
<b>Deficit</b>	<b>1.1</b>

Totals may not sum due to rounding

\* Since the difference in each of the first three Project Years is a positive number that is greater than or equal to 0.3, the need is the next highest number.

The discussions regarding analysis of need, including projected utilization, and access found in Criterion (3) are incorporated herein by reference.

*.2103 (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:  $\{[(\text{Number of projected inpatient cases for all the applicant's or related entities' facilities, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours}) \text{ plus } (\text{Number of projected outpatient cases for all the applicant's or related entities' facilities times 1.5 hours})] \text{ divided by } 1872 \text{ hours}\}$  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.*

The need determination identified in the 2017 SMFP will increase the number of ORs in the Union County service area by one OR, upon approval of one of the two competing applications in this review. The Union County operating room service area has six to 10 operating rooms; therefore, .2103(c)(2)(B) above is applicable to this review.

- C- **NHMOS:** In Section II.10, pages 24 - 25, the applicant demonstrates the need for one additional operating room for a total of three ORs and one procedure room in its ambulatory surgical facility in Union County in the third operating year.

In Section II.10, pages 18 - 20, the applicant states there are a total of nine ORs in Union County, and calculates a need based on the instruction in subsection (B) above. In fact, NHMOS (currently named Presbyterian Same Day Surgery Center-Monroe) is excluded from the need determination because it is a “*chronically underutilized*” facility. Therefore, the “*Adjusted Planning Inventory*” is reduced from 9 to 8 in Table 6B on page 81 of the 2017 SMFP. However, if NHMOS were not closed and not considered a “*chronically underutilized facility*,” there would be no need for an additional OR in Union County. The applicant nevertheless demonstrates the need for one additional operating room, for a total of two ORs and one procedure room in its ambulatory surgical facility in Union County in the third operating year, as illustrated in the following table, from page 18 and Exhibit 3, Table 1:

<b>NHMOS Total Projected Outpatient Surgical Cases and OR Need</b>			
<b>SURGICAL CASES</b>	<b>PY 1</b>	<b>PY 2</b>	<b>PY 3</b>
Projected Outpatient Cases	2,114	2,187	2,263
X 1.5 = Weighted Surgical Hours	3,171	3,280	3,394
ORs Needed at 1,872 Hours per Room*	1.69	1.75	1.81
<b>NHMOS OR Need</b>	<b>2</b>	<b>2</b>	<b>2</b>

Totals may not sum due to rounding

\* Since the difference in each of the first three Project Years is a positive number that is greater than or equal to 0.3, the need is the next highest number.

The discussions regarding analysis of need, including projected utilization, and access found in Criterion (3) are incorporated herein by reference.

- C- **UWSC:** The applicants currently operate a total of two ambulatory ORs in Union County. CHS Union, a related entity in the service area, owns six shared ORs and two dedicated C-section ORs. In Section II.8, pages 24 – 25 and in Section III, pages 28 – 46, the applicants demonstrate the need for one additional OR in UWSC, for a total of three ORs and one procedure room in its ambulatory surgical facility in Union County in the third operating year, as illustrated in the following table:

**UWSC Total Projected Outpatient Surgical Cases  
and OR Need, PY 3**

	UWSC	CHS UNION	COMBINED TOTAL
Inpatient Cases	0	1,508	1,508
Outpatient Cases	3,852	5,380	9,232
Total Surgical Hours	5,778	12,594	18,372
OR Need at 1,872 hours per room	3.1	6.7	9.8
# Existing ORs	2	6	8
<b>Deficit</b>	<b>1.1</b>	<b>0.7</b>	<b>1.8</b>

Totals may not sum due to rounding

\* Since the difference in each of the first three Project Years is a positive number that is greater than or equal to 0.3, the need is the next highest number.

The discussions regarding analysis of need, including projected utilization, and access found in Criterion (3) are incorporated herein by reference.

*.2103 (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- **NHMOS:** The applicant does not have an existing or approved dedicated C-section OR and is not proposing to develop a dedicated C-section OR.

- NA- **UWSC:** The applicants are not proposing to develop a dedicated C-section OR.

*.2103(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- **NHMOS:** The applicant is not 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.
- NA- **UWSC:** The applicants are not 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.
- .2103(f) *The applicant shall document the assumptions and provide data supporting the methodology used for each projection in this Rule.*
- C- **NHMOS:** In Section III.1, pages 25 - 37 and Exhibit 3, the applicant documents the assumptions and provides data supporting the methodology used for each projection in this Rule. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.
- C- **UWSC:** In Section III.1, pages 28 – 46, the applicants document the assumptions and provide data supporting the methodology used for each projection in this Rule. The discussion regarding analysis of need, including projected utilization, found in Criterion (3) is incorporated herein by reference.

## **COMPARATIVE ANALYSIS**

Pursuant to N.C. Gen. Stat. §131E-183(a) (1) and the 2017 State Medical Facilities Plan (2017 SMFP), no more than one new or additional OR may be approved in this review for Union County. Because the two applications in this review collectively propose two new ORs (1 OR each), only one of the applications can be approved to develop the new OR. Therefore, after considering all of the information in each application and reviewing each application individually against all applicable review criteria, the Project Analyst conducted a comparative analysis of the proposals to decide which proposal could be approved to develop the new OR. For the reasons set forth below and in the rest of the findings, the application submitted by UWSC is approved and the application submitted by NHMOS is disapproved.

### **Conformity with Statutory and Regulatory Review Criteria**

Both applications are conforming to the statutory and regulatory review criteria as discussed throughout the Agency Findings. Therefore, with regard to conformity to the Review Criteria, the two proposals are comparable.

### **Operating History**

**NHMOS** (currently named Presbyterian Same Day Surgery Center-Monroe) is a “*chronically underutilized*” facility, defined on page 58 of the 2017 SMFP as “*licensed facilities operating at less than 40 percent utilization for the past two fiscal years, which have been licensed long enough to submit at least three License Renewal Applications to the Division of Health Service Regulation.*” NHMOS has been licensed to operate as an ambulatory surgical facility since 2009, but since January 2013 has not served any patients. Thus it has submitted at least three license renewal applications to the Division of Health Service Regulation since it closed in January 2013, and its utilization has been less than 40% for each year since January 2013. NHMOS is therefore a “*chronically underutilized facility*” as defined in the 2017 SMFP. Furthermore, on page 72 of the 2017 SMFP, NHMOS is listed as “*chronically underutilized*” and thus excluded from the “*Adjusted Planning Inventory*” which was reduced from nine to eight ORs in Union County. Furthermore, if NHMOS were not closed and not considered a “*chronically underutilized facility,*” there would be no need determination for an additional OR in Union County.

In addition, page 56 of the 2017 SMFP states:

*“...The objective of the [OR need] methodology is to arrive at a reasonable assessment of the adequacy of current resources for performing surgery, compared with an estimate of need for additional capacity.”*

NHMOS could have reopened its facility at any point since its closure in 2013 and could have begun to serve patients. As noted in its own need methodology, NH serves Union County patients in its Mecklenburg County facilities. Yet the Union County facility remains closed, chronically underutilized and excluded from the 2017 SMFP need determination methodology.

**UWSC** began providing services in October 2011, initially offering cataract surgery. It has operated continuously since its opening, and now provides surgical services in general surgery, gynecology, ophthalmology, orthopedic surgery, otolaryngology, podiatry and urology.

Therefore, with regard to operating history, **UWSC** is the more effective alternative.

### **Geographic Accessibility**

The 2017 State Medical Facilities Plan identifies the need for one additional operating room to be located in Union County.

**NHMOS** proposes to add one new OR and one procedure room to an existing licensed but unutilized ASC for a total of two ORs and one procedure room in Monroe, Union County. According to MapQuest®, Monroe is located in the central part of Union County, approximately 15 miles and 25 minutes driving time from the NH Matthews facilities, where the applicant states it currently serves Union County patients who seek outpatient surgical services from NH providers.

**UWSC** proposes to add one OR and one procedure room to its existing ASC, for a total of three ORs and one procedure room in Indian Trail, Union County. According to MapQuest®, Indian Trail is located in the northwestern part of Union County, approximately 10 miles and 20 minutes driving time from Monroe, and approximately 4.8 miles and 10 minutes driving time to Matthews; thus it is located in relatively close proximity to the northwestern border of the county. In Section III.1, pages 36 – 37, the applicant states the western portion of Union County is projected to grow at a faster rate than central or eastern portions of the county [2.2% growth projected for the next five year in western Union County; 1.3% in central Union County and 1.2% in eastern Union County]. Furthermore, the applicant states the western portion of Union County also represents 80% of the total population of the county. Therefore, the applicant proposes to add one OR to an existing facility in the portion of the county that is more populous and is projected to grow faster than the central and eastern portions of the county.

Both applicants propose to develop one additional Union County OR in an ASC in Union County. Both towns are in Union County. However, **UWSC** proposes to add one OR to a facility located in the portion of the county that is more populous and is projected to grow faster than the central and eastern portions of the county. Therefore, with regard to geographic accessibility to the proposed OR, the proposal submitted by **UWSC** is the more effective alternative.

### **Demonstration of Physician Support**

**NHMOS** In Exhibit 4, the applicant provides support letters from 19 surgeons in six specialties who the applicant states are expected to utilize the proposed ASC.

**UWSC** In Section III.1(b), pages 42 - 43, the applicants provide a list of 27 surgeons in seven specialties who have privileges at **UWSC** and project to perform a total of 4,389 cases annually at the facility. Exhibit 16 contains support letters from the surgeons listed on pages 42 – 43, six

additional surgeons who support the proposal, and 16 other surgeons whose letters will not be considered<sup>1</sup>.

Both applications document physician support of their proposed projects. Therefore, with regard to demonstration of physician support, the two proposals are comparable.

**Patient Access to Surgical Specialties**

Currently, Union County has one hospital that provides surgical services and one operational ASC. The county has 11 ORs: two inpatient, six shared and three outpatient, one of which is not operational. Two of the 11 ORs are dedicated C-section ORs. A review of the surgical data reported in the 2017 Hospital LRAs submitted by CMHA, the only provider of surgical service in Union County, shows that 84% of all surgeries (excluding C-Sections) performed in Union County in FFY 2016 were ambulatory surgeries. The following table shows the percentages of the ambulatory surgeries performed in Union County by specialty:

SURGICAL SPECIALTY	CHS UNION IP	CHS UNION OP	UWSC
General	460	913	26
OB/GYN*	88	400	34
Ophthalmology	0	1376	1717
Oral	1	76	0
Orthopedic	707	1183	127
Otolaryngology	28	198	723
Plastic	5	1	0
Urology	117	774	12
Vascular	0	36	0
Other	47	30	105
<b>Total</b>	<b>1,453</b>	<b>4,987</b>	<b>2,744</b>
<b>Grand Total</b>			<b>9,184</b>
<b>Total OP</b>			<b>7,731</b>
<b>OP % of Total Surgeries (7,731 / 9,184)</b>			<b>0.84179</b>

\*Non C-section ORs

The approval of either applicant will add one ambulatory OR and one procedure room in Union County.

**NHMOS** proposes to offer the following ambulatory surgical services, as indicated by the 19 letters signed by surgeons in Exhibit 4: otolaryngology, OB/GYN, ophthalmology, orthopedics, general surgery and GI endoscopy.

**UWSC** performed surgeries in the following specialties in FFY 2016: general surgery, OB/GYN, ophthalmology, orthopedic, otolaryngology, urology and vascular surgery. Furthermore, the 33 support letters signed by surgeons in Exhibit 16 reflect those surgeons' intentions to perform surgery in the specialties listed and also in podiatry.

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<sup>1</sup> As discussed under Criterion (3) in these Findings, the applicants provide a total of 49 letters of support in Exhibit 16; however, 16 of those letters provide support for CHS Huntersville, which was previously approved. Thus, 33 of the 49 support letters in this application will be considered.

Therefore, based on the expected surgical specialties that will utilize the proposed additional OR, the applications are comparable.

**Patient Access to a New Provider**

Generally, the application proposing to increase patient access to a new provider in the service area is the more effective alternative with regard to this comparative factor.

**NHMOS** is 100% owned by Novant Health, Inc., and was formerly known as Presbyterian SameDay Surgery Center Monroe. NHMOS previously operated one OR in its ASC on Wellness Boulevard in Monroe from 2009 to 2013, when it closed. It has remained licensed, though it has not served any patients since January 2013. Thus, although the applicant has continually renewed the annual license on the ambulatory surgical facility in Union County, the facility has not served patients since January 2013. Therefore, it would not be a new provider in Union County. NH is currently providing ambulatory surgical services to Union County residents in its Mecklenburg County facilities, and could serve those Union County residents in its existing facility in Union County. However, it has chosen not to serve patients in its Union County facility since January 2013.

**UWSC** currently provides ambulatory surgical services to Union County patients in its shared ORs in the hospital and in the two ORs in its existing ASC in Union County. The development of a third OR at its existing ASC will increase its existing operating capacity; whereas the development of an additional OR at NHMOS will effectively add another provider of outpatient surgical services in Union County by a provider that currently serves Union County residents who seek ambulatory surgical services. The proposal submitted by NHMOS will allow its existing Union County patients to receive their care from their NH physicians in their home county.

Therefore, with respect to access to a new provider of surgical services in Union County, the proposals are comparable.

**Access by Underserved Groups**

The following table illustrates each applicant’s projected Charity Care for the second operating year following project completion. Each applicant has a different OY: NHMOS defines its OY as April 1 to March 30; and UWSC defines its OY as a calendar year. The difference is not material to this review or comparative factor, but is clarified for understanding.

**Surgical Charity Care of Each Applicant  
Operating Year Two**

APPLICANT	PROJECTED CHARITY CARE	PROJECTED % OF TOTAL NET REVENUE
NHMOS	\$317,451	4.4%
UWSC	\$85,137	1.1%

Source: Section VI.8 and Pro Forma Form B of each application.  
Each applicant lists Charity Care separate from Bad Debt.

As shown in the table above, NHMOS projects the highest charity care as a percent of net revenue to be provided to its patients.

Therefore, with regard to the provision of charity care, the application submitted by **NHMOS** is the more effective alternative.

The following tables illustrate each applicant’s projected number of surgical cases and the percentage of those cases that are projected to be provided to Medicare and Medicaid recipients in the third full OY following project completion:

**Outpatient Surgical Medicaid Cases  
Operating Years 2 and 3**

	NHMOS		UWSC	
	OY 2	OY 3	OY 2	OY 3
Total OP Surgical Cases	2,157	2,263	3,644	3,894
# Surgical Cases Provided to Medicaid Recipients	386	405	430	459
% of Total OP Surgical Cases Provided to Medicaid Recipients	17.9%	17.9%	11.8%	11.8%

Source: Form D of each application

**Outpatient Surgical Medicare Cases  
Operating Years 2 and 3**

	NHMOS		UWSC	
	OY 2	OY 3	OY 2	OY 3
Total OP Surgical Cases	2,157	2,263	3,644	3,894
# Surgical Cases Provided to Medicare Recipients	783	821	1,665	1,779
% of Total OP Surgical Cases Provided to Medicare Recipients	36.3%	36.3%	45.7%	45.7%

Source: Form D of each application

As illustrated in the tables above, **NHMOS** projects to serve a greater percentage of Medicaid recipients in OYs two and three, but **UWSC** projects to serve a larger number of Medicaid recipients. **UWSC** projects to serve a greater percentage of Medicare recipients in OYs two and three, as well as a larger number of Medicare recipients. Therefore, with respect to provision of outpatient surgical services to Medicaid and Medicare recipients, the application submitted by **UWSC** is the more effective alternative.

**Projected Surgical Revenue per Surgical Case**

The following table shows the projected average gross and net surgical revenue per case in the second and third years 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 gross and net revenue per case is the more effective alternative with regard to this comparative factor.

**Revenue per Surgical Case, Operating Years Two and Three**

	NHMOS		UWSC	
	OY 2	OY 3	OY 2	OY 3
# Cases	2,157	2,263	3,644	3,894
Gross Surgical Revenue	\$17,866,166	\$20,289,272	\$21,266,851	\$23,406,382
Gross Revenue per Case	\$8,283	\$8,966	\$5,836	\$6,011
Net Surgical Revenue	\$7,075,160	\$8,034,731	\$7,303,778	\$8,038,567
Net Revenue per Case	\$3,280	\$3,550	\$2,004	\$2,064

Source: Forms D and E in each application

As shown in the table above, UWSC projects the lower average gross and net revenue per surgical case. Both applicants propose to perform a variety of surgical procedures in the ASC, as evidenced by the information provided in Section III of each application and the exhibits with support letters from surgeons provided in each application.

Therefore, with respect to projected revenue per surgical case, the application submitted by UWSC is the more effective alternative.

**Projected Average Operating Expense per Surgical Case**

The following table shows the projected operating expense in the second and third years of operation for each of the applicants, based on the information provided in the applicants' pro forma financial statements (Form B) in each application. Generally, the application proposing the lowest average operating expense is the more effective alternative with regard to this comparative factor.

Each of the applicants provided Form B, an income and expense statement, for ORs and the procedure rooms combined; therefore, a comparison of surgical operating expenses alone is not possible as it was for gross and net revenue projections. Therefore, the table compares operating expenses for the total facility:

**Average Operating Expense Operating Years Two and Three**

	NHMOS		UWSC	
	OY 2	OY 3	OY 2	OY 3
Total Operating Expenses	\$6,351,416	\$6,564,999	\$7,030,926	\$7,400,921
# Cases/Procedures	2,797	2,925	3,987	4,260
Operating Expense / Case / Procedure	\$2,271	\$2,244	\$1,763	\$1,737

Source: Form B in each application

As shown in the table above, UWSC projects the lower operating expense per case/procedure for the facility, including surgical cases performed in the ORs and procedures performed in the procedure room. Both applicants propose to perform a variety of surgical procedures in the ASC, as evidenced by the information provided in Section III of each application and the exhibits with support letters from surgeons provided in each application.

Therefore, with respect to projected revenue for the facility, the application submitted by UWSC is the more effective alternative.

### **SUMMARY**

The following is a summary of the reasons the proposal submitted by UWSC is determined to be the most effective alternative in this review:

- UWSC is more effective with regard to operating history in Union County.
- UWSC proposes to offer ambulatory surgical services in an area of Union County that is the most populous, representing 80% of the total population of the county, and that is projected to grow at a faster rate than the rest of the county; thus providing more effective geographical access to ambulatory surgical services. See the Comparative Analysis for discussion.
- UWSC proposes to add one OR and offer ambulatory surgical services in a facility that is and has been operational since it opened. See the Comparative Analysis for discussion.
- UWSC projects to serve a larger number of Medicare and Medicaid recipients. See the Comparative Analysis for discussion.
- UWSC projects a lower revenue per surgical case than NHMOS. See the Comparative Analysis for discussion.
- UWSC projects a lower operating cost per case/procedure than NHMOS. See the Comparative Analysis for discussion.

The following is a summary of the reasons the proposal submitted by NHMOS is determined to be a less effective alternative in this review than the approved applicant.

- NHMOS is less effective with regard to operating history in Union County.
- NHMOS does not propose to offer more effective geographical access to ambulatory surgical services. See the Comparative Analysis for discussion.
- NHMOS proposes to add one OR and offer ambulatory surgical services in a facility that has not served patients since January 2013. See the Comparative Analysis for discussion.
- NHMOS projects to serve a smaller number of Medicare and Medicaid recipients. See the Comparative Analysis for discussion.
- NHMOS projects a higher revenue per surgical case than USCW. See the Comparative Analysis for discussion.
- NHMOS projects a higher operating cost per case/procedure than USCW. See the Comparative Analysis for discussion.

### **CONCLUSION**

The Agency determined that the application submitted by Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority, Project ID #F-11348-17, is the most effective alternative proposed in this review for the additional OR in Union County, and is approved. The approval of the application submitted by Novant Health Monroe Outpatient Surgery, LLC would result in the number of ORs in Union County in excess of the need determination as reported in the 2017 SMFP. Consequently, the application submitted by Novant Health Monroe Outpatient Surgery, LLC is denied.



The application submitted by Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority is approved subject to the following conditions.

- 1. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall materially comply with all representations made in the certificate of need application.**
- 2. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall develop no more than one operating room for a total of no more than three operating rooms and one procedure room in its ambulatory surgical facility upon completion of this project.**
- 3. Upon completion of this project, Union West Surgery Center shall be licensed for no more than three operating rooms and one procedure room.**
- 4. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall develop and implement an Energy Efficiency and Sustainability Plan for the project that conforms to or exceeds energy efficiency and water conservation standards incorporated in the latest editions of the North Carolina State Building Codes.**
- 5. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall not acquire, as part of this project, any equipment that is not included in the project's proposed capital expenditures in Section VII of the application and that would otherwise require a certificate of need.**
- 6. No later than three months after the last day of each of the first three full years of operation following initiation of the services authorized by this certificate of need, Union West Surgery Center shall submit, on the form provided by the Healthcare Planning and Certificate of Need Section, an annual report containing the:**
  - a. Payor mix for the services authorized in this certificate of need.**
  - b. Utilization of the services authorized in this certificate of need.**
  - c. Revenues and operating costs for the services authorized in this certificate of need.**
  - d. Average gross revenue per unit of service.**
  - e. Average net revenue per unit of service.**
  - f. Average operating cost per unit of service.**
- 7. Union Health Services, LLC and The Charlotte-Mecklenburg Hospital Authority shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Agency in writing prior to issuance of the certificate of need.**
- 8. For the first three years of operation following completion of the project, Union West Surgery Center shall not increase charges more than 5% of the charges projected in Section XI of the application without first obtaining a determination**

**from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.**

- 9. The procedure room shall not be used for procedures that should be performed only in an operating room based on current standards of practice.**
- 10. Procedures performed in the procedure room shall not be reported for billing purposes as having been performed in an operating room and shall not be reported on the facility's license renewal application as procedures performed in an operating room.**