

REQUIRED STATE AGENCY FINDINGS

FINDINGS

C = Conforming

CA = Conforming as Conditioned

NC = Nonconforming

NA = Not Applicable

Decision Date: November 22, 2022

Findings Date: November 22, 2022

Project Analyst: Tanya M. Saporito

Co-Signer: Micheala Mitchell

Project ID #: M-12222-22

Facility: Fayetteville Ambulatory Surgery Center

FID #: 943168

County: Cumberland

Applicant(s): Fayetteville Ambulatory Surgery Center, L.P.

Project: Replace and relocate an ambulatory surgical facility

REVIEW CRITERIA

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

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

C

Fayetteville Ambulatory Surgery Center, L.P. (hereinafter referred to as “the applicant”) proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

Need Determination

The proposed project does not involve the addition of any new health service facility beds, services, or equipment for which there is a need determination in the 2022 State Medical Facilities Plan (SMFP). Therefore, no need determinations are applicable to this review.

Policies

There is one policy in the 2022 SMFP applicable to the review.

Policy GEN-4: Energy Efficiency and Sustainability for Health Service Facilities, on pages 30-31 of the 2022 SMFP, states:

“Any person proposing a capital expenditure greater than \$4 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.”

The proposed capital expenditure for this project is greater than \$4 million but less than \$5 million. In Section B.4, page 26, the applicant explains why it believes the application is consistent with Policy GEN-4, stating:

“FASC will ensure the replacement ASC will be developed in physical spaces that are designed to comply with all applicable federal, states and local building codes, and requirements for energy efficiency and water conservation.... The building codes apply to systems and equipment for electrical power, lighting, heating, ventilating, air condition service, energy management, water heating and water conservation. The physical spaces in which the ORs will be located will be constructed to ensure energy efficiency and cost-effective utilities, including water conservation. FASC will closely monitor its utility usage and costs (including water utilization) in order to maintain efficient and environmentally responsible energy operations.”

The applicant states that, if approved, it will submit an Energy Efficiency and Sustainability Plan as required by Policy GEN-4. The application is consistent with Policy GEN-4.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion based on the following:

- The applicant does not propose to develop any beds, services or equipment for which there is a need determination in the 2022 SMFP.
- The applicant does not propose to add any new ORs to the inventory of ORs in Cumberland County.
- The applicant adequately demonstrates that the proposal is consistent with Policy GEN-4 as detailed above.

- (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, persons with disabilities, the elderly, and other underserved groups are likely to have access to the services proposed.

C

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

Patient Origin

On page 49, the 2022 SMFP defines the service area for ORs as “...*the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.*” Figure 6.1 on page 55 of the 2022 SMFP shows Cumberland County as a single county OR service area. Thus, the service area for this application is Cumberland County. Facilities may also serve residents of counties not included in the service area.

The following table illustrates historical and projected patient origin from pages 28-29 of the application:

Fayetteville Ambulatory Surgery Center Patient Origin

COUNTY	HISTORICAL 10/1/20-9/30/21		3 RD FULL FY OF OPERATION 1/1/27-12/31/27	
	PATIENTS	% OF TOTAL	PATIENTS	% OF TOTAL
Cumberland	5,702	68.7%	8,182	68.7%
Harnett	524	6.3%	752	6.3%
Robeson	499	6.0%	716	6.0%
Sampson	479	5.8%	687	5.8%
Bladen	370	4.5%	531	4.5%
Hertford	361	4.3%	518	4.3%
Lee	61	0.7%	88	0.7%
Other	303	3.7%	435	3.7%
Total	8,299	100.0%	11,909	100.0%

In Section C, page 29, the applicant provides the assumptions and methodology used to project its patient origin. The applicant’s assumptions are reasonable and adequately supported because they are based on FASC’s historical patient origin. The applicant does not expect the proposed relocation to impact existing patient origin.

Analysis of Need

In Section C.4, pages 31-40, the applicant explains why it believes the population projected to utilize the proposed services needs the proposed services, as summarized below:

- Need to replace the existing ASC – The applicant states the age and design of the existing facility are no longer conducive to effective and efficient patient service. The building in which the ASC is located was constructed in 1981, and the existing ORs are undersized compared to current standards. In addition, the current size of the outdated ORs present challenges when surgical residents rotate at the ASC because there is not enough room to accommodate extra people. The applicant states surgical patients are faced with additional difficulties in navigating the facility, because of the current layout and the distance between pre- and post-operative areas. The age and layout of the existing facility no longer support the needs of the facility patients and staff (pages 30-32).
- National trends and cost effectiveness of freestanding ASCs – The applicant states that since the first ASC opened in 1970, growth in ASCs has continued, with more than 50% of outpatient surgeries performed in ASCs in 2017. The applicant cites research that indicates surgical procedures performed at ASCs will increase by an average of 6% to 7% through 2021. In 2019 in North Carolina, according to the applicant, outpatient surgery accounts for approximately 73% of all surgeries. The applicant states CMS added 267 CPT codes in 2021 for surgical procedures deemed appropriate for ASCs. Given the lower cost structure for ASC procedures, the applicant states the demand for surgical cases performed in an ASC will continue to increase both nationally and in North Carolina. The applicant states CMS and private insurers pay

less for surgical procedures performed in an ASC rather than a hospital, which means lower healthcare costs (pages 32-35).

- Expanded physician opportunities – The applicant states FASC is the only freestanding multispecialty ASC in Cumberland County. Valleygate Dental Surgery Center is a single-specialty ASC demonstration project that is limited in the types of surgical procedures it performs. The applicant states Cumberland County is a regional destination for healthcare services that serves patients from many contiguous and surrounding counties. FASC's affiliation with CFVMC results in many surgeons affiliated with CFVMC requesting block time at FASC. In Exhibit C.4, the applicant provides letters from physicians affiliated with CFVMC that indicate not only support for the replacement facility, but also an intent to request surgical block time at the proposed replacement facility (page 36).
- Service area demographics – The applicant examined ambulatory surgery cases by county of residence for the counties served by FASC, which include Cumberland, Harnett, Robeson, Sampson and Bladen. The applicant states residents of FASC's catchment area comprised over 38,000 ambulatory surgery cases during FFY 2019, and data from the North Carolina Office of State Budget and Management indicates the population in the service area will increase by a compound annual growth rate (CAGR) of 0.3% during the next five years. The applicant states that since FASC offers surgical services across a wide variety of specialties, the CAGR that represents the population across all age groups is reasonable (pages 37-39).
- Particular need for orthopedic and ophthalmic services – the applicant states the population demographics in the service area are particularly relevant to orthopedic and ophthalmic surgery services. Approximately 37% of the service area is comprised of people age 18-44, which is an age group typically involved in youth sports. The applicant cites research that indicates increasing participation in both youth sports and other recreational activities has resulted in an increase in both acute and chronic musculoskeletal injuries. In addition, the applicant states the Baby Boomer generation and the age group 65 + each has increasing needs for both orthopedic and ophthalmic surgery services, particularly cataract surgery (pages 39-40).

The information and is reasonable and adequately supported based on the following:

- The applicant provides reasonable information to support service area residents' need for access to high quality, contemporary freestanding ASF services; and cites reasonable data that supports the proposal.
- The applicant uses clearly cited and reasonable historical and demographic data to support its assumptions regarding the populations to be served, the health needs of those populations and the need for the proposed services.
- The applicant documents local physician support of and intent to utilize the proposed relocated replacement facility.

Projected Utilization

In Section Q, Forms C.3a and C.3b the applicants project utilization for the relocated replacement ASC for the interim fiscal year (FY) and the first three full FYs of operation. The applicant’s FY is a calendar year (CY). See the following table from Section Q Forms C.2a and C.2b:

OPERATING ROOMS	INTERIM FULL FY FY 2024	1 ST FULL FY CY 2025	2 ND FULL FY CY 2026	3 RD FULL FY CY 2027
Dedicated Ambulatory ORs	11	11	11	11
Outpatient Surgical Cases	9,427	10,552	11,263	11,909
Outpatient Surgical Case Time	59	70.1	70.1	70.1
Outpatient Surgical Hours	9,270	12,328	13,158	13,914
Group Assignment	6	6	6	6
Standard Hours per OR per Year	1,312	1,312	1,312	1,312
Total Surgical Hours/Standard Hours Per OR per Year	7.1	9.4	10.0	10.6

Source: Section Q, Form C.

In Section Q the applicants provide the assumptions and methodology used to project utilization, as summarized below:

Surgical Cases

Step 1: Review historical cases – The applicant states it relied on its historical utilization at the existing ASC during FY 2018-FY 2021, accounting for the impact of COVID-19 and the temporary reduction in elective surgical services during the mandated Stay at Home Order issued by Governor Roy Cooper. The applicant also states the age of the existing facility and the smaller size of the older ORs restrict the types of procedures FASC can perform, and that many surgeons had to either face delay or seek block time in distant locations, negatively impact their patients.

Step 2: Project OR cases through the third project year – The applicant states it utilized the services of Compass Surgical Partners to help accommodate the small ORs and facility condition in order to maximize surgical services for its patients. The applicant states growth from FY 2021-FY 2022 (annualized) has been 5%, and it believes an additional 3% increase during FY 2023 is reasonable. Additionally, the applicant states there is significant pent-up demand for surgical services because of the condition of the existing facility and the size of the ORs. The applicant projects an initial 10% increase in surgical cases in the first year of operation and then a decrease to 7%, 6% and 5% annual growth in each of the three project years. The applicant states five surgeons with current privileges at FASC have expressed an intent to increase referrals to FASC following the relocation, and at least five additional surgeons have expressed an intent to seek medical privileges following the facility relocation. Thus, the applicant states the projected growth is reasonable.

Step 3: Project average OR case times and OR need in the replacement facility – The applicant states it mistakenly mis-reported average case times on its 2019-2022 license renewal applications (LRAs) and has since corrected the errors. The applicant provides documentation to demonstrate the error and the corrections in Exhibit O.3. The applicant states the average OR case time was 59 minutes, which the applicant states is directly impacted by the limits of

the current facility. The applicant consulted with its manager, Compass Surgical Partners, to determine average case times for different surgical procedures each of which can be performed in the proposed relocated facility. The applicant projects that it will see an increase in spine and joint replacement cases based on expanded capacity, larger ORs, existing medical staff feedback and the service area population demographics as cited above. The applicant projects that those orthopedic surgical cases will comprise 37.2% of its surgical cases by the third project year. The applicant notes that its surgical case times will be consistent with the case times reported in the 2022 SMFP Chapter 6 OR methodology, which is 70.1, including actual surgical time, set up and clean up. The applicant states that Cumberland County is a regional destination for healthcare services and FASC is the only point of access for multi-specialty outpatient surgical services in the area.

Projected utilization is reasonable and adequately supported based on the following:

- Projected surgical case growth is supported by projected population growth and ambulatory surgical service need in the service area.
- Projected surgical types to be performed at the relocated facility is supported by the applicant’s historical utilization and demographic information.
- The applicant has had to make accommodations for the age of the existing facility and the small OR size and has still seen an increase in surgical services.
- The applicant provides letters of support from local surgeons showing their intention to schedule surgery cases at the proposed facility

Access to Medically Underserved Groups

In Section C, page 45, the applicant states:

“All individuals including low-income persons, racial and ethnic minorities, women, persons with disabilities, persons 65 and older, Medicare beneficiaries, Medicaid recipients, and other underserved groups, have access to FASC, as clinically appropriate. FASC does not discriminate based on race, ethnicity age, gender, or disability.”

In Section L, page 79, the applicant projects the following payor mix during the third full fiscal year of operation following completion of the project, as illustrated in the following table:

PAYOR SOURCE	% OF TOTAL PTS SERVED
Self-Pay	1.1%
Medicare**	42.9%
Medicaid**	11.7%
Insurance**	44.3%
Total	100.0%

*Includes managed care plans

Source: Application page 79

The applicant states the payor mix is based on the payor mix of surgical cases at FASC. On page 80, the applicant states it makes no distinction between charity care and reduced cost patients and provides reduced cost care to approximately 1.1% of its patients.

The applicant adequately describes the extent to which all residents of the service area, including underserved groups, are likely to have access to the proposed services based on the following:

- The applicant provides its projected payor mix, which includes underserved groups, and assumes it will remain constant for the first three years of operation.
- The applicant provides written statements about offering access to all residents of the service area, including underserved groups, in Sections C and L.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- The applicant adequately identifies the population to be served.
- The applicant adequately explains why the population to be served needs the services proposed in the application.
- Projected utilization is reasonable and adequately supported.
- The applicant projects the extent to which all residents, including underserved groups, will have access to the proposed services and adequately support their assumptions.

- (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, persons with disabilities, and other underserved groups and the elderly to obtain needed health care.

NA

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

The applicant does not propose to reduce or eliminate any ORs; rather, the applicant proposes to relocate an existing ASC to a new location, less than one mile away. Thus, the facility will

still be accessible to the same population in its new location. Therefore, this Criterion is not applicable to this review.

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

In Section E, the applicant describes the alternatives it considered and explains why each alternative is either more costly or less effective than the alternative proposed in this application. The alternatives considered were:

- Maintain the status quo – The applicant states there are numerous issues associated with the physical building within which the current ASC is located that restrict the applicant's ability to provide efficient ambulatory surgical services to its patients. The applicant states it cannot remedy the issues by remaining in the existing building, and thus maintaining the status quo is not a less costly or more effective alternative to relocating less than one mile from the current location.
- Construct a replacement ASC in another location – The applicant states it considered an alternate location for the proposed relocated ASC, but there was no other location that would allow the applicant to continue to serve its existing and projected patient base with the same referring and attending physicians and other medical staff. Therefore, the proposed location on land owned by Cape Fear Valley Medical Center adjacent to the hospital campus was determined to be the best alternative.

The applicant adequately demonstrates that the alternative proposed in this application is the most effective alternative to meet the need based on the following:

- The application is conforming to all statutory and regulatory review criteria.
- The applicant provides credible information to explain why it believes the proposed project is the most effective alternative.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above. Therefore, the application is approved subject to the following conditions:

- 1. Fayetteville Ambulatory Surgery Center, L.P. (hereinafter certificate holder) shall materially comply with all representations made in the certificate of need application.**
- 2. The certificate holder shall relocate no more than 11 operating rooms from the existing ASF, Fayetteville Ambulatory Surgery Center, to develop a replacement freestanding ambulatory surgical facility in Cumberland County.**
- 3. Upon project completion, Fayetteville Ambulatory Surgery Center shall be licensed for no more than 11 operating rooms.**
- 4. Progress Reports:**
 - a. Pursuant to G.S. 131E-189(a), the certificate holder shall submit periodic reports on the progress being made to develop the project consistent with the timetable and representations made in the application on the Progress Report form provided by the Healthcare Planning and Certificate of Need Section. The form is available online at: <https://info.ncdhhs.gov/dhsr/coneed/progressreport.html>.**
 - b. The certificate holder shall complete all sections of the Progress Report form.**
 - c. The certificate holder shall describe in detail all steps taken to develop the project since the last progress report and should include documentation to substantiate each step taken as available.**
 - d. The first progress report shall be due on March 1, 2023.**
- 5. The certificate holder shall not acquire as part of this project any equipment that is not included in the project's proposed capital expenditures in Section Q of the application and that would otherwise require a certificate of need.**
- 6. The certificate holder shall receive accreditation from the Joint Commission for the Accreditation of Healthcare Organizations, the Accreditation Association for Ambulatory Health Care or a comparable accreditation authority within two years following licensure of the facility.**
- 7. For the first three years of operation following completion of the project, the certificate holder shall not increase charges more than 5% of the charges projected in Section Q 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.**
- 8. The certificate holder 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.

- 9. No later than three months after the last day of each of the first three full fiscal years of operation following initiation of the services authorized by this certificate of need, the certificate holder 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.**

10. The certificate holder 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.

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

Capital and Working Capital Costs

In Section Q, Form F.1a, the applicants project the total capital cost of the project as shown in the table below.

Construction Costs	\$15,400,000
Medical Equipment	\$4,982,434
Miscellaneous Costs	\$2,117,566
Total	\$22,500,000

In Section Q, page 105, the applicant provides assumptions used to project capital cost. The applicant adequately demonstrates that the projected capital cost is based on reasonable and adequately supported assumptions based on the following:

- Construction/renovation costs are based on the architect's certified estimates and experience with other similar ASC projects.
- Medical and non-medical equipment costs are based on the facility manager's experience in developing and operating other ASCs.

In Section F, page 58, the applicant states there are no start-up costs or initial operating expenses associated with the project since FASC is currently operational with a positive net income.

In Exhibit K.3, the applicant provides a certified cost estimate from the project architect that confirms a construction price of "\$16,131,500 which excludes \$731,500 for estimated Architectural and Engineering fees." However, in Form F.1b, in Section Q, the applicant reports the construction cost is \$15,400,000 as noted above, and the cost for architect and engineering fees is \$731,500, which totals \$16,131,500 [$\$15,400,000 + \$731,500 = \$16,131,500$]. The Project Analyst determined the statement by the project architect in Exhibit K.3 is a typographical error and the projected construction cost estimate includes the architect/engineering fees.

The applicant adequately demonstrates that the project capital costs are based on reasonable and adequately supported assumptions based on the information provided on page 56 and in Section Q.

Availability of Funds

In Section F, page 56, the applicant states that the capital cost will be funded as shown in the table below.

TYPE	FASC	TOTAL
Cash and Cash Equivalents	\$22,500,000	\$22,500,000
Total	\$22,500,000	\$22,500,000

The information in the table above indicates that the applicant will fund the project through its cash reserves. However, Exhibit F.2 contains a letter dated May 27, 2022 from the Senior Vice President of First Citizens Bank that indicates First Citizens Bank would be willing provide funding for the project in the amount of \$22,500,000. That same Exhibit also provides an amortization schedule for the loan. Therefore, it appears that the applicant's information in the table on page 56 is inaccurate. The Project Analyst determined that the information in the table was a typographical error, since evidence of sufficient capital cost funding through a bank loan is provided in Exhibit F.2.

The applicant adequately demonstrates the availability of sufficient funds for the capital needs of the project because the applicant provides adequate documentation of financing from First Citizens Bank sufficient to cover the project capital costs.

Financial Feasibility

The applicant provided pro forma financial statements for each of the first three full fiscal years of operation following completion of the project, which are calendar years (CY) 2024-2026. In Form F.2, the applicant projects that revenues will exceed operating expenses in each of the three operating years (OY) of the project as shown in the table below:

	1ST FULL FY CY 2024	2ND FULL FY CY 2025	3RD FULL FY CY 2026
Total Cases	10,552	11,263	11,909
Total Gross Revenues (Charges)	\$93,262,202	\$100,540,824	\$107,373,885
Total Net Revenue	\$20,959,858	\$22,595,664	\$24,131,334
Average Net Revenue per Case	\$1,986	\$2,006	\$2,026
Total Operating Expenses (Costs)	\$19,989,338	\$21,118,597	\$22,131,496
Average Operating Expense per Case	\$1,894	\$1,875	\$1,858
Net Income	\$970,520	\$1,477,067	\$1,999,838

The assumptions used by the applicant in preparation of the pro forma financial statements are provided in Section Q of the application. The assumptions used by the applicant in preparation of the pro forma financial statements are reasonable, including projected utilization, costs and charges. See Section Q 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.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to written comments

Based on that review, the Agency concludes that the application is conforming to this criterion for the following reasons:

- Projected utilization is based on reasonable and adequately supported assumptions. See the discussion regarding projected utilization in Criterion (3) which is incorporated herein by reference.
- The applicant adequately demonstrates that the capital costs are based on reasonable and adequately supported assumptions.
- The applicant adequately demonstrates availability of sufficient funds for the capital needs of the proposal.
- 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.

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

On page 49, the 2022 SMFP defines the service area for ORs as “...the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.” Figure 6.1 on page 55 of the 2020 SMFP shows Cumberland County as a single county OR service area. Thus, the service area for this application is Cumberland County. Facilities may also serve residents of counties not included in the service area.

The following table from the 2022 SMFP Table 6A, page 58 Table 6B, page 71 identifies the existing and approved inpatient (IP), outpatient (OP), and shared operating rooms located in Cumberland County Operating Room Service Area and the inpatient and outpatient case volumes for each provider:

FACILITIES	IP ORS	OP ORS	SHARED ORS	EXCLUDED ORS	CON ADJUST-MENTS	ADJUSTED PLANNING INVENTORY	IP SURGERY CASES	OP SURGERY CASES
Cape Fear Valley Medical Center	5	0	14	-3	2	18	5,860	4,845
Highsmith-Rainey Specialty Hospital	0	0	3	0	-2	1	48	1,977
Fayetteville Ambulatory Surgery Center	0	11	0	0	0	11	0	7,767
Valleygate Dental Surgery Center*	0	2	0	0	0	0	0	1,517
Total	5	13	17	-3	0	30		

*Valleygate Dental Surgery Center is a dental single-specialty ambulatory surgery demonstration project that is in the inventory but is not included in the need determination calculations.

In Section G, pages 64-65, the applicant explains why it believes its proposal would not result in the unnecessary duplication of existing or approved ambulatory surgical services in the Cumberland County Operating Room Service Area. The applicant states:

“The proposed project will not result in unnecessary duplication of existing facilities because it does not increase the number of ORs in Cumberland County. The proposed project is needed to more effectively utilize the existing licensed OR capacity at FASC, and thus enhance access to freestanding ambulatory surgical services in Cumberland County.”

The applicant adequately demonstrates that the proposal would not result in an unnecessary duplication of existing or approved ORs in the service area for the following reasons:

- The proposal would not result in an increase in ORs in the Cumberland County Operating Room Service Area.
- The applicant proposes to relocate an existing licensed ASF in Cumberland County.

- The applicant adequately demonstrates that the proposed relocated ASF is needed.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

In Section Q Form H Staffing, the applicant provides projected full-time equivalent (FTE) positions for the proposed services, as summarized in the following table:

Current and Projected Staff, FASC

POSITION	CURRENT FTE STAFF	PROJECTED FTE STAFF
	CY 2022	2 ND FULL FY CY 2025
Registered Nurses	20.50	26.46
Licensed Practical Nurses	0.90	1.16
CNA / Nursing Assistants	4.50	5.81
Surgical Technicians	13.40	17.30
Radiology Technicians	1.10	1.42
Laundry and Linen	0.90	0.90
Central Sterile Supply	1.00	1.00
Materials Management	1.40	1.40
Information Technology	0.90	0.90
Administrator	1.00	1.00
Business Office	8.40	10.84
Clerical	0.90	1.16
Patient Safety / Quality Manager	1.00	1.00
Nursing Manger	3.00	3.00
TOTAL	58.90	73.36

Source: Application Section Q, page 103, Form H

In Section Q Form H Assumptions, the applicant provides the assumptions and methodology used to determine staffing needs. Adequate costs for the health manpower and management positions proposed by the applicant are budgeted in Form F.3 Operating Costs. In Section H.2, pages 66-67, the applicant describes its experience and process for recruiting and retaining staff and its proposed training and continuing education programs.

The applicant adequately demonstrates the availability of sufficient health manpower and management personnel to provide the proposed services.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for the reasons stated above.

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

Ancillary and Support Services

In Section I, page 68, the applicant identifies the necessary ancillary and support services for the proposed services. On pages 68-69, the applicant explains how each ancillary and support service is currently available and will continue to be made available. The applicant provides supporting documentation in Exhibit C.4. The applicant adequately demonstrates that the necessary ancillary and support services will be made available based on the following:

- The applicant currently provides all listed ancillary and support services because the ASC is operational.
- The applicant provides support letters in Exhibit C.4 that identify existing providers of ancillary and support services.
- The support letters in Exhibit C.4 indicate continued support for the project and a continued commitment to the provision of the ancillary and support services following the relocation.

Coordination

In Section I, the applicant describes its existing and proposed relationships with other local health care and social service providers and provides supporting documentation in Exhibit C.4 The applicant adequately demonstrates that the proposed services will be coordinated with the existing health care system because the applicant provides documentation that it has existing relationships with other local health care and social service providers.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (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

The applicant does not project to provide the proposed services to a substantial number of persons residing in Health Service Areas (HSAs) that are not adjacent to the HSA in which the services will be offered. Furthermore, the applicant does not project to provide the proposed services to a substantial number of persons residing in other states that are not adjacent to the North Carolina county in which the services will be offered.

- (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

The applicant is not an HMO. Therefore, Criterion (10) is not applicable to this review

- (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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

The project involves relocating and replacing an existing ASC; therefore, on pages 73-75, the applicant identifies the proposed site and provides information about the current owner, zoning and special use permits for the site, and the availability of water, sewer and waste disposal and power at the site. In section K, page 72, the applicant states that the project involves renovating 38,500 square feet of existing space in a medical office building the applicant will lease from CFVMC. Line drawings are provided in Exhibit K.2. Supporting documentation is provided in Exhibit K.4. The site appears to be suitable for the proposed ASC based on the applicant's representations and supporting documentation.

On page 73, the applicant adequately explains how the cost, design and means of construction represent the most reasonable alternative for the proposal based on the following:

- The applicant provides a letter from an architect in Exhibit K.3 that details the project renovation plans and cost savings approaches and is based on similar projects the architect has completed.
- The design of the building will allow for lower costs and efficient use of space.
- The applicant states the plans include energy efficiency and water conservation standards that meet or exceed current regulations.

On page 73, the applicant adequately explains why the proposal will not unduly increase the costs to the applicant of providing the proposed services or the costs and charges to the public for the proposed services based on the following:

- The proposed project will offer a more cost-efficient means of providing outpatient surgical services than what is presently available in the community.
- The applicant states it will not increase costs to the public once the proposed space is renovated for the proposed ASC relocation.

On page 73, the applicant identifies any applicable energy saving features that will be incorporated into the renovation plans.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion for all the reasons described above.

- (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 persons with disabilities, which have traditionally experienced difficulties in obtaining equal access to the proposed services, particularly those needs identified in the State Health Plan as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the applicant shall show:
- (a) The extent to which medically underserved populations currently use the applicant's existing services in comparison to the percentage of the population in the applicant's service area which is medically underserved;

C

In Section L, page 76, the applicant provides its historical payor mix during the last full fiscal year, calendar year (CY) 2021 for the proposed services, as shown in the table below:

FASC Historical Payor Mix, CY 2021

PAYOR CATEGORY	SURGICAL SERVICES AS PERCENT OF TOTAL
Private Pay	1.1%
Charity Care	0.0%
Medicare*	42.9%
Medicaid*	11.7%
Insurance*	44.3%
Total	100.00%

In Section L, page 77, the applicant provides the following comparison.

Fayetteville Ambulatory Surgery Center

	PERCENTAGE OF TOTAL PATIENTS SERVED BY THE FACILITY OR CAMPUS DURING THE LAST FULL FY	PERCENTAGE OF THE POPULATION OF THE SERVICE AREA
Female	58.7%	51.1%
Male	41.3%	48.9%
Unknown	--	--
64 and Younger	57.1%	87.8%
65 and Older	42.9%	12.2%
American Indian	1.9%	1.9%
Asian	1.2%	1.7%
Black or African-American	26.0%	39.1%
Native Hawaiian or Pacific Islander	0.1%	0.4%
White or Caucasian	38.7%	42.4%
Other Race	32.1%	--
Declined / Unavailable	0.1%	--

The Agency reviewed the:

- Application
- Exhibits to the application
- Written comments
- Responses to comments

Based on that review, the Agency concludes that the applicant adequately documents 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. 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 persons with disabilities to programs receiving federal assistance, including the existence of any civil rights access complaints against the applicant;

C

Regarding any obligation to provide uncompensated care, community service or access by minorities and persons with disabilities, in Section L, page 78, the applicant states it is under no obligation to provide uncompensated care or community service, or access by minorities or persons with disabilities.

In Section L, page 78, the applicant states that during the last five years no patient civil rights access complaints have been filed against the facility or any related entities located in North Carolina.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion.

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

C

In Section L, page 79, the applicants project the following payor mix for the proposed services during the third full fiscal year of operation (CY 2027) following completion of the project, as shown in the table below:

PAYOR CATEGORY	% OF TOTAL PTS SERVED
Self-Pay	1.1%
Charity Care	0.0%
Medicare*	42.9%
Medicaid*	11.7%
Insurance*	44.3%
Total	100.0%

*Includes managed care plans

As shown in the table above, during the third full fiscal year of operation, the applicant projects that 1.1% of total services will be provided to self-pay patients, 42.9% to Medicare patients and 11.7% to Medicaid patients. On page 79, the applicant states the projected payor mix is for the third year of operation, but the table heading indicates the time period is CY 2026. The third project year is CY 2027. The Project Analyst examined the Pro Forma Forms in Section Q and determined the amounts in the table represent the third project year (CY 2027) and the identification of the time period as CY 2026 is a typographical error.

In Section L, page 79, the applicant provides the assumptions and methodology used to project payor mix during the first three full fiscal years of operation following completion of the project, which is based on the historical FASC payor mix. Additionally, the applicant states on page 79 that charity care patients represent approximately 1.1% of surgical utilization at FASC, based on historical payor mix.

The Agency reviewed the:

- Application

- Exhibits to the application

Based on that review, the Agency concludes that the application is conforming to this criterion based on the reasons stated above.

- (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

In Section L, page 80, the applicant adequately describes the range of means by which patients will have access to the proposed services.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that 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

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

In Section M, page 81, the applicant describes the extent to which health professional training programs in the area will continue to have access to the relocated facility for training purposes. The applicant provides supporting documentation in Exhibit M.1. The applicant adequately demonstrates that health professional training programs in the area will continue to have access to the facility for training purposes based on the following:

- The applicant states it has been and will continue to be accessible to local community and state colleges and training programs.
- The applicant provides a copy of an existing clinical training agreement currently in place with Drexel University College of Medicine.
- The applicant states it will continue to explore additional opportunities for clinical training following the facility relocation.

The Agency reviewed the:

- Application
- Exhibits to the application

Based on that review, the Agency concludes that the applicants adequately demonstrate that the proposed services will accommodate the clinical needs of area health professional training programs, and therefore, the application is conforming to this criterion.

- (15) Repealed effective July 1, 1987.
 - (16) Repealed effective July 1, 1987.
 - (17) Repealed effective July 1, 1987.
 - (18) Repealed effective July 1, 1987.
- (18a) The applicant shall demonstrate the expected effects of the proposed services on competition in the proposed service area, including how any enhanced competition will have a positive impact upon the cost effectiveness, quality, and access to the services proposed; and in the case of applications for services where competition between providers will not have a favorable impact on cost-effectiveness, quality, and access to the services proposed, the applicant shall demonstrate that its application is for a service on which competition will not have a favorable impact.

C

The applicant proposes to relocate an existing, licensed ambulatory surgery center (ASC) by upfitting space in a medical office building that will be constructed adjacent to the Cape Fear Valley Medical Center campus in Fayetteville, less than one mile from its current location.

On page 49, the 2022 SMFP defines the service area for ORs as “...the service area in which the room is located. The operating room service areas are the single or multicounty groupings as shown in Figure 6.1.” Figure 6.1 on page 55 of the 2020 SMFP shows Cumberland County as a single county OR service area. Thus, the service area for this application is Cumberland County. Facilities may also serve residents of counties not included in the service area.

The following table from the 2022 SMFP Table 6A, page 58 Table 6B, page 71 identifies the existing and approved inpatient (IP), outpatient (OP), and shared operating rooms located in Cumberland County Operating Room Service Area and the inpatient and outpatient case volumes for each provider:

FACILITIES	IP ORS	OP ORS	SHARED ORS	EXCLUDED ORS	CON ADJUST-MENTS	ADJUSTED PLANNING INVENTORY	IP SURGERY CASES	OP SURGERY CASES
Cape Fear Valley Medical Center	5	0	14	-3	2	18	5,860	4,845
Highsmith-Rainey Specialty Hospital	0	0	3	0	-2	1	48	1,977
Fayetteville Ambulatory Surgery Center	0	11	0	0	0	11	0	7,767
Valleygate Dental Surgery Center*	0	2	0	0	0	0	0	1,517
Total	5	13	17	-3	0	30		

*Valleygate Dental Surgery Center is a dental single-specialty ambulatory surgery demonstration project that is in the inventory but is not included in the need determination calculations.

Regarding the expected effects of the proposal on competition in the service area, in Section N, page 82, the applicant states:

“The project will promote cost-effectiveness, quality and access to services and therefore will promote competition in Cumberland County because it will allow FASC to modernize its facility to better meet the needs of its existing patient population and to ensure the timely provision of services in a new convenient location.”

Regarding the impact on cost effectiveness, in Section N, page 82, the applicant states:

“This project will not affect the cost to patients or payors for the services provided by FASC because reimbursement rates are set by the federal government and commercial insurers. ... While not increasing the numbers of ORs, FASC will replace its aged facility in a new location with a modern design, thereby, enhancing access to surgical services in an efficient and accessible location.”

See also Sections B, C, F, L and Q of the application and any exhibits.

Regarding the impact of the proposal on quality, in Section N, page 82, the applicant states:

“FASC is committed to delivering high-quality care and will continue to maintain the highest standards and quality of surgical services. FASC has quality-related policies and procedures, and its quality management programs emphasize a customer-oriented perspective that is used to determine the needs of patients, physicians, and others who utilize its surgical services.”

See also Sections B, C and O of the application and any exhibits.

Regarding the impact of the proposal on access by medically underserved groups, in Section N, pages 82-83, the applicant states:

“FASC will continue to have a policy to provide services to all patients regardless of income racial/ethnic origin gender, physical or mental conditions, age, ability to pay, or any other factor that would classify a patient as underserved. Section L.3 includes payor mix projections that demonstrate FASC commitment to ensuring access for medically underserved patients.”

See also Sections C and L of the application and any exhibits.

The applicant adequately describes the expected effects of the proposed services on competition in the service area and adequately demonstrates the proposal would have a positive impact on cost-effectiveness, quality, and access because the applicant adequately demonstrates that:

- 1) The proposal is cost effective because the applicant adequately demonstrated: a) the need the population to be served has for the proposal; b) that the proposal would not result in an

- unnecessary duplication of existing and approved health services; and c) that projected revenues and operating costs are reasonable.
- 2) Quality care would be provided based on the applicant's representations about how it will ensure the quality of the proposed services and the applicant's record of providing quality care in the past.
 - 3) Medically underserved groups will have access to the proposed services based on the applicant's representations about access by medically underserved groups and the projected payor mix.

Conclusion

The Agency reviewed the:

- Application
- Exhibits to the application
- Information which was publicly available during the review and used by the Agency

Based on that review, the Agency concludes that the application is conforming to this criterion based on the reasons stated above.

- (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

In Section Q, Form A the applicant states FASC is the only surgery center located in North Carolina owned, operated or managed by the applicants or a related entity.

In Section O, page 84 the applicant states that, during the 18 months immediately preceding the submittal of the application, no incidents related to quality of care occurred in any of these facilities. According to the files in the Acute and Home Care Licensure and Certification Section, DHSR, during the 18 months immediately preceding submission of the application through the date of this decision, incidents related to quality of care occurred in none of these facilities. After reviewing and considering information provided by the applicants and by the Acute and Home Care Licensure and Certification Section and considering the quality of care provided at all three 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.

G.S. 131E-183 (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.

NA

The applicant proposes to relocate an existing, licensed ASC in Fayetteville. The Criteria and Standards for Surgical Services and Operating Rooms, promulgated in 10A NCAC 14C .2100, are not applicable to this review because the applicant does not propose to increase the number of ORs in the service area.