

Operating Room (OR) Workgroup Recommendations
Submitted to: Acute Care Services Committee
April 8, 2025

In 2023, the North Carolina General Assembly passed Session Law 2023-7. This law amends the Certificate of Need (CON) statutes, in relevant part, to indicate that, effective November 21, 2025, a CON is not required for the development of qualified urban ambulatory surgical facilities (QUASFs). In the amended statute, QUASFs are defined as licensed ambulatory surgical facilities (ASFs) that have either a single specialty or multispecialty ambulatory surgical program and are located in counties¹ with populations greater than 125,000 as of the 2020 federal decennial census. The new law also adds to the CON statutes a 4% charity care requirement for QUASFs.

The NC State Health Coordinating Council (SHCC) convened three operating room (OR) Methodology Workgroup sessions to examine the impact the new law will have on the OR need methodology used in the State Medical Facilities Plan (SMFP) and to make recommendations based on their findings. The Workgroup was comprised of ten surgical provider-stakeholders who met on December 17, 2024, January 14, 2025, and February 11, 2025. The Workgroup was charged with reviewing the new law as it relates to QUASFs, examining the impact of the CON exemption of QUASFs on the current OR need determination methodology, and making a recommendation to the SHCC regarding how to proceed with the methodology.

Some workgroup members expressed deep concern that the inclusion of existing licensed ASFs in the definition of QUASFs, and the imposition of the charity requirement on those facilities is not consistent with the agreed upon CON conditions for those facilities. Agency legal counsel, in response to their assertions that existing licensed ASFs should be exempt from the law or be allowed to opt out of the QUASF designation, stated that there is no language in the law that expressly allows the exclusion of existing ASFs from the QUASF definition and opined that the Agency had no authority to make that interpretation.

Based on its expertise and analysis of available data, the OR Workgroup forwards the following recommendations to the Acute Care Services Committee (ACS) for consideration.

Recommendation 1: In the 2026 and 2027 SMFPs, the need determination methodology calculations will remain unchanged except for the removal of all inventory and performance data of ORs in ambulatory surgical facilities (ASFs) in counties with a population >125,000 – which are defined as qualified urban ambulatory surgical facilities (QUASFs) under the new law. The methodology will be revisited for the 2028 State Medical Facilities Plan (SMFP);

¹ Counties with over 125,000 persons are Alamance, Brunswick, Buncombe, Cabarrus, Catawba, Cumberland, Davidson, Durham, Forsyth, Gaston, Guilford, Harnett, Iredell, Johnston, Mecklenburg, New Hanover, Onslow, Orange, Pitt, Randolph, Rowan, Union, and Wake.

Recommendation 2: Hospital surgical care providers in counties with a population > 125,000 will use the summer petition process to request need determinations for ORs. If a petition is approved, anyone can submit a certificate of need (CON) application for the need determination. Any OR need determinations for counties with a population > 125,000 generated by the OR methodology calculations will be provided for informational purposes only in the 2026 and 2027 SMFPs;

Recommendation 3: Hospital and ASF surgical care providers in counties with a population \leq 125,000 will be able to submit CON applications for OR need determinations generated by the OR need methodology calculations. Hospital and ASF surgical care providers in those counties can submit petitions for adjusted need determinations for ORs through the summer petition process. If a petition is approved, anyone can submit a certificate of need (CON) application for the need determination;

Recommendation 4: Revisit the OR need determination methodology after trends in data based on market shifts due to the proliferation of QUASFs become apparent. Factors to potentially alter include the case time adjustments and the use of the population growth factor; and

Recommendation 5: Provide performance data of QUASFs in an information-only table, beginning with the 2027 SMFP.

At the June 4, 2025 meeting, the SHCC will receive the final report and recommendations from the ACS Committee. The SHCC's decisions will be reflected in the Proposed 2026 SMFP.