

**DIVISION OF HEALTH PLANNING
AND RESOURCE DEVELOPMENT
AUGUST 2014**

**CON REVIEW ASC-NIS-0614-007
COLUMBUS ORTHOPAEDIC OUTPATIENT CENTER, LLC
ESTABLISHMENT OF A MULTI-SPECIALTY AMBULAORY SURGERY CENTER
LOCATION: COLUMBUS, LOWNDES COUNTY, MISSISSIPPI
CAPITAL EXPENDITURE: \$0**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. APPLICANT INFORMATION

Columbus Orthopaedic Outpatient Center, LLC d/b/a is a limited liability company, formed on May 27, 2003. The entity has five members and one manager. Columbus Orthopaedic Outpatient Center, LLC is in good standing with the State of Mississippi according to the Office of the Secretary of State.

B. PROJECT DESCRIPTION

Columbus Orthopaedic Outpatient Center, LLC (“Columbus Orthopaedic”), (“Columbus”), or (“Center”) proposes to establish a multi-specialty ambulatory surgery Center in space currently operated as a single-specialty ambulatory surgery center.

The applicant submits that Columbus currently provides surgical services in the orthopaedic specialty area: however, many of its patients require interventional pain management and other services in addition to orthopaedic surgery. Columbus believes that converting to a multi-specialty center will allow the facility to offer these additional services and to add a general surgeon to its credentialed medical staff. Columbus proposes to add such services as nerve stimulation procedures, advanced pain management surgical services, sympathetic block surgical procedures, advanced RSD (reflex sympathetic dystrophy syndrome) treatments and general surgery related to orthopaedic spine surgical cases. The applicant states that these services are currently unavailable in the Center’s geographic region.

According to Columbus, every aspect of the project is in conformity with recent changes in the health care environment. The applicant states that converting from a single-specialty to a multi-specialty center will foster efficiency in the provision of health care to patients by furnishing them with access to nearby, high-quality care and eliminating the economic disadvantages of traveling for procedures not available in the Center’s geographic region. In addition, the applicant believes the goals of the *FY 2014 State Health Plan* will be served through adding services that will not be duplicative of any already offered in the area, promoting cost

containment, and increasing access to needed care in a setting that will allow patients to avoid exposure to the institutional environment of a hospital and the risks associated therewith.

The applicant does not expect to obligate any new capital for the project. If approved, the applicant expects to begin operating as a multi-specialty center within three to six months of final approval.

The applicant received site approval for the proposed project from the Mississippi State Department of Health, Division of Licensure and Certification.

II. TYPE OF REVIEW REQUIRED

The Mississippi State Department of Health reviews applications for the establishment of multi-specialty ambulatory surgical services under the applicable statutory requirements of Sections 41-7-173, 41-7-191 (1)(d)(xi), 41-7-193 and 41-7-195, Mississippi Code of 1972, as amended, and duly adopted rules, procedures, plans, criteria, and standards of the Mississippi State Department of Health.

In accordance with Section 41-7-197(2) of the Mississippi Code of 1972 Annotated, as amended, any affected person may request a public hearing on this project within 20 days of publication of the staff analysis. The opportunity to request a hearing expires September 10, 2014.

III. CONFORMANCE WITH THE STATE PLAN AND OTHER ADOPTED CRITERIA AND STANDARDS

A. State Health Plan (SHP)

The *Plan* gives guidelines for all health planning in Mississippi. The *Plan* states that: Mississippi's planning and health regulatory activities have the following purposes:

- To prevent unnecessary duplication of health resources;
- To provide cost containment;
- To improve the health of Mississippi residents; and
- To increase the accessibility, acceptability, continuity, and quality of health services.

This applicant maintains that the project is consistent with the above stated goals of health planning.

In Addition, the *FY 2014 Mississippi State Health Plan (MSHP)* contains policy statements as well as criteria and standards for the establishment of multi-specialty ambulatory surgery services.

According to the *FY 2014 MSHP*, the MSDH shall consider the utilization of existing services and the presence of valid CONs for services within a

given ASPA when reviewing CON applications. In addition, the Plan states that the optimum capacity of an ambulatory surgery facility is 800 surgeries per operating room per year. Within ASPA 4, wherein the proposed facility will be located, there is one existing free-standing ambulatory surgery center, and eight hospital-based facilities for a total of nine ambulatory surgery facilities. These nine facilities had a total of 43 operating rooms/suites in FY 2013 and performed a total of 29,304 surgeries for an average of 681.49 surgeries per operating room/suite (*Applications for Renewal of Hospital License FY 2013 and survey of individual free-standing ASCs October 1, 2012 – September 30, 2013*).

SHP Criterion 1 - Need

In order to show need for ambulatory surgery services the applicant shall demonstrate that the proposed facility shall perform a minimum average of 1,000 surgeries per operating room per year. The applicant submits that Columbus Orthopaedic currently operates two operating rooms and in the last calendar year, the Center performed 2,088 surgical procedures or an average of 1,044 per room.

SHP Criterion 2 - Minimum Population Base

An applicant proposing the establishment of ambulatory surgery surgeries must document that the proposed ASPA has a population base of approximately 60,000 within 30 minutes travel time.

Columbus submits that the ASPA has a population base in excess of 60,000 within 30 minutes of travel time. According to the applicant, population estimates by the United States Census Bureau for 2013 indicate the following population for counties located within 30 minutes travel time of the facility:

County	2013 Estimates
Clay	20,408
Lowndes	59,922
Oktibbeha	49,043
Total	129,512

SHP Criterion 3 – Utilization of Existing Facilities

An applicant proposing to offer ambulatory surgery services shall document that the existing facilities in the ASPA have been utilized for a minimum of 800 surgeries per operating room per year for the most recent 12-month reporting period as reflected in data supplied to and/or verified by the Mississippi State Department of Health.

The applicant asserts that the sole existing facility in ASPA 4 was utilized for more than 800 surgeries per operating room per year for the most recent 12-month reporting period (2012) as reflected in the *2014 State Health Plan*. However, ASPA 4 contains eight (8) hospital-affiliated ambulatory surgery centers. These facilities performed a total of 25,584 surgeries in FY 2012, which includes 18,215 ambulatory surgeries.

Staff contends that the need for additional ambulatory surgery centers cannot be established without the consideration of **ALL** ambulatory surgeries performed within the ASPA. Policy Statement 7 of the FY 2014 MSHP states that the MSDH shall not issue a CON for the establishment or expansion of an additional facility(ies) unless the existing facilities within the ASPA have performed in aggregate at least 800 surgeries per operating room per year for the most recent 12-month reporting period. According to the FY 2014 MSHP, ASPA 4 had nine (9) ambulatory surgery facilities in FY 2012 which performed 29,598 procedures utilizing 44 operating rooms/suites for an average of 672.68 surgeries per operating room/suite. Based on updated information for FY 2013, the most recent 12-month period, these nine (9) facilities performed a total of 29,304 surgeries utilizing 43 operating rooms/suites, for an average of 681.49 surgeries per operating room/suite. (See Attachment 2.)

SHP Criterion 4 – Range of Services

The applicant states that Columbus Orthopaedic intends to add a number of new physicians to its credentialed medical staff, including a general surgeon, interventional anesthesiologists, and pain management physicians. The applicant expects that services provided at the Center will expand accordingly and will encompass multiple specialties and no longer be limited to orthopaedics.

SHP Criterion 5 – Economic Viability

The applicant indicates that the project will be economically viable within two years of initiation. Table 5B – Income Statement Project Only, contained in the application, indicates net income of \$596,000 the first year, \$737,200 the second year and \$733,492 the third year after initiation of the project.

SHP Criterion 6 – Physician Support

The application contains letters and affidavits from three (3) physicians in support of the project.

SHP Criterion 7 – Staff Residency

According to the applicant, all of the medical staff members for the proposed facility will live within a 25-mile radius of the Center as required by this criterion.

SHP Criterion 8 – Hospital-Support Agreement

The application contains a copy of a Patient Transfer Agreement between Baptist Memorial Hospital-Golden Triangle (“Baptist”) and Columbus Orthopaedic Center.

SHP Criterion 9 – Indigent/Charity Care

Columbus Orthopaedic affirmed that it will provide a reasonable amount of indigent/charity care. The applicant projects that approximately \$42,448 of revenues will be for indigent/charity care or approximately 3% the first year.

B. General Review (GR) Criteria

Chapter 8 of the *Mississippi Certificate of Need Review Manual, 2011 Revision*, addresses general criteria by which all CON applications are reviewed.

GR Criterion 1 - State Health Plan (SHP)

The *State Health Plan* contains policy statements, criteria and standards regarding CON applications for ambulatory surgery services

The applicant only counted the freestanding ASC in demonstrating the need for its multi-specialty ambulatory surgery center.

However, staff contends that the need for multi-specialty ambulatory surgery facilities/services cannot be established without considering **ALL** facilities in the area that offer ambulatory surgery services. The application is not in compliance with the *FY 2014 Mississippi State Health Plan*.

GR Criterion 2 - Long Range Plan

The applicant states that the addition of a spine specialist has created the need for interventional anesthesiology and pain management services at the Center. The applicant further states that Columbus Orthopaedic is now in a position to become a comprehensive regional orthopaedic center and intends to do so.

GR Criterion 3- Availability of Alternatives

The applicant states that Columbus Orthopaedic considered all available alternatives to the proposed plan for the establishment of a multi-specialty ambulatory surgery clinic; including (1) maintaining its current status as a single-specialty ambulatory surgery center; (2) building a new, separate facility to house the proposed multi-specialty ambulatory surgery center; and (3) converting its currently existing single-specialty center into a multi-specialty center. The applicant selected the third option because it best serves the intended purpose of Columbus Orthopaedic to provide patients with better access to high-quality, affordable care. The applicant believes this alternative also provides the ability to meet those intents while incurring the least amount of capital or operational expense for future services.

GR Criterion 4 - Economic Viability

Based on the financial statements contained in the application, the project appears to be economically viable. The applicant projects net income of \$596,000 the first year, \$737,200 the second year, and \$733,492 the third year of operation.

According to the applicant, the proposed charges for services at Columbus Orthopaedic are the same as the charges that have been applied previously and are comparable to charges imposed by other similar services in Jackson, Memphis, and Birmingham. In addition, the applicant states that charges for services that have not previously been provided will be consistent with charges for those services elsewhere in the state.

Columbus projects its utilization to be reasonably consistent with its historical utilization and the projected referrals supplied by its supporting physicians.

GR Criterion 5 - Need for the Project

Columbus Orthopaedic states it will provide service to, and will not discriminate against, those patients having low incomes or who are members of racial or ethnic minority; or who are women, handicapped persons or other underserved groups; or the elderly.

While it is expected that surgery volume will increase significantly with the addition of new services, Columbus submits that conversion to a multi-specialty center will have no adverse impact on other existing providers. The applicant states this is true because the services of interest to Columbus are not currently being offered by any other outpatient provider in the geographic service area. The applicant asserts that there is only one other multi-specialty center in ASPA 4. The additional surgeries to be offered by Columbus will not be for patients who have previously received health care services at that Center.

The applicant submits that there will be no adverse impact on the single existing multi-specialty center in the ASPA. The applicant further states that that center is already operating above the optimum level as identified in the *State Health Plan*, and this project will have no adverse impact on that center's surgical volumes.

However, the applicant overlooks the fact that there are eight hospital affiliated ambulatory surgery facilities in ASPA 4. These facilities performed a total of 17,747 ambulatory surgeries in FY 2011, 18,215 in FY 2012, and 18,555 in FY 2013 (*FY 2013 MSHP, FY 2014 MSHP, and Applications for Renewal of Hospital License FY 2013*).

Policy Statement 7 of the FY 2014 MSHP states that the MSDH shall not issue a CON for the establishment or expansion of an additional facility(ies) unless the existing facilities within the ASPA have performed in aggregate at least 800 surgeries per operating room per year for the most recent 12-month reporting period. According to the FY 2014 MSHP, ASPA 4 had nine (9) ambulatory surgery facilities in FY 2012, which performed 29,598 surgeries utilizing 44 operating rooms/suites for an average of 672.68 surgeries per operating room/suite. Based on updated information for FY 2013, the most recent 12-month period, these nine (9) facilities performed a total of 29,304 surgeries utilizing 43 operating rooms/suites, for an average of 681.49 procedures per operating room/suite.

In addition, surgeries performed in single-specialty ambulatory surgery facilities are not considered "institutional health services" and are therefore exempt from the CON process (*Attorney General's Opinion March 22, 1994*). Likewise, surgeries performed at single-specialty ambulatory surgery facilities are not considered when determining the need for additional multi-specialty ambulatory surgery capacity. Therefore, if approved, this project will add four (4) additional operating rooms to ASPA 4. Staff contends that the project will have an adverse impact on the existing multi-specialty facilities in ASPA 4.

The application contains three (3) letters of support for the project.

GR Criterion 6- Accessibility

The applicant affirms that all residents of the health planning service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women, handicapped persons and the elderly have access to the services of the existing facility and will have access to the proposed facilities/services.

Columbus Orthopaedic submits the following historical and projected percentage of gross patient revenue and actual dollar amount of health care will be provided to medically indigent and charity care patients for the two years following completion of the project:

Gross Patient Revenue				
	Medically Indigent (%)	Charity Care (%)	Medically Indigent (\$)	Charity Care (\$)
Historical Year 2012	5%	1%	\$106,207.00	\$5,562.00
Historical Year 2013	4%	1%	\$150,087.00	\$5,778.00
Projected Year 1	3%	1%	\$42,448.00	\$2,000.00
Projected Year 2	3%	1%	\$48,000.00	\$4,000.00

GR Criterion 7- Information Requirement

The applicant affirmed that Columbus Orthopaedic will record and maintain the information required by this criterion and shall make the data available to the Mississippi Department of Health within fifteen (15) business days of request.

GR Criterion 8 - Relationship to Existing Health Care System

The applicant states that the target population will continue to have access to orthopaedic surgery services at Columbus Orthopaedic as it has in the past. Columbus submits that by converting to a multi-specialty ambulatory surgery center, Columbus Orthopaedic will be able to provide advanced pain management services in addition to spine surgery, and accommodate all patients rather than just the patients who are candidates for surgery.

Columbus submits that currently, there are no interventional pain management physicians in Columbus or the Golden Triangle area. The nearest interventional pain management physician is in Tupelo, which applicant states is approximately 70 miles away.

The applicant's target population comprises of orthopaedic and back patients in the Golden Triangle area. Columbus believes that there will be no adverse impact to the existing health care system as the result of the approval of this application.

GR Criterion 9 - Availability of Resources

The applicant asserts that the project will require one additional Registered Nurse and two new surgical technicians. Interventional pain management physicians can be recruited out of Birmingham, Jackson, and the Tupelo area. Non-physician personnel can be recruited locally through advertisements in local newspaper.

Columbus states that it has consistently demonstrated a satisfactory operational and staffing history.

GR Criterion 10 - Relationship to Ancillary or Support Services

The applicant states that in 2012, Columbus Orthopaedic hired an orthopaedic spine surgeon and in 2014, the center hired a physician assistant.

GR Criterion 11- Health Professional Training Programs

Columbus does not anticipate that the proposed service will be used for training purposes.

GR Criterion 14 - Construction Projects

The applicant contends no new construction or renovation is associated with the proposed project.

GR Criterion 16 - Quality of Care

The applicant submits that Columbus Orthopaedic is committed to the provision of prompt, efficient, high-quality service to all patients who present for orthopaedic procedures. The applicant states that this project will improve the quality of care being delivered to Columbus Orthopaedic's patient base by increasing the efficiency with which the Center is able to offer services, and implementing additional elements of cost control (i.e. outpatient surgery) which will enable patients to receive a higher quality product more efficiently, and with greater value.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

The applicant does not project any capital expenditure for this project.

B. Method of Financing

Columbus Orthopaedic does not anticipate any additional capital expenditure.

C. Effects on Operating Costs

The applicant's projections of gross revenues for the first, second, and third year of operation, expenses, and net income are shown in Attachment 1. Utilization, cost, and charges are also included in the applicant's Three-Year Projected Operating Statement (see Attachment 1).

D. Cost to Medicaid/Medicare

Columbus Orthopaedic provides the following revenue source projections for each payor category listed below:

Payor Mix	Utilization Percentage (%)	First Year Revenue (\$)
Medicare	17	\$ 146,880
Medicaid	2	17,280
Commercial	66	570,240
Self Pay	0	3,196
Charity Care	0	2,000
Other	15	126,404
Total	100	\$866,000

V. RECOMMENDATION OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for comments, Effective September 1, 2012, the Division of Medicaid changed the methodology by which it reimburses outpatient services so that the cost incurred, subsequent to that date, will no longer affect outpatient payments.

VI. CONCLUSION AND RECOMMENDATION

This project is not in substantial compliance with the policy statements, criteria and standards of the *2014 Mississippi State Health Plan*; Chapter 8 of the *Mississippi Certificate of Need Review Manual, 2011 Revision*; and all adopted rules, procedures, and plans of the Mississippi State Department of Health.

The applicant submits that there will be no adverse impact on the single existing multi-specialty center in the ASPA.

However, the applicant overlooks the fact that there are eight hospital affiliated ambulatory surgery facilities in ASPA 4. These facilities performed a total of 17,747 ambulatory surgeries in FY 2011, 18,215 in FY 2012, and 18,555 in FY 2013, (*FY 2013 MSHP, FY 2014 MSHP, and Applications for Renewal of Hospital License FY 2013*). Staff contends that the need for additional ambulatory surgery capacity cannot be determined without consideration of **ALL** ambulatory surgeries performed in the Ambulatory Surgery Planning Area.

Policy Statement 7 of the FY 2014 MSHP states that the MSDH shall not issue a CON for the establishment or expansion of an additional facility(ies) unless the existing facilities within the ASPA have performed in aggregate at least 800 surgeries per operating room per year for the most recent 12-month reporting period. According to the FY 2014 MSHP, ASPA 4 had nine ambulatory surgery facilities in FY 2012 which performed 29,598 procedures utilizing 44 operating rooms/suites for an average of 672.68 surgeries per operating room/suite. Based on updated information for FY 2013, the most recent 12-month period, these nine facilities performed a total of 29,304 surgeries utilizing 43 operating rooms/suites, for an average of 681.49 surgeries per operating room/suite.

Consequently, the Division of Health Planning and Resource Development recommends **disapproval** of this application submitted by Columbus Orthopaedic Outpatient Center, LLC for the establishment of a multi-specialty ambulatory surgery center.

Attachment 1

Madison Physician Surgery Center, LLC Establishment of Ambulatory Surgery Center

Three-Year Projected Operating Statement (Project Only)

	Year 1	Year 2	Year 3
Revenue			
Patient Revenue:			
Inpatient	\$	\$	\$
Outpatient	866,000	1,040,800	1,040,800
Gross Patient Revenue	866,000	\$ 1,040,800	\$ 1,040,800
Charity Care			
Deductions from Revenue			
Net Patient Revenue	\$ 866,000	\$ 1,040,800	\$ 1,040,800
Expenses			
Operating Expenses:			
Salaries	\$ 100,000	\$ 103,000	\$ 106,090
Benefits	20,000	20,600	21,218
Supplies	150,000	180,000	180,000
Services			
Lease			
Depreciation			
Interest			
Other			
Total Expenses	\$ 270,000	\$ 303,600	\$ 307,308
Net Income (Loss)	\$ 596,000	\$ 737,200	\$ 733,492
Assumptions			
Inpatient days	NA	NA	NA
Outpatient days	NA	NA	NA
Procedures	2,000	2,400	2,400
Charge per outpatient day	NA	NA	NA
Charge per inpatient day	NA	NA	NA
Charge per procedure	\$433	\$434	\$434
Cost per inpatient day	NA	NA	NA
Cost per outpatient day	NA	NA	NA
Cost per procedure	\$135	\$127	\$128

Attachment 2

**FY 2013
 Utilization Data of Hospital-Affiliated
 Ambulatory Surgery Facilities and
 Freestanding Ambulatory Surgery Facilities
 By County for ASPA 4**

Hospital Affiliated Ambulatory Surgery Data

ASPA	Total # of Surgeries	# of Ambulatory Surgeries	Ambulatory Surgeries/Total Surgeries (%)	# of Operating Rooms/Suites	Avg. # of Surgeries per Day/Suite ¹
4	25,874	18,555	71.7	39	2.65

¹Based on 250 working days per year

Source: Applications for Renewal of Hospital License for CY 2013 and FY 2014 Annual Hospital Report

Freestanding Multi-Specialty Ambulatory Surgery Data

County/ASPA	Total # of ASCs	# of Ambulatory Surgeries	# of Operating Rooms/Suites	Avg. # of Surgeries per Day/Suite ¹
Lafayette	1	3,430	4	3.43

¹Based on 250 working days per year

Source: Survey of individual freestanding ambulatory surgery centers for period October 1, 2012 – September 30, 2013