

**DIVISION OF HEALTH PLANNING
AND RESOURCE DEVELOPMENT
OCTOBER 7, 2016**

**CON REVIEW ASC-NIS-0816-019
COLUMBUS ORTHOPAEDIC OUTPATIENT CENTER, LLC
ESTABLISHMENT OF A MULTI-SPECIALTY AMBULAORY SURGERY CENTER
LOCATION: COLUMBUS, LOWNDES COUNTY, MISSISSIPPI
CAPITAL EXPENDITURE: \$855,961.77**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. APPLICANT INFORMATION

Columbus Orthopaedic Outpatient Center, LLC is a limited liability company formed on May 27, 2003. The entity has four members and one manager. Columbus Orthopaedic Outpatient Center, LLC provided a Certificate of Good Standing with the State of Mississippi dated August 16, 2016 from 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 (ASC) in space currently operated as a single-specialty ambulatory surgery center. Thus, this project involves a conversion of a single-specialty facility to a multi-specialty center/facility in Ambulatory Surgery Planning Area (ASPA) 4.

The physicians of Columbus Orthopaedic are taking this step in an attempt to further their desire to treat orthopaedic conditions in a more holistic fashion and to provide additional general surgical services to their patients. The applicant states that the center’s service area and patient population contain a significant number of individuals with serious back conditions. Columbus Orthopaedic states back pain can be a significant limiting factor for those suffering with this condition, making travel for treatment a difficult proposition. Patient must often wait 2-3 months for their surgical procedures or travel long distances for treatment.

In 2014, the applicant Columbus Orthopaedic added and completed a physical therapy department with over 9,000 square feet of space to offer non-surgical services for these patients while they are awaiting their surgeries. The addition of a pain management specialist on staff, with the ability to treat patients at Columbus Orthopaedic facility, would be a great benefit to this population.

According to Columbus Orthopaedic, many insurers require their insured to exhaust all relevant non-surgical options before surgery is authorized. These options include treatment with anti-inflammatories, physical

therapy, and advanced pain management techniques such as epidural injections, facet injections, and nerve stimulation. Patients who need this specialty care are sometimes required to travel long distances to be seen by pain management specialists in other cities. The ability to treat these patients in a single facility would not only be a benefit to the patients but it will help their physicians maintain a consistent continuum of care.

Columbus Orthopaedic states that surgeons use the latest surgical techniques to treat spinal conditions. However, a patient backlog and a shortage of orthopaedic physicians trained in spinal surgical techniques have increased wait times for patients who require back surgery. The applicant states a CON would allow Columbus Orthopaedic to add a general surgeon and one or more additional orthopaedic spinal surgeons to its group, thus, increasing its ability to treat spine conditions in a timely manner.

The applicant asserts that a CON would allow Columbus Orthopaedic to provide certain surgical treatments that are currently unavailable in the center's geographic region. Those services include 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. In the past, the applicant states it has been necessary for patients in need of these types of surgical procedures to travel to Jackson, Birmingham or Tuscaloosa. If approved, the proposed project will eliminate travel time and related expenses for those patients.

Columbus Orthopaedic states it recently added a physician who is a spine specialist to its staff. This has increased the need for interventional pain management services at the center. The provision of outpatient orthopaedic spinal surgical services has begun to draw patients to the center from a regional perspective rather than just locally.

The applicant states that the facility is approximately 8,119 square feet in size with two (2) operating rooms. Also, no new construction will be required if this CON project is approved. The expenditures detailed in the application are for the replacement of certain items of surgical equipment, the replacement of the facility's sterilizer with another model and modification of plumbing and electrical service to the unit, as required.

The applicant received site approval for the proposed project from the Mississippi State Department of Health, Division of Licensure and Certification on August 16, 2016. The applicant states that 26.0 FTEs (Full-Time Equivalents) or personnel are currently employed at the single specialty facility; however eight (8) additional FTEs will be required for the proposed project. The annual cost of additional personnel will be \$104,040.00.

Columbus Orthopaedic asserts that the proposed project will be financed by a loan.

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 10 days of publication of the staff analysis. The opportunity to request a hearing expires October 17, 2016.

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 2015 Mississippi State Health Plan (MSHP)* contains policy statements as well as criteria and standards for the establishment of multi-specialty ambulatory surgery services.

SHP Criterion 1 - Need

The applicant states that they performed 2,173 single specialty surgeries in 2014, 2,056 surgeries in 2015 and 1,249 surgeries through July of 2016 (2,162 surgeries for August 2015 through July 2016). Columbus Orthopaedic asserts it expects its procedure numbers to increase with the addition of new services.

The *FY 2015 MSHP* states MSDH shall consider the utilization of existing services and the presence of valid CONs for services within a given Ambulatory Surgery Planning Area (ASPA) when reviewing CON applications. In addition, the *FY 2015 MSHP 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).

Columbus Orthopaedic provided five affidavits and one letter and based on the five affidavits, the physicians attest that they will refer 5,024 patients to the proposed multi-specialty facility if the Department approves the proposed project. The physicians assert in the affidavits that the referrals are based on their experience and the actual number of patients they have referred during the most recent 12 month period. The applicant states these physicians will join its credentialed medical staff if proposed project is approved.

The Department determined that updated ambulatory surgery data for FY 2014 shows the same number of operating rooms/suites 43; however, the total number of surgeries for the existing ASC facilities in ASPA 4 was 34,737 for an average of 807.84 surgeries per operating rooms/suite (see Attachment 2).

SHP Criterion 2 - Minimum Population Base

An applicant proposing the establishment of ambulatory surgery services 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 2015 indicate the following population for counties that are located within 30 minutes travel time of the proposed facility:

County	2015 Estimates
Clay	20,048
Lowndes	59,710
Oktibbeha	49,800
Total	129,558

Also, the applicant asserts in Policy Statement Number 2 that the facility is within 15 minutes of Baptist Memorial Hospital Golden-Triangle and provided a transfer agreement with the hospital in the CON application.

SHP Criterion 3 – Utilization of Existing Facilities

The *FY 2015 MSHP* states that an applicant proposing to offer ambulatory surgery services shall document that the existing facilities in the ASPA 4 area 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 Columbus Orthopaedic facility performed 2,162 surgeries per operating room per year for the most recent 12-month reporting period (2015). The applicant asserts that the *2014 Report on Hospitals* published by the Division of Health Facilities, Licensure and Certification, reports that a total of 31,294 hospital surgeries were performed in thirty-nine (39) ORs or an average of 802.4 surgeries per room.

The applicant believes that if all ORs in the ASPA 4 are combined, this criterion is also satisfied; combining the 31,294 hospital surgeries with the 3,430 ASC surgeries results in a total surgery figure of 34,724 surgeries in forty-three (43) operating rooms, for an average of 807.53 surgeries per OR.

In addition, Columbus Orthopaedic verifies it currently operates two (2) operating rooms. The applicant states in the last calendar year (2015) the Center performed 2,056 surgical procedures or an average of 1,028 per room for the 12 months preceding the filing of this application.

As previously mentioned, the Department determined that updated ambulatory surgery data for FY 2014 shows the same number of operating rooms/suites (43); however, the total number of surgeries for the existing ASC in ASPA 4 facilities was 34,737 for an average of 807.84 surgeries per operating rooms/suites (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 and an interventional pain management physician. The applicant expects that services provided at the Center will expand accordingly and will encompass multiple specialties.

SHP Criterion 5 – Economic Viability

The applicant indicates that the project will be economically viable within two years of initiation. Table 5B – Income Statement with Project, contained in the application, indicates a net income of \$3,760,412 for the first year, \$3,875,516 the second year and \$3,650,978 the third year after operation, respectively.

SHP Criterion 6 – Physician Support

The application contains twenty-four (24) letters of support from local physicians and the community for the proposed project.

SHP Criterion 7 – Staff Residency

The applicant affirms that all of the medical staff members of 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 affirms that it will provide a reasonable amount of indigent/charity care. The applicant states that it accepts all patients regardless of payment status and does not discriminate against any patient regardless of race, gender, or other factors including ability to pay. The Center accepts Medicaid and Medicare patients and accepts the amounts paid by these programs as payment in full. The applicant projects that approximately \$454,652.07 of the gross patient revenue will be for indigent care or approximately 2.9% for the first year and .002 percent (\$39,412) for charity care.

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 discussed the number of single specialty surgeries performed at Columbus Orthopaedic for CY 2015 and counted the number of hospital and freestanding ASC surgeries performed in ASPA 4 to demonstrate the need for its proposed multi-specialty ambulatory surgery center.

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 appears to be in compliance with the *FY 2015 Mississippi State Health Plan*.

GR Criterion 2 - Long Range Plan

The applicant states that it intends to function as a comprehensive regional orthopaedic surgery center and plans to engage new physician's to perform surgeries in other specialty areas. Recently, the center added an orthopaedic spine specialist to its staff. Converting from a single-specialty to a multi-specialty center will be necessary for the Center to expand its offering of specialized surgeries beyond orthopaedics. The applicant states that the long range plan fosters efficiency in the provision of health care to patients by giving them better access to high-quality care in a setting more appropriate for ambulatory surgeries.

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 purposed 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

The applicant states that the proposed charges for services at Columbus Orthopaedic are the same as the charges that have been applied previously and they are comparable to charges imposed by other similar services in Jackson, Mississippi, Memphis, Tennessee and Birmingham, Alabama. The applicant affirms that charges for services that have not previously been provided will be consistent with charges for those services in the state. The applicant states the impact of granting approval of this application to the health care system in Columbus and the Lowndes, Clay, and Oktibbeha County areas will be entirely positive. Columbus Orthopaedic believes that the provision of new services will be more efficient, creating better and easier access to service as well as resulting in shorter patient wait times and higher quality results. Furthermore, the facility asserts the proposed project will eliminate various expenses by providing care for orthopaedic patients in a single location, eliminating the need to transfer patients to a hospital or another health care facility for pain management or other general surgical services.

The application includes a capital expenditure summary, confidential financial statement asserting that Columbus Orthopaedic has sufficient capital to fund the project.

GR Criterion 5 - Need for the Project

Columbus Orthopaedic states it will provide services 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.

Policy Statement 7 of the *FY 2015 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. As discussed under the *SHP-Need Criterion*, the proposed project appears to meet the aggregate 800 surgeries per operating room per year for the most recent 12-month period.

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 two (2) additional operating rooms to ASPA 4.

The application contains twenty-four (24) letters of support for the project. However, the Department received two letters opposing the proposed project.

GR Criterion 6- Accessibility

The applicant affirms that all residents of the ambulatory surgery 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 2014	5%	1%	\$269,119.69	\$61,495
Historical Year 2015	4%	1%	\$192,402.70	\$47,187.90
Projected Year 1	2.9%	.002%	\$454,652.07	\$39,412.00
Projected Year 2	4%	.003%	\$463,745.11	\$40,200.24

Regular Operation: The Center will operate from Monday through Friday. Surgeries often begin at 6 a.m. and patients are present until they are ready for to be discharged.

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.

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.

The applicant states the closest interventional pain management physician is located in Starkville, approximately 30 miles away. The applicant asserts if the proposed project is CON approved, it will allow Columbus Orthopaedic to provide the services above in a setting much closer to home for many existing patients and services others in the service area that may benefit.

GR Criterion 9 - Availability of Resources

The applicant asserts that the project will require one additional Registered Nurse, two new surgical technicians and an orderly. Interventional pain management physicians will be recruited from the Birmingham area and other areas in Mississippi. Non-physician personnel can be recruited locally through referrals and advertisements in the local newspaper.

The applicant states it does not anticipate the need for any additional contractual services. Current contractual services include: (1) Anesthesia services provided by John P. McReynolds, M.D; (2) medical waste services by Stericycle Waste Services; and (3) Laboratory Services Agreement with Lab Corporation of America Holdings.

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

GR Criterion 10 - Relationship to Ancillary or Support Services

The applicant states that it currently functions as a single-specialty ASC. Moderate capital expenditures, mainly with regard to equipment, will be necessary to convert the applicant's operations to a multi-specialty ASC. Otherwise, the applicant states no additional support or ancillary services will be required.

GR Criterion 11- Health Professional Training Programs

The applicant states its participation in Mississippi University for Women's (MUW) nursing program by providing opportunities for nursing students to observe surgical operations. The Center has also provided similar opportunities for nurse practitioner training through MUW. The proposed project will give the Center additional opportunities to increase participation in professional training programs.

GR Criterion 14 - Construction Projects

The applicant contends no new construction or renovation is associated with the proposed project. The applicant proposed to utilize its current single specialty facility for the proposed project.

GR Criterion 16 - Quality of Care

The applicant submits that Columbus Orthopaedic undergo a rigorous credentialing review process to ensure that only physicians of the highest level of competence and professionalism are allowed to practice at the Center. In addition, the Center utilizes an infection control program that consistently produces excellent results. The quality of care our physicians are able to deliver compares very favorable to similar surgeries performed in other non-ASC settings.

Columbus Orthopaedic is a Medicare certified ambulatory surgical facility.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

The applicant project the capital expenditure for the project to be proposed at \$855,961.77. The applicant states the current facility approximately 8,119 square feet with two (2) operating rooms. The expenditures detailed in this application are for the replacement of certain items of surgical equipment, the replacement of the facility's sterilizer with another model, and modification of plumbing and electrical service to the unit, as required.

B. Method of Financing

Columbus Orthopaedic asserts that the proposed project will be financed by a loan.

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	15	\$ 577,508
Medicaid	12	434,278
Commercial	22	812,368
Self Pay	1	53,353
Charity Care	0	0
Other	50	1,888,693
Total	100	\$3,766,200

V. RECOMMENDATION OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for review and comment; however, as of October 7, 2016, the Division of Medicaid has not provided any comments regarding the proposed project.

VI. CONCLUSION AND RECOMMENDATION

This project is in substantial compliance with the policy statements, criteria and standards of the *2015 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 Division of Health Planning and Resource Development recommends approval of this application submitted by Columbus Orthopaedic Outpatient Center, LLC for the establishment of a multi-specialty ambulatory surgery center in ASPA 4.

**Attachment 1
Columbus Orthopaedic Outpatient Surgery Center
Establishment of Multi-Specialty Ambulatory Surgery Center
Three-Year Projected Operating Statement (Project Only)**

	Year 1	Year 2	Year 3
Revenue			
Patient Revenue:			
Inpatient	\$	\$	\$
Outpatient	3,766,200	3,881,536	3,657,239
Gross Patient Revenue	3,766,200	\$ 3,881,536	\$ 3,657,239
Charity Care	5,788	6,020	6,261
Deductions from Revenue			
Net Patient Revenue	\$ 3,760,412	\$ 3,875,516	\$ 3,650,978
Total Operating Revenue	\$ 3,760,412	\$ 3,875,516	\$ 3,650,978
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)	\$ 3,490,412	\$ 3,571,916	\$ 3,343,670
Assumptions			
Inpatient days	NA	NA	NA
Outpatient days	260	260	260
Procedures	1,100	1,210	1,331
Charge per outpatient day	\$14,485	\$14,929	\$14,066
Charge per inpatient day	NA	NA	NA
Charge per procedure	\$3,424	\$3,208	\$2,748
Cost per inpatient day	NA	NA	NA
Cost per outpatient day	\$1,038	\$1,168	\$1,182
Cost per procedure	\$245	\$251	\$231

**Attachment 2
 FY 2014
 Utilization Data of Hospital-Affiliated
 Ambulatory Surgery Facilities and
 Freestanding Ambulatory Surgery Facilities
 By County for ASPA 4**

County	Hospital Facility – GHSA 4/ASPA 4	Suites	FY 2014 # of Surgeries	AVG # of Proc. Performed Per ORm.	FY 2014 # Of PROC. Rooms
Choctaw	Pioneer Community Hospital of Choctaw	1	0	0	1
Clay	NMMC West Point	2	877	438	1
Grenada	Grenada Lake Medical Center	6	1,848	308	2
Lafayette	Baptist Memorial Hospital North Miss.	10	6,124	612	0
Lowndes	Baptist Memorial Hospital Golden Triangle	10	6,033	603	4
Monroe	Gilmore Memorial Regional Medical Center	4	9,108	2,277	3
Oktibbeha	OCH Regional Medical Center	6	7,198	1,199	5
Winston	Winston Medical Center	0	106	0	0
County	Free-Standing Ambulatory Surgery Center ASPA 4				
Lafayette	Oxford Surgery Center	4	3443	860	2
Total Numbers for ASPAs 4		<u>43</u>	<u>34,737</u>	<u>807.83</u>	<u>18</u>

Source: FY 2014 Annual Hospital Report, FY 2014 Free-Standing Ambulatory Surgery Center Survey.