

**MISSISSIPPI STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
JUNE 23, 2022**

**CON REVIEW: SC-A-0522-009
LOWERY A. WOODALL SURGERY FACILITY, LLC
D/B/A LOWERY A. WOODALL OUTPATIENT SURGERY CENTER
AMENDMENT TO CON NUMBER: R-0980
(CON REVIEW SC-RLS-1121-011)
RELOCATION AND REPLACEMENT OF LOWERY A. WOODALL
SURGERY CENTER
ORIGINAL CAPITAL EXPENDITURE: \$17,115,320.00
ADDITIONAL CAPITAL EXPENDITURE: \$1,997,219.00
REVISED CAPITAL EXPENDITURE: \$19,112,539.00
LOCATION: HATTIESBURG, FORREST COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Lowery A. Woodall Surgery Facility, LLC d/b/a Lowery A. Woodall Outpatient Surgery Center (“LAW” or the “Applicant”) is a Mississippi Limited Liability Company managed by Hattiesburg Clinic Professional Association, the parent organization. LAW is governed by a three (3) member Board of Directors and an eight (8) member Medical Advisory Committee. The Board of Directors and Medical Advisory Committee are supported administratively by the CEO, CFO, COO, the Director of Ancillary Services of Hattiesburg Clinic, and the Director of Nursing. The original CON application contained a Certificate of Good Standing, dated November 4, 2021, from the Office of the Secretary of State, certifying the entity is in good standing to do business in Mississippi.

B. Project Background

Lowery A. Woodall Surgery Facility, LLC d/b/a Lowery A. Woodall Outpatient Surgery Center was granted Certificate of Need (CON) No. R-0980 on February 3, 2022, for the Relocation and Replacement of Lowery A. Woodall Outpatient Surgery Center (the “Surgery Center”).

The Applicant’s original application stated LAW was currently located in a building leased from Forrest General Hospital at 105 South 28th Avenue, Hattiesburg, MS. According to the Applicant, the replacement facility will be located at Lincoln Center, 1 Lincoln Road, Hattiesburg, MS. The Applicant stated Lincoln Center is owned by Hattiesburg Clinic Professional Association and is located approximately two (2) miles from LAW’s present site. The Applicant stated Hattiesburg Clinic will enter into a lease with LAW for the operation of the ambulatory surgical facility.

The Applicant stated the objective of the original project was to replace LAW’s outdated and constrained physical plant. According to the Applicant’s original application, LAW’s replacement facility consists of six (6) operating rooms and

will be located on the first floor of the Lincoln Center. The original application also stated the proposed project will consist of 28,612 square feet of space. In addition, the Applicant stated LAW would renovate the existing building in order to house the relocated ambulatory surgical facility. LAW stated the design of the facility, and all aspects of construction would comply with the applicable physical environment requirements set forth in the *Minimum Standards of Operations for Ambulatory Surgical Facilities*.

The original application projected a total capital expenditure of \$17,115,320.00. The Applicant proposed to finance the project with a loan of \$5,000,000.00 from Trustmark National Bank ("Trustmark") and finance the remainder of the project, \$12,115,320.00, with related company financing.

The Bureau of Health Facilities Licensure and Certification approved the proposed site for the new ambulatory surgery facility on December 7, 2021

C. Project Description

Lowery A. Woodall Surgery Facility, LLC now requests CON authority for an amendment to CON No. R-0980. The amendment application filed with the Department requests the addition of three (3) operating rooms, which include mechanical and electrical work, fire protection, ceiling systems, and additional equipment. Furthermore, the Applicant requests authority to increase the capital expenditure from \$17,115,320.00 to \$19,112,539.00, an increase of \$1,997,219.00.

The Applicant submits the increase in capital expenditure is attributable to additional construction cost (\$105,080.00) and equipment cost (\$1,892,139.00) required to finish the three (3) additional operating rooms. The Applicant states the additional equipment includes operating room mounting systems, booms, video integration, tables/accessories and related equipment manufactured by Hill-Rom Company, Inc., and endoscopic equipment manufactured by Stryker Sales Corporation. The Applicant projects the purchase and installation of the equipment will occur in the second quarter of 2023.

The Applicant states renovation work commenced on February 9, 2022. The Applicant further states the project is approximately 3.30% complete and the projected completion date is the second quarter of 2023.

1. Provide a photocopy of the original Certificate of Need.

The applicant included a copy of the original Certificate of Need.

2. Describe all proposed changes not approved in the original CON application (e.g. changes in square footage, construction, or renovation; changes in range, facilities served, or types of services, bed changes; equipment changes; etc.)

a. Transfer of CON:

This project does not involve the transfer of a CON.

b. Change of Site:

The Applicant states this amendment does not entail a change of site.

- 3. If project is related in whole or in part to compliance with requirements of the Licensure and Certification Division of the MSDH, or any other certification or licensing authority, provide documentation.**

The Applicant states this is not applicable.

- 4. If the project is related to a construction/expansion project, enclose a copy of the revised cost estimate signed by a licensed architect or licensed Mississippi building contractor.**

The application included a copy of the architect's cost estimate to complete the three (3) additional operating rooms.

- 5. If actual construction has not begun, give date it will begin and the reasons for the delay.**

The Applicant states renovation work commenced on February 9, 2022.

- 6. Provide evidence that the Division of Radiological Health has approved the plans for provision of radiation therapy services, if applicable.**

The Applicant states this is not applicable to the proposed project.

- 7. If the project involves the purchase/lease/change in vendor or manufacturer of major medical equipment, not included in the originally approved certificate of need project, provide the following:**

- a. Type of equipment, capacity, and manufacturer**
- b. Purchase price of equipment**
- c. Purchase and installation date(s) of equipment; and**
- d. Explanation of cost variance from original quotes.**

The Applicant states the additional equipment includes operating room mounting systems, booms, video integration, tables/accessories and related equipment manufactured by Hill-Rom Company, Inc., and endoscopic equipment manufactured by Stryker Sales Corporation. The estimated cost of the additional equipment is \$1,892,139. LAW projects that the

purchase and installation of the equipment will occur in the second quarter of 2023.

- 8. Will the amendment require any change in facility staffing? If so, identify changes in terms of personnel skills, number of personnel and indicate your recruitment plan which will obtain the services of these personnel.**

The Applicant states LAW anticipates the amendment will require an addition of three (3) registered nurses, six (6) operating room technicians, and two (2) central sterile personnel, all of whom will be recruited through the resources of LAW and Hattiesburg Clinic.

- 9. List all transfer/referral/affiliation agreements between your facility and other providers of health care within your service area, which have changed since the original application was submitted or will change as a result of this amendment.**

The Applicant states this is not applicable to the proposed project.

- 10. Provide the estimated date this project will be implemented/completed if the amendment/cost overrun is granted.**

The projected project completion date is the second quarter of 2023.

II. TYPE OF REVIEW REQUIRED

The Mississippi State Department of Health ("MSDH") reviewed the original project in accordance with Section 41-7-173, 41-7-191, and 41-7-193 of the Mississippi Code of 1972 Annotated, as amended, and the 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 ten (10) days of publication of this staff analysis. The opportunity to request a hearing expires on July 5, 2022, due to July 3, 2022, being a Sunday, and July 4, 2022, being a Holiday.

III. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

- 1. Complete the Capital Expenditure Summary.**

Capital Expenditure Summary

	Original Approved Amount	Revised Amount	Increase/ (Decrease)
1. New Construction Cost	0	0	0
2. Construction/Renovation	\$9,603,873	\$9,708,953	\$105,080
3. Land	0	0	0
4. Site Work	0	0	0
5. Fixed Equipment	0	0	0
6. Non-Fixed Equipment	\$5,000,000	\$6,892,139	\$1,892,139
7. Contingency	\$1,500,000	\$1,500,000	0
8. Fees (Architectural, Consultant, etc.)	\$576,232	\$576,232	0
9. Capitalized Interest	\$435,215	\$435,215	0
10. Capital Improvements	0	0	0
Total Capital Expenditure	\$17,115,320	\$19,112,539	\$1,997,219

*The above table represents approximately a 11.6% increase in the capital expenditure by Lowery A. Woodall Surgery Facility, LLC, d/b/a Lowery A. Woodall Outpatient Surgery Facility. The additional capital expenditure requested is for the completion of three (3) future operating rooms and additional equipment needed for the operating rooms.

2. Provide line-item justification for each increase (or decrease) in capital expenditure.

The Applicant states the increase in capital expenditure is attributable only to the additional construction cost (\$105,080.00) and additional equipment cost (\$1,892,139.00) required to finish out the three (3) future operating rooms requested in the Applicant's amendment application.

a. Document capital expenditure made to date and the percentage of completion.

The Applicant states the capital expenditure made to date is approximately \$317,400.00. The applicant asserts renovation work commenced on February 9, 2022, and the project is approximately 3.30% complete.

3. Enclose a revised project operating statement for the first full year of operation after completion of the project (for the proposed project/service only); include increased or decreased cost per day/procedure and charges per day/procedure.

The Applicant affirms LAW does not anticipate a material change in the projected operating statement, cost per procedure, or charge per

procedure as a result of this amendment.

4. **Disclose source of all financing (if debt attach creditor's letter).**
 - a. **Provide amount of loan/lease, interest rate, term of loan and payment/lease amount.**

The original application stated the Applicant would finance \$5,000,000.00 through Trustmark and finance the remainder of the project, \$12,115,320.00, with related company financing. The Applicant now states LAW will finance the cost of the equipment, \$6,892,139.00, through a loan with Trustmark, and Hattiesburg Clinic Professional Association will also finance \$12,220,400.00, the balance of the capital expenditure, through Trustmark. The total for the two (2) financed amounts is \$19,112,539.00, which includes the entire capital expenditure for the amended project.

In addition, the building will be leased at a three percent (3%) interest rate for a period of twenty (20) years.

- b. **Enclose a loan amortization schedule for all loans.**

The application included a loan amortization schedule.

5. **Provide audited or un-audited financial statements for the past year.**

The Department received and reviewed confidential financial statements submitted by LAW.

6. **Enclose a revised depreciation schedule for all assets.**

The Applicant submitted a revised depreciation schedule.

7. **Show effect of project on Medicaid patients, Medicare patients and other payers.**

The Applicant states LAW does not anticipate a material change in the financial projections as a result of the amendment.

B. Method of Financing

The original application stated the Applicant would finance \$5,000,000.00 through Trustmark and finance the remainder of the project, \$12,115,320.00, with related company financing. The Applicant now states LAW will finance the cost of the equipment, \$6,892,139.00, through a loan with Trustmark, and Hattiesburg Clinic Professional Association will also finance \$12,220,400.00, the balance of the capital expenditure, through Trustmark. The total for the two (2) financed amounts is \$19,112,539.00, which includes the entire capital expenditure for the amended project.

C. Effect on Operating Cost

The Applicant's Revised One-Year Projected Operating Statement is shown in Attachment 1.

D. Cost to Medicaid/Medicare

The Applicant states the impact of the proposed project on Medicare, Medicaid, and other payers was submitted in the Applicant's original application. The Applicant states LAW does not anticipate a material change in the financial projections as a result of this amendment.

The Applicant projects gross patient revenue cost to third party payors as follows.

Payor Mix	Utilization Percentage (%)	First Year Revenue (\$)
Medicare	26.00%	\$ 9,324,041.00
Medicaid	15.00%	\$ 5,282,756.00
Commercial	57.00%	\$20,402,621.00
Self-Pay	0.00%	\$ 52,700.00
Charity Care	0.00%	\$ 0.00
Other	2.00%	\$ 861,820.00
Total	100.00%	\$35,923,938.00

IV. COMPLIANCE WITH STATE HEALTH PLAN, POLICIES AND PROCEDURES

A. State Health Plan (SHP)

On January 12, 2022, the Mississippi State Board of Health approved the *FY 2022 Mississippi State Health Plan, Second Edition* (effective February 20, 2022), which included amendments to the CON Criteria and Standards for Ambulatory Surgery Services. The Applicant affirms these amendments allow high-volume ambulatory surgery facilities to apply for a CON to add operating rooms, regardless of the existing utilization of other facilities in the Ambulatory Surgery Planning Area. Specifically, the sections amended, Sections 701.01 and 701.02, state, in part, the following:

- Policy Statement 7. Optimum Capacity: The optimum capacity of an ambulatory surgery facility is 800 surgeries per operating room per year. MSDH shall not issue a CON for the establishment 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 twelve (12) month reporting period, as reflected in data supplied to and/or verified by MSDH. MSDH may collect additional information it deems essential to render a decision regarding any application. Optimum capacity is based on four (4) surgeries per

operating room per day x five (5) days per week x fifty (50) weeks per year x eighty percent (80%) utilization rate. ***This Policy Statement 7 shall not apply to applications proposing the expansion of an existing and licensed ambulatory surgery facility.***

- Need Criteria 1(b): Minimum Surgeries
 - An applicant proposing the expansion of an existing and licensed ambulatory surgery facility through the addition of operating rooms shall demonstrate that the applicant's facility has performed in aggregate at least 800 surgeries per operating room per year for the most recent twelve (12) month reporting period, as reflected in data supplied to and/or verified by MSDH.

As depicted in the Applicant's application and reproduced in the table below, the Applicant states LAW Surgery Center has performed significantly more than 800 surgeries per operating room for the last five (5) years.

LAW's Surgery Center Surgical Case Volume

Year	2017	2018	2019	2020	2021
Cases	7,177	7,160	7,183	5,573*	6,970
Operating Rooms	6	6	6	6	6
Cases Per OR	1,196	1,193	1,197	957*	1,162

Source: Applicant's CON Application

*Applicant states reduction in 2020 surgical case volume was attributable to COVID-19 restrictions.

LAW now requests to amend their original CON to add three (3) additional operating rooms at the Surgery Center, for a total of nine (9) operating rooms, to meet current and future patient demands.

The *FY 2020 Mississippi State Health Plan ("MSHP")* was in effect at the time the original CON Application was submitted to the Department. The original application was found to be in substantial compliance with the *FY 2020 MSHP*. The Applicant's CON Amendment Application was submitted under *the FY 2022 Mississippi State Health Plan, Second Edition ("MSHP")*. The Applicant's Amendment Application is also in compliance with the *FY 2022 MSHP*.

B. General Review (GR) Criteria

The *Mississippi Certificate of Need Review Manual (September 1, 2019, Revision)* was in effect at the time the original CON Application was submitted to the Department. The original project was found to be in compliance with the CON Review Manual.

Chapter 8 of the *Mississippi Certificate of Need Review Manual (September 1, 2019, Revision)* addresses general criteria by which all CON applications are reviewed. The Applicant's CON Amendment Application is also in substantial compliance with the general review criteria contained in the CON Review

Manual.

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid (the "Division") was provided a copy of this application for review and comment. A letter received on May 23, 2022, stated the Division had no comment on the application.

VI. CONCLUSION AND RECOMMENDATION

This project continues to be in substantial compliance with the overall objectives of the *FY 2022 Mississippi State Health Plan, Second Edition*; Chapter 8 of the *Certificate of Need Review Manual, 2019 Revision*; and all adopted rules, procedures, and plans of the Mississippi State Department of Health in effect at the time of approval.

Therefore, the Division of Health Planning and Resource Development recommends approval of the application submitted by Lowery A. Woodall Surgery Facility, LLC d/b/a Lowery A. Woodall Outpatient Surgery Center for an amendment to CON No. R-0980. The amendment allows the CON Holder to add three (3) operating rooms and allows the CON Holder to increase the authorized capital expenditure from \$17,115,320.00 to \$19,112,539.00 for the Relocation and Replacement of Lowery A. Woodall Outpatient Surgery Center.

Attachment 1
Lowery A. Woodall Surgery Facility, LLC
Revised One Year Operating Statement (With Project)
Relocation and Replacement of Lowery A. Woodall Surgery Center

	Proposed Year 1
Revenue	
Outpatient Revenue	\$35,923,939.00
Gross Patient Revenue	\$35,923,939.00
Deductions from Revenue	\$25,732,590.00
Net Patient Care Revenue	\$10,191,349.00
Total Operating Revenue	\$10,191,349.00
Operating Expenses	
Salaries	\$ 2,297,063.00
Benefits	643,178.00
Supplies	3,492,806.00
Services	585,000.00
Lease	1,906,292.00
Depreciation	689,179.00
Interest	206,764.00
Other	125,000.00
Total Operating Expenses	\$ 9,945,282.00
Net Operating Income (Loss)	\$ 246,067.00
Charge per outpatient day	\$ 143,696.00
Charge per procedure	\$ 5,206.00
Cost per outpatient	\$ 39,781.00
Cost per procedure	\$ 1,441.00