

**DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
NOVEMBER 2006**

**CON REVIEW: FSF-NIS-0906-024
VICKSBURG SURGICAL CENTER, LLC
ESTABLISHMENT OF FREESTANDING AMBULATORY SURGICAL FACILITY/SERVICES
CAPITAL EXPENDITURE: \$5,829,327
LOCATION: VICKSBURG, MISSISSIPPI
COUNTY: WARREN COUNTY, AMBULATORY SURGERY PLANNING AREA 3**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Vicksburg Surgical Center, LLC is a Delaware limited liability company, authorized to do business in Mississippi. The application contains a copy of its certificate of formation and a letter of good standing signed by the Mississippi Secretary of State.

The following are the officers of Vicksburg Surgical Center, LLC:

- Thomas H. Frazier
- Robert P. Frutiger
- Rebecca Hurley
- Joe Johnson
- W. Stephen Love
- James D. Shelton

The applicant states that Vicksburg Healthcare, LLC, which owns River Region Health System, will be a member of Vicksburg Surgical Center, LLC. According to the applicant, Vicksburg Surgical Center, LLC will have other members, including local physicians.

B. Project Description

Vicksburg Surgical Center, LLC is requesting Certificate of Need (CON) authority to construct and establish a freestanding ambulatory surgery facility/services on the campus of River Region Medical Center in Vicksburg, Mississippi. The proposed facility will encompass a total of 14,115 square feet of space. The proposed freestanding ambulatory surgery facility will have two operating rooms, two procedure rooms, pre-operative, recovery, administrative, waiting, and admitting areas, as well as all other areas necessary for the operation of a freestanding ambulatory surgical center. The applicant states that the facility will be designed, equipped, and operated to provide a setting for physicians to perform surgeries and procedures that do not require prolonged post-operative monitoring or hospital stay.

The total proposed capital expenditure of \$5,829,327 is comprised of new construction (59.44 percent), fees (5.05 percent), capitalized interest (3.31 percent), and non-fixed equipment (32.20 percent). See capital expenditure summary, page 8. The applicant proposes to finance the project from equity contribution.

According to the applicant, the capital expenditure will be obligated within 12 months and completed within 24 months.

The application contains a letter from the MDH Division of Health Facilities Licensure and Certification approving the site for the proposed project.

II. TYPE OF REVIEW REQUIRED

This project is reviewed in accordance with Sections 41-7-191, subparagraphs (1)(a) and (d)(xi), 41-7-173, and 41-7-193, Mississippi Code of 1972, Annotated, as amended, and duly adopted rules, procedures, plans, criteria, and standards of the Mississippi Department of Health.

In accordance with Section 41-7-197(2), of the Mississippi Code 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 on December 5, 2006.

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

A. State Health Plan

The *FY 2006 State Health Plan* addresses policy statements and service specific criteria and standards which an applicant is required to meet before receiving CON authority to establish ambulatory surgery services. This application is not in substantial compliance with applicable criteria and standards.

SHP Criterion 1 – Need

The *State Health Plan* states that the applicant shall demonstrate that the proposed ambulatory surgery facility shall perform a minimum average of 1,000 surgeries per operating room per year.

Vicksburg Surgical Center, LLC projects that it will perform 4,891 ambulatory surgery procedures in year one, 5,036 procedures in year two, and 5,188 procedures in year three of operation. Based on the applicant's proposed two operating rooms and projected number of surgeries for the first year of operation, staff calculates Vicksburg Surgical Center's expected volume of surgeries to be 2,446.50 surgeries per operating room per year for the first year of operation, which is above the minimum average of 1,000 surgeries per operating room per year, as required by this criterion.

According to the applicant, it is anticipated that many residents of Warren County will elect to have ambulatory surgery done at the proposed new freestanding facility. The applicant asserts that it is reasonable to project that the historical volume of ambulatory surgery performed in the past in Warren County will be maintained, at a minimum. The applicant contends that, when combined with anticipated growth, the facility should be utilized for the number of projected procedures identified above. The applicant believes that the development of a freestanding ambulatory surgical facility in Vicksburg should encourage many patients, who currently travel to Jackson in order to access freestanding ambulatory surgical services, to remain in Vicksburg, as well as attract residents from the service area outside of Warren County.

The application contains affidavits of commitment from eleven (11) referring physicians. According to the affidavits, these physicians project to perform a minimum of 2,256 ambulatory surgery procedures annually at the proposed facility.

SHP Criterion 2 – Population Base

The applicant must document that the proposed Ambulatory Surgery Facility Service Area has a population base of approximately 60,000 within 30 minutes travel time.

The applicant asserts that the service area for the proposed ambulatory surgical center has a population base in excess of 60,000 within 30 minutes' normal driving time or 25 miles of the proposed facility. The applicant states that according to the *FY 2006 State Health Plan*, the projected 2010 population of Warren County is 52,797. In addition to Warren County, the primary service area for the proposed facility will include Claiborne (population 12,593), Sharkey (population 6,091) and Issaquena (population 2,085) counties. The combined population of these counties, based on population tables in the *FY 2006 State Health Plan*, is 20,769, which the applicant believes is somewhat understated, due to the fact the facility will serve residents of nearby Louisiana parishes. A total population of 73,568 resides within the four county service area.

SHP Criterion 3- Utilization of Existing Facilities

According to this criterion, an applicant proposing to offer ambulatory surgery services shall document that the existing facilities in the ambulatory surgery planning 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 Department of Health.

The proposed facility will be located in Ambulatory Surgery Planning Area 3 (ASPA 3), which consists of Attala, Claiborne, Copiah, Hinds, Issaquena, Jefferson Davis, Lawrence, Lincoln, Leake, Madison, Rankin, Scott, Sharkey, Simpson, Smith, Warren, and Yazoo Counties. There are 5 freestanding providers of ambulatory surgery services and 18 hospitals that provide ambulatory surgery services in ASPA 3. In 2004, a total of 109,972 surgeries were performed in ASPA 3 – 85,441 surgeries performed in 120 hospital-based operating rooms/suites and 24,531 surgeries performed in 22 freestanding ambulatory operating rooms/suites. This equates to 774 surgeries performed per operating suite for 2004 ($109,972 \div 142$), which is clearly below the optimum capacity of 800 surgeries required per operating room per year for the most recent 12-month period as required by this criterion. Therefore, the applicant is not in compliance with this criterion.

Updated utilization data for 2005 shows 5 freestanding providers of ambulatory surgery services and 18 hospital-based providers of ambulatory surgery services performed a total of 110,578 surgeries in 2005, utilizing 143 operating rooms/suites. This equates to 773 procedures per operating suite, which falls below the required 800 surgeries per operating suite.

SHP Criterion 4 – Range of Surgeries

According to the applicant, the proposed ambulatory surgery facility will provide a full range of ambulatory surgery services and procedures to include, but not limited to, outpatient general surgery, plastic surgery, ophthalmology, ENT, vascular, genital, urinary, OB/GYN, orthopedic, oral thoracic, neurology, pain management and endoscopic procedures.

SHP Criterion 5 – Economic Viability

The applicant projects that the ambulatory surgery facility/services will demonstrate a net profit of \$7,999 the first year and \$60,999 the second year of operation.

SHP Criterion 6 – Local Physician Support

As previously mentioned, the application contains affidavits of commitment from eleven (11) referring physicians. According to the affidavits, the local physicians project performing a minimum of 2,256 ambulatory surgery procedures annually at the proposed facility.

SHP Criterion 7 – Medical Staff Location

According to the applicant, the medical staff of the proposed ambulatory surgery facility will reside within a 25-mile radius of the facility. The applicant anticipates that many members of the medical staff of River Region Medical Center will join the medical staff of the ambulatory surgery facility.

SHP Criterion 8 – Hospital Agreement

The proposed facility must have a formal agreement with a full service hospital to provide services which are required beyond the scope of the ambulatory surgical facility's programs. The facility must also have a formal process for providing follow-up services to the patients through proper coordination mechanisms.

According to the applicant, the proposed ambulatory surgery facility will be located on the River Region Medical Center campus. The application contains a copy of a letter from River Region Health System confirming that River Region Medical Center will enter into a transfer agreement with Vicksburg Surgical Center, LLC concerning the proposed project.

SHP Criterion 9 – Indigent/Charity Care

Vicksburg Surgical Center, LLC affirms that it will provide a reasonable amount of indigent/charity care within the ambulatory surgery center. The applicant projects 1 percent of gross patient revenues to be provided to charity care.

B. General Review (GR) Criteria

Chapter 8 of the *Mississippi Certificate of Need Review Manual, August 12, 2006 Revision*, addresses general criteria by which all CON applications are reviewed. This application is not in substantial compliance with general review criteria.

GR Criterion 1 – Consistency with the State Health Plan

The proposed project is not in substantial compliance with the Certificate of Need criteria and standard #3 in the *FY 2006 State Health Plan*, which prohibits the issuance of a CON for the establishment of ambulatory surgery services 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.

GR Criterion 2 - Long Range Plan

According to the applicant, its long range plan is to provide high quality ambulatory surgery services to residents of the service area.

GR Criterion 3 – Availability of Alternatives

The applicant considered and rejected the following alternatives to the proposed project:

According to the applicant, an alternative to the proposed project would be for the residents of Warren County and the surrounding areas to continue to seek surgical services either at River Region Medical Center or other facilities outside the primary service area who offer ambulatory surgical services in a freestanding setting. The applicant determined that this alternative would not be in the best interest of the residents of the service area.

The applicant believes that the development and establishment of the proposed ambulatory surgery services is the most viable alternative to meeting the long range needs for ambulatory surgery services in the service area.

GR Criterion 4 - Economic Viability

The applicant projects net incomes from operation to be \$7,999 the first year, \$60,999 the second year, and \$43,998 the third year after completion of this project.

- a. **Proposed Charges:** Vicksburg Surgical Center, LLC projects a charge of \$3,848 per procedure the first year
- b. **Projected Levels of Utilization:** The applicant estimates that it will perform 4,891 procedures in the first year, 5,036 procedures in the second year, and 5,188 procedures in the third year. The applicant indicates that the projected ambulatory surgical procedure volumes were determined by examining the historical number of ambulatory surgical procedures performed in Warren County.
- c. **Financial Feasibility Study:** The application contained a letter signed by Scott Pfister of River Region Health System, Vicksburg, Mississippi, attesting to the financial feasibility for the project.

GR Criterion 5 - Need for the Project

- a. **Underserved Populations:** According to the applicant, at the current time, the residents of the service area do not have immediate access to a freestanding ambulatory surgical facility. The closest freestanding outpatient surgery centers are located in Jackson, which is a distance of approximately 40 miles from Vicksburg. The establishment of an ambulatory surgical facility in Warren County will greatly enhance access by the residents of West Central Mississippi to convenient and cost-effective ambulatory surgery services
- b. **Relocation of Services:** The proposed project does not involve relocation of a facility or services.

- c. **Current and Projected Utilization of Like Facilities in the Area:** As previously mentioned, in 2004 there were 109,972 surgeries performed in 142 surgery suites located in ASPA 3. A total of 85,441 were performed in hospital based facilities and 24,531 were performed in freestanding facilities, for an average of 774 procedures.

Source: Applications for Renewal of Hospital License Calendar Year 2005 Fiscal Year 2004, Annual Hospital, and a survey of individual ambulatory surgery centers conducted April 2005.

- d. **Probable Effect on Existing Facilities in the area:** The applicant asserts that the proposed project will enhance the existing health care system in the Warren County area by offering additional options for the delivery of health care services in an ambulatory care setting. The application contains seven (7) letters of support from physicians of River Region Medical Center, Vicksburg, for the proposed project.
- e. **Community Reaction:** The application contains ten (10) letters of support and affidavits of commitment from eleven (11) referring physicians for the proposed project.

GR Criterion 6 - Access to the Facility or Service

- a. **Medically Underserved:** The applicant asserts that all residents of Ambulatory Surgery Planning Area 3, hospital service area or patient service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women, handicapped persons and the elderly will have access to the services of the proposed facility.

Vicksburg Surgical Center, LLC asserts that it will be certified for participation in Medicare and Medicaid programs.

- b. **Performance in Meeting Federal Obligation:** According to the applicant, the facility has no existing obligations under any federal regulations requiring provision of uncompensated care, community service, or access by minority/handicapped persons.
- c. **Unmet Needs to be served by Applicant:** The applicant asserts that there is currently no freestanding ambulatory surgical center in the Vicksburg/Warren County area. Vicksburg Surgical Center, LLC proposes to fill the unmet need for the offering of ambulatory surgical services in the community.
- d. **Range of Access:** As mentioned above, the applicant asserts that all residents of ASPA 3, hospital service area or patient service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women, handicapped persons and the elderly will have access to the services of the proposed facility.

GR Criterion 7 - Information Requirement

The applicant affirms that it will record and maintain the information required by this criterion and make it available to the Mississippi Department of Health within 15 business days of request.

GR Criterion 8 - Relationship to Existing Health Care System

There are 5 freestanding providers of ambulatory surgery services and 18 hospitals that provide ambulatory surgery services in ASPA 3. Vicksburg Surgical Center, LLC will be a new provider of freestanding ambulatory surgery services in ASPA 3 and Warren County.

The applicant believes that the proposal will allow patients the option to access surgical services in an ambulatory surgical care setting locally.

St. Dominic/Jackson Memorial Hospital, Jackson, Mississippi, submitted a letter of comment which neither supports nor opposes the project. Rather, St. Dominic encourages the Department to follow the guidelines set out in the *Plan*.

GR Criterion 9 - Availability of Resources

Vicksburg Surgical Center, LLC projects 22.5 additional personnel at an estimated annual cost of \$1,031,000. The applicant asserts that Vicksburg Surgical Center, LLC will recruit new personnel required to implement the project both locally and through other staffing resources.

GR Criterion 10 – Relationship to Ancillary or Support Services

The applicant affirms that all necessary support and ancillary services for the proposal are available.

GR Criterion 12 – Access by Health Professional Schools

The applicant states that the proposed project will coordinate with health professional schools in the area with respect to access to the proposed services for training purposes.

GR Criterion 14 – Construction Projects

- a. **Cost Estimate:** The application contains a cost estimate prepared by Richard L. Miller, Architect.
- b. **Schematic Drawing:** The application contains a schematic drawing of the proposed project.
- c. **Space Allocations:** The applicant submits that space will conform to appropriate regulatory authority.
- d. **New Construction Projects:** This project involves new construction of a freestanding ambulatory surgery facility.
- e. **Cost per Square Foot:** The project will cost \$280 per square foot for new construction. See Attachment 1. *The Means Construction Cost Data, 2006 Edition* does not provide construction cost data specifically for ambulatory surgery center.

GR Criterion 16 - Quality of Care

Vicksburg Surgical Center, LLC will be a new provider of freestanding ambulatory surgery services. The applicant asserts that the offering of surgical services through a freestanding ambulatory surgery center will provide more efficient and cost-effective surgical care as an option for the target population in the Warren County and surrounding communities. The applicant asserts that offering this option closer to home will allow for enhanced quality of care, convenient for the patient and their family.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

Cost Item	Projected Cost	Percent
Construction Cost – New	\$ 3,465,000	59.44%
Fees (Architectural, Consultant, etc.)	\$ 294,525	5.05%
Capitalized Interest	\$ 192,802	3.31%
Non-fixed Equipment Cost	\$ 1,877,000	32.20%
Total Capital Expenditure	\$ 5,829,327	100.00%

The above estimated proposed capital expenditure of \$5,829,327 is for new construction of 14,115 square feet of space at \$280 square foot. The proposed project also involves the purchase of non-fixed equipment.

The Means Construction Cost Data, 2006 Edition does not provide construction cost data specifically for an ambulatory surgery center.

B. Method of Financing

The applicant proposes to finance the project from equity contribution.

C. Effect on Operating Cost

Vicksburg Surgical Center, LLC projects the following expenses, revenues, and utilization for the first three years of operation:

**Vicksburg Surgical Center, LLC
Three-Year Operating Statement**

	Year 1	Year 2	Year 3
Revenues			
Gross Patient Rev.	\$ 18,823,000	\$ 19,862,000	\$ 20,973,000
Charity Care	\$ (169,407)	\$ (178,758)	\$ (188,757)
Deductions	\$ (14,392,594)	\$ (15,187,243)	\$ (16,035,245)
Net Pt. Revenue	\$ 4,260,999	\$ 4,495,999	\$ 4,748,998
Expenses			
Salaries	\$ 1,030,600	\$ 1,061,518	\$ 1,152,000
Benefits	\$ 216,000	\$ 223,000	\$ 242,000
Supplies	\$ 1,320,000	\$ 1,404,000	\$ 1,484,000
Services	\$ 195,000	\$ 207,000	\$ 219,000
Other	\$ 639,400	\$ 666,622	\$ 705,864
Lease	\$ 462,000	\$ 475,860	\$ 490,136
Depreciation	\$ 390,000	\$ 397,000	\$ 412,000
Total Expenses	\$ 4,253,000	\$ 4,435,000	\$ 4,705,000
Net Income	\$ 7,999	\$ 60,999	\$ 43,998
Utilization			
Procedures (#)	4,891	5,036	5,188
Cost/Per Procedure	\$ 870	\$ 881	\$ 907
Charge/per Procedure	\$ 3,848	\$ 3,944	\$ 4,043

D. Cost to Medicaid/Medicare

Patient Mix by Type Payer	Utilization Percentage	First Year Expenses
Medicaid	16	\$680,480
Medicare	31	\$1,318,430
Other	<u>53</u>	<u>\$2,254,090</u>
TOTAL	<u>100</u>	<u>\$4,253,000</u>

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for review and comment. According to the Division of Medicaid, outpatient services are paid as outlined in the Medicaid State Plan. The Division takes no position on the application.

VI. CONCLUSION AND RECOMMENDATION

This project is not in substantial compliance with the criteria and standards for the establishment of ambulatory surgery services as contained in the *FY 2006 State Health Plan*, and the *Mississippi Certificate of Need Review Manual, Revised August 12, 2006*. Specifically, staff contends that the applicant is not in compliance with the following criterion:

- **SHP Criterion 3 – Utilization of Existing Facilities:** Based on the utilization data of the existing facilities in ASPA 3 for 2004 as contained in the *Plan*, the average number of surgeries per surgery suite in ASPA 3 were 774 surgeries, which do not meet the 800 surgeries per operating room per year for the most recent 12-month reporting period as required by the *Plan* before an additional ambulatory surgical facilities can be considered. Therefore, the application submitted by Vicksburg Surgical Center, LLC is an unnecessary duplication of health services and is not needed.

The Division of Health Planning and Resource Development recommends disapproval of this application submitted by Vicksburg Surgical Center, LLC for the establishment of a freestanding ambulatory surgery facility/services in Vicksburg (Warren County) in ASPA 3.

Vicksburg Surgical Center, LLC
FSF-NIS-0906-024

Attachment 1

Computation of New Construction Cost

New Construction: 14,115

***New construction Cost Formula**

A.	New Construction	\$3,465,000
D.	Fees	\$ 294,525
G.	Capital Interest	\$ 192,802
	Total	<u>\$3,952,327 ÷ 14,115 = \$280/sq.ft</u>

***Source:** FY 2006 State Health Plan