

**MISSISSIPPI STATE DEPARTMENT OF HEALTH  
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT  
JULY 24, 2023**

**CON REVIEW NUMBER: ASC-NIS-0623-006**

**MISSISSIPPI BAPTIST SURGERY CENTER, LLC D/B/A BAPTIST SURGERY CENTER  
ESTABLISHMENT OF AN AMBULATORY SURGERY CENTER AND OFFERING OF  
AMBULATORY SURGERY SERVICES**

**CAPITAL EXPENDITURE: \$5,315,378.00**

**LOCATION: MADISON, MADISON COUNTY, MISSISSIPPI**

**STAFF ANALYSIS**

**I. PROJECT SUMMARY**

**A. Applicant Information**

Mississippi Baptist Surgery Center, LLC, d/b/a Baptist Surgery Center (“Baptist Surgery Center” or the “Applicant”), is a Mississippi limited liability company. The Applicant states the initial managing member of Baptist Surgery Center is Mississippi Baptist Health Systems, Inc. (“MBHS”), an affiliate of Baptist Memorial Health Care Corporation (“BMHCC” or “Baptist”), located at 350 N. Humphreys Blvd. in Memphis, Tennessee. The Applicant further states Mississippi Baptist Medical Center Inc. is associated with the venture through Mississippi Baptist Health Systems, Inc. The Applicant states that local physicians will have the opportunity to join the venture as members. Mississippi Baptist Surgery Center, LLC, d/b/a Baptist Surgery Center is governed by a ten (10) member Board of Trustees and two (2) Corporate Officers.

The application contains a Certificate of Good Standing, dated May 22, 2023, from the Office of the Secretary of State, certifying the entity is in good standing to do business in Mississippi.

**B. Project Description**

Mississippi Baptist Surgery Center, LLC d/b/a Baptist Surgery Center requests Certificate of Need (“CON”) authority to establish a multi-specialty ambulatory surgery center (“ASC”) and the offering of ambulatory surgery services. The Applicant proposes to lease space in a building owned by MBHS located at 401 Baptist Drive, Madison, MS (“Baptist Madison campus”) to house the proposed ASC. The Applicant affirms the proposed ASC will be called the Baptist Surgery Center. The Applicant states the Baptist Surgery Center will be designed to provide capacity for the increasing number of patients who are choosing ASCs as a preferred treatment setting. The Applicant affirms Baptist Surgery Center will be located in Ambulatory Surgery Planning Area 5.

The project entails the renovation of 14,318 square feet of space located on the first floor of the Baptist Madison campus. The Applicant states the proposed space

at the Baptist Madison campus once housed a single specialty ASC and is designed to comply with all federal and state regulations governing ASCs. The Applicant further states that Mississippi Baptist Medical Center (“MBMC”), through its affiliation with MBHS, designed efficiencies into the layout of the facility to support four (4) operating rooms (“OR”), and though not used in recent years, the systems have been maintained and periodically inspected.

The Applicant affirms the new state-of-art replacement equipment will be installed with a modernized ASC that will answer a need for cost-effective convenience that’s designed with building efficiencies in a consumer-friendly space. The Applicant states the proposed ASC will allow patients to be in familiar surroundings since local physicians are expected to participate in the ASC venture in the future. Furthermore, the Applicant affirms patients will have access to the personal electronic Medical Chart through the Baptist Memorial Health Care Corporation. The Applicant states other medical diagnostic services, such as Madison Radiology and numerous physician offices, will be conveniently located in the same building as the Baptist Surgery Center.

The Applicant states the final objective of this proposed project is to modernize existing space to be a state-licensed multi-specialty ASC and to improve access for all residents of the service area.

The Applicant estimates it will hire twenty-nine (29) full-time equivalent (FTE) personnel during the first year of the project at an estimated cost of \$1,458,525.00. The Applicant projects a total capital expenditure of \$5,315,378.00 as itemized in Section IV of this Staff Analysis. Baptist Surgery Center proposes to finance the project through the cash reserves of Baptist Memorial Health Care Corporation.

The Applicant affirms that the existing building and suite comply with all state and local building codes, zoning ordinances, and/or appropriate regulatory authority. In addition, the Applicant states that Baptist Surgery Center will comply with all state statutes and regulations for the protection of the environment, including 1) approved water supplies; 2) sewage and water disposal; 3) hazardous waste disposal; 4) water pollution control; 5) air pollution control; and 6) radiation control.

The Applicant expects to obligate the capital expenditure by October 23, 2023, and anticipates the project will be complete by April 30, 2024.

The application contains a letter dated July 6, 2023, documenting the Mississippi State Department of Health (“MSDH”), Division of Fire Safety and Construction, Bureau of Health Facilities Licensure and Certification’s approval of the site for the new ambulatory surgery center.

## **II. TYPE OF REVIEW REQUIRED**

The Mississippi State Department of Health (“MSDH”) will review applications for a CON for the establishment of an ambulatory surgery center and offering of ambulatory surgery services under the statutory requirements of Sections 41-7-173, 41-7-191, and 41-7-193 of the Mississippi Code of 1972, Annotated, as amended. MSDH will also review applications for Certificate of Need according to the general criteria listed in the *Mississippi Certificate of Need Review Manual, September 1, 2019, Revision*; all adopted rules, procedures, and plans of MSDH, and the specific criteria and standards listed below. MSDH reviews projects for the provision of ambulatory surgery services if the proposed provider has not provided such service on a regular basis within the period of twelve (12) months prior to the time such service would be offered, regardless of the capital expenditure.

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 the staff analysis. The opportunity to request a hearing expires on August 3, 2023.

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

#### A. State Health Plan (SHP)

The *FY 2022 Mississippi State Health Plan, Third Edition* (“MSHP”) contains policy statements, criteria, and standards that the Applicant is required to meet before receiving CON authority for the provision of ambulatory surgical services. This application substantially complies with the applicable policy, criteria, and standards stated in the *Plan*.

#### **Policy Statement Regarding Certificate of Need Applications for the Establishments of Ambulatory Surgery Services**

1. **Ambulatory Surgery Planning Areas (ASPAs):** MSDH shall use the Ambulatory Surgery Planning Areas as outlined on Map 7-1 of the *MS State Health Plan* for planning and CON decisions. The need for ambulatory surgery facilities in any given ASPA shall be calculated independently of all other ASPAs.

The Applicant affirms the proposed ASC will be located in Ambulatory Surgery Planning Area (“ASPAs”) 5, which includes three (3) of the largest six (6) counties in the state, based on population. The Applicant asserts that the three (3) largest counties located in ASPA 5 are Hinds, Madison, and Rankin. The Applicant affirms that Hinds County has three (3) freestanding multi-specialty ASCs, and Rankin County has two (2) freestanding ASCs; however, there are currently no freestanding ASCs located in Madison County.

2. **Ambulatory Surgery Facility Service Areas:** An Applicant's Ambulatory Surgery Facility Service Area must have a population base of approximately 60,000 within thirty (30) minutes of normal driving time or twenty-five (25) miles, whichever is greater, of the proposed/established facility. Note: Licensure standards require a freestanding facility to be within fifteen (15) minutes of traveling time of an acute care hospital, and a transfer agreement with said hospital must be in place before a CON may be issued. Additionally, the ambulatory surgery facility service area must have a stable or increasing population.

The Applicant proposes the establishment of a multi-specialty ASC for ASPA 5. The Applicant states that Madison County has a population of more than 110,000 which is almost double the required minimum of 60,000. The Applicant states it will have a transfer agreement with MBMC within a fifteen (15) minute travel time of Baptist Surgery Center.

3. **Definitions:** The Glossary of the *Mississippi State Health Plan* includes the definitions in the state statute regarding ambulatory surgery services.

The Applicant acknowledges this Policy Statement.

4. **Surgeries Offered:** MSDH shall not approve single-service ambulatory surgery centers. Only multi-specialty ambulatory surgery service proposals may be approved for a CON.

The Applicant states the proposed application is for a multi-specialty ambulatory surgery center.

5. **Minimum Surgical Operations:** The minimum of 1,000 surgeries required to determine need is based on five (5) surgeries per operating room x five (5) days per week x fifty (50) weeks per year x eighty percent (80%) utilization rate.

The Applicant states Baptist Surgery Center has reviewed the minimal surgeries required and has surveyed medical staff for estimates of utilization. The Applicant states the proposed ASC will consist of four (4) operating rooms. Furthermore, the application contained Affidavits from ten (10) physicians affirming that they will perform a combined total of 4,100 surgeries per year.

6. **Present Utilization of Ambulatory Surgery:** MSDH shall consider the utilization of existing services and the presence of valid CONs for services within a given ASPA when reviewing CON applications.

The Applicant submits they have reviewed the utilization of Ambulatory Surgery Services, and the multi-specialty ASCs are above optimum

capacity.

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 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 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.

The Applicant acknowledges the above policy statement and states it has reviewed the utilization information provided in the State Health Plan and utilization at MBMC and will provide any additional information that is requested.

8. **Conversion of Existing Service:** Applicants proposing the conversion of existing inpatient capacity to hospital ambulatory facility located within the hospital shall receive approval preference over detached or freestanding ambulatory surgery facilities if the conversion is less costly than new construction and if the application substantially meets the other adopted criteria.

The Applicant states Baptist Surgery Center will install new equipment in an existing facility and restore state-of-art operation. The Applicant further states although the service is not located inside a hospital, it is in a separate ambulatory setting that has become the choice for many patients and payors. The Applicant asserts reopening an existing facility that does not require construction is much less expensive than erecting a new building or infilling shell space. The Applicant asserts that technical and social support structure is already in place for pre-screening and follow-up services within the BMHCC network.

9. **Construction of Existing Service:** Any applicant proposing to construct a new facility or major renovation to provide ambulatory surgery must propose to build/renovate no fewer than two (2) operating rooms.

The Applicant states this proposal does not involve new construction or major renovation.

10. **Indigent/Charity Care:** The applicant shall be required to provide a "reasonable amount" of indigent/charity care as described in Chapter 1 of the Plan.

The Applicant affirms Baptist Surgery Center will provide a reasonable amount of Charity Care. The Applicant proposes to provide 0.375% of indigent care and 0.375% of charity care.

**11. Single Specialty Ambulatory Surgery Facility:** A single-specialty ambulatory surgical center (“ASC”) is not considered an integral part of an institutional health service if a hospital or hospital’s parent, subsidiary, or affiliated entity directly or indirectly (i) employs or contracts with physicians, dentists, or health care professionals who own the ASC or practice at the ASC, (ii) owns, in whole or in part, the incorporated medical group that owns the ASC, (iii) jointly owns the ASC with physicians, dentists, or health care professionals, independently or by incorporated medical groups, or (iv) solely owns the ASC for credentialed physicians (whether employed, contracted or independent) to perform surgical procedures in the ASC that qualify for single-specialty status.

The Applicant submits that this application is for a multi-specialty ASC.

**If the proposed project is to provide a new institutional service that is based on physician referrals, provide affidavits of commitment from the referring physicians that include the actual number of referrals from the prior year, the projected number of referrals, and/or the number of procedures or treatments to be rendered.**

The application includes affidavits from ten (10) physicians indicating the number of referrals each will make.

## **Certificate of Need Criteria and Standards for Ambulatory Surgery Services**

### **SHP Criterion 1 – Minimum Surgeries**

- a. The Applicant states the existing building for the proposed ASC has four (4) operating rooms. The application contains Affidavits from ten (10) physicians affirming that they will perform a combined total of 4,100 surgeries per year. (See Attachment two (2) for a list of Affidavits).
- b. The proposed project does not involve the expansion of an existing ambulatory surgery facility.

### **SHP Criterion 2 – Minimum Population**

The Applicant submits that Madison County, wherein the ASC will be located, is in ASPA 5, which has more population than the other areas. The Applicant further states that although there are other ASCs available in Hinds and Rankin counties in ASPA 5, there is no ASC currently located in Madison County. The Applicant submitted maps and a chart that shows Madison County’s population as 119,716

and the total population for ASPA 5 as 796,224. The Applicant asserts that the population of Madison County meets the 60,000 population within a thirty (30) minute travel time.

**SHP Criterion 3 – Present Utilization of Ambulatory Surgery Services**

The Applicant states that only two (2) counties in ASPA 5 (Hinds and Rankin) have freestanding multispecialty ASCs. As shown in the table below, the eighteen (18) ORs operating in Hinds and Rankin counties performed an average of 22,121 procedures for an average of 1,229 per OR ( $22,121 / 18 = 1,229$ ). Therefore, the Applicant submits that all existing rooms exceed 800 surgeries per operating room per year. The Applicant further states that the addition of four (4) ORs at Baptist Surgery Center will change the average per room to 1,005 ( $22,121 / 22 = 1,005$ ), which is still above the minimum of 800 procedures per room.

Table 1  
 Selected Freestanding Ambulatory Surgery Data for ASPA 5  
 FY 2020

County	Number of ASCs	Number of ORs	Number of Surgeries
Hinds	3	13	13,716
Rankin	2	5	8,405
<b>Total</b>	<b>5</b>	<b>18</b>	<b>22,121</b>

Source: *FY 2022 Mississippi State Health Plan, Third Edition*

**SHP Criterion 4 – Affirmation of Provision of Surgical Services**

The Applicant affirms Baptist Surgery Center will offer a full range of surgical services in general surgery. The Applicant states the services Baptist Surgery Center will offer include gastrointestinal, otolaryngology, OB/GYN, plastics, podiatry, pain, and orthopedics.

**SHP Criterion 5 – Financial Feasibility**

The Applicant submits that the financial analysis shows a positive net income in Year 2. The Income Statement contained in the application reflects a net income of \$144,279 for the second year of operation.

**SHP Criterion 6 – Letters of Support**

The application contained affidavits and support from ten (10) physicians indicating their commitment to perform a combined total of 4,100 surgeries at the proposed ASC (See Attachment 2).

**SHP Criterion 7 – Staffing Standards**

The Applicant affirms that medical staff will live within twenty-five (25) miles of the facility.

### **SHP Criterion 8 – Transfer Agreements/Follow-up Services**

The Applicant submits that Baptist Surgery Center will have a formal agreement with Mississippi Baptist Medical Center and arrangements with other resources through the Baptist Memorial Health Care Corporation. The Applicant further states that the technical and social support structure is already in place for pre-screening and follow-up services within the BMHCC network.

### **SHP Criterion 9 – Indigent/Charity Care**

Baptist Surgery Center certifies that it shall provide a reasonable amount of indigent/charity care.

## **B. General Review (GR) Criteria**

Chapter 8 of the *Mississippi Certificate of Need Review Manual, Revised September 1, 2019*, addresses the general criteria by which all CON applications are reviewed. This application substantially complies with the general review criteria contained in the Manual.

### **GR Criterion 1- State Health Plan**

The project was reviewed for compliance with the *FY2022 Mississippi State Health Plan, Third Edition*, and was found to substantially comply with the *FY 2022 MSHP's* policies, criteria, and standards governing the establishment of an ASC and the provision of ambulatory surgical services.

### **GR Criterion 2 – Long Range Plan**

The Applicant states Baptist continuously reviews health needs throughout the region it serves. The Applicant further states Baptist is committed to providing Mid-south patients, families, and physicians with the assurance and confidence that comes from excellent, compassionate, advanced care in the most effective and efficient manner possible. The Applicant believes that the use of the existing Madison location will provide a setting that is responsive to current payor incentives and to patient choice and consistent with the long-range plan. Baptist Surgery Center states the planning process to determine if the reuse of the existing space for ambulatory surgery was needed included analyzing trends in surgeries within the hospital, which showed growth that they are above optimal limits, which could hamper access for patients.



### GR Criterion 3 – Availability of Alternatives

The Applicant states that three (3) alternatives were considered: 1) maintain the status quo for a time and continue to observe changes in patients and services; 2) find another location and build a new facility; and 3) reopen the location as a multispecialty ambulatory surgery center.

- a. **Advantages and Disadvantages:** The Applicant states the alternative to maintain the status quo was not responsive to the patient's need for the choice of settings, nor did it provide a solution for the vacant space in Baptist Madison. Further, the Applicant states that selecting a new location with construction involves additional cost, and erecting a new facility would also not resolve a use for the existing Baptist Madison campus space. The Applicant identifies three (3) advantages for the chosen alternative: 1) The Baptist Madison campus is the least expensive with only the addition of new equipment required; 2) It serves a high number of current Baptist patients in familiar surroundings; and 3) The infrastructure for pre and post-op services is in place.
- b. **New Construction Projects:** The Applicant states the chosen option is essentially the modernization of an existing facility and does not include new construction.
- c. **Beneficial Effects to the Health Care System:** The Applicant states that the selected option to establish the ASC in the existing Baptist Madison campus space was the best solution. The Applicant states the proposed project brings services that currently aren't available because there is not a multi-specialty licensed ASC within Madison County. The Applicant states that this option is less costly since only new equipment is required, and access is improved for patients who may already be using services in the same building. The Applicant does not expect the location will be disruptive to existing providers.
- d. **Effective and Less Costly Alternatives:** Baptist Surgery Center asserts there is no less costly alternative.
  - i. **Unnecessary Duplication of Services:** The Applicant states that Madison County currently does not have a multi-specialty ASC.
  - ii. **Efficient Solution:** The Applicant asserts that the Baptist Madison campus is the least expensive alternative since only new equipment is required. The Applicant states that the selected option provides improved access for patients who may already be using existing services at the Baptist Madison campus. The Applicant further states that the campus serves a high number of current Baptist patients in familiar surroundings, and the infrastructure for pre and post-op services is already in place.

- e. **Improvements and Innovations:** The Applicant asserts that the project is a cost-effective use of existing space with only the modernization of equipment required for completion. Furthermore, the Applicant states that it places an ASC in a county that currently doesn't have that setting and adds capacity in an ASPA that will support the service without reducing others below optimum utilization.
- f. **Relevancy:** The Applicant states that the project adds a setting that improves choices and promotes consumer satisfaction. The Applicant states that the project is responsive to payors' incentives to move care to the least expensive setting.

#### **GR Criterion 4 - Economic Viability**

- a. **Proposed Charges for and profitability of the proposed service:** The Applicant states the proposed charges are based on current charges for procedures at other ASCs that are associated with Baptist Memorial Health Care Corporation. The profitability and level of operation are based on patient locations that are currently served in Baptist locations for similar procedures, such as DeSoto Surgery Center, located on the campus of Baptist Memorial Hospital-DeSoto. The Applicant states that Madison and DeSoto counties are similar by comparison using US Census data.
- b. **Reasonably consistency of projected levels of utilization:** The Applicant asserts that other multi-specialty surgery centers in ASPA 5 are operating above the optimal level and are expected to continue at that level. In addition, the Applicant states that Baptist patients are already using other services at the proposed location and are expected to be the primary source for utilization at the ASC.
- c. **Financial Feasibility Study:** The Applicant included a financial feasibility study prepared by the Executive Vice President and Chief Financial Officer of Baptist Memorial Health Care Corporation, affirming that sufficient cash reserves are available to fund the project.
- d. **Financial Forecasts:** The Applicant states that as a new operation, there are no previous statements for the multi-specialty ASC; however, the financial forecasts are reasonable for the new service.
- e. **Covered Expenses:** The Applicant refers to the statement from the Chief Financial Officer that confirms Baptist will fund working capital and has the resources to cover any expenses as needed.
- f. **Impact of Proposed Project on Health Care Cost:** The Applicant states that the cost of healthcare will be positively influenced by the Centers for

Medicare and Medicaid Services (CMS) as reflected in changes to reimbursement tables for ASCs. The Applicant states that Medicaid-covered patients will participate in the proposed lower-cost setting.

#### **GR Criterion 5 - Need for the Project**

- a. **Access by Population Served:** The Applicant states that a multi-specialty ASC does not currently operate in Madison County; therefore, the modernization of an existing structure through the installation of new equipment and renovation will extend the service into the community. In addition, the Applicant states that the population includes underserved groups such as racial and ethnic minorities, women, disabled persons and other underserved groups, and the elderly.

The Applicant states the two (2) counties in ASPA 5 with licensed freestanding ASCs are Hinds and Rankin. The Applicant affirms Hinds and Rankin operate a combined eighteen (18) ORs and performed a total of 22,121 surgeries for an average of 1,229 procedures per room during FY 2020. The Applicant states that the addition of four (4) ORs at Baptist Surgery Center will change the average per room to 1,005 surgeries per OR, which still exceeds the minimum of 800 procedures per room.

- b. **Relocation of Services:** Not applicable. The Applicant does not propose to relocate or replace services.
- c. **Current and Projected Utilization of Comparable Facilities:** The Applicant asserts that the addition of operating rooms is justified since the current ORs in ASPA 5 exceed 800 surgeries per OR per year, which exceed the minimum number of surgeries required per OR.
- d. **Probable Effect on Existing Facilities in the Area:** The Applicant states that the project is anticipated to have no effect on the operation of existing multi-specialty ASCs in ASPA 5. The Applicant states that based on the FY 2020 data for ASPA 5 contained in Table 7-2 in the *FY 2022 State Health Plan*, the average number per suite is 22,121/18 or 1,229. Therefore, all existing rooms exceed 800 surgeries per OR per year. The Applicant further stated that with the addition of four (4) ORs at Baptist Surgery Center, the average per room would be 1,005 per room which is a stall above the minimum of 800 procedures per OR.
- e. **Community Reaction:** The application contained affidavits from ten (10) physicians in support of the project.

In addition, MSDH received one (1) letter in opposition to the proposed project submitted by Merit Health River Oaks. Merit Health River Oaks

contends that the proposed project fails to comply with the *MS State Health Plan* and will result in an unnecessary duplication of health services.

The Applicant maintains that the proposed project complies with the *MS State Health Plan* and that the approval of the Baptist application will not result in an unnecessary duplication of health services. The Applicant asserts that the proposed project will provide needed access to outpatient surgery services in the largest county in the State without such services, while promoting cost containment, consistent with the General CON policies in Section 102 of the State Health Plan.

**GR Criterion 6 - Accessibility**

- a. **Access to Services:** The Applicant affirms that all patients, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women, disabled persons, and the elderly, will have access to the ASC. The following table indicates the Applicant’s projected medically indigent and charity care for the first two (2) years of operation.

	Medically Indigent (%)	Charity Care (%)	Medically Indigent (\$)	Charity Care (\$)
Projected Year 1	0.375%	0.375%	\$69,664.50	\$69,664.50
Projected Year 2	0.375%	0.375%	\$99,519.50	\$99,519.50

- b. **Existing Obligations:** The Applicant indicates that Baptist Surgery Center does not have any existing obligations under federal regulation.
- c. **Unmet Needs of Medicare/Medicaid and Medically Indigent Patients:** The Applicant submits Medicare, Medicaid, and medically indigent patients will have access to all ASC services.
- d. **Access to Proposed Facility or Service:** The application contains the Applicant’s admission policy pertaining to access to services. The Applicant submits the policies will be further developed for the ASC upon implementation.
- e. **Access Issues:**
  - i. **Transportation and Travel:** The Applicant states Baptist Surgery Center will be located at 401 Baptist Drive in Madison, which is directly accessible from Interstate 55. The Applicant further states the site is an established location for Baptist Medical Services.

- ii. **Restrictive Admissions Policy:** The Applicant's application included a copy of the facility's proposed patient admissions policy.
- iii. **Access to Care by Medically Indigent Patients:** The Applicant states, consistent with the admissions policies of MBMC, medically indigent patients will have access to the services.
- iv. **Operational Hours of Service:** The Applicant states Baptist Surgery Center will operate from 7:00 am to 5:00 pm each day. The Applicant states that the Surgery Center will be used after hours as needed for emergencies.

#### **GR Criterion 7 - Information Requirement**

The Applicant affirms that it will record, maintain, and provide the information required by this criterion upon request of the Mississippi State Department of Health.

#### **GR Criterion 8 - Relationship to Existing Health Care System**

- a. **Comparable Services:** The Applicant asserts that the updated Ambulatory Surgery Need Assessment from the most recently available State Health Plan, *FY 2022 MSPH, Third Edition*, indicates that the ASCs in ASPA 5 are performing above the 800 surgeries per operating room per year and will continue to after four (4) new ORs are added by Baptist Surgery Center.
- b. **Effect on Existing Health Services:**
  - i. **Complement Existing Services:** The Applicant asserts that the ASC will add needed capacity in ASPA 5, which is the largest ASPA region in the state and currently provides surgeries substantially above the optimal amount per room.
  - ii. **Provide Alternative or Unique Service:** The Applicant asserts that the ASC will provide a choice for patients seeking an alternative non-hospital setting.
  - iii. **Provide a Service for a Specified Target Population:** The Applicant states that the ASC is responsive to payors and consumers seeking the same quality of care for less expense.
  - iv. **Provide Services for Which There is an Unmet Need:** The Applicant asserts that the ASC will provide capacity in Madison County, which is growing and presently does not have a multi-specialty ASC.

- c. **Adverse Impact:** The Applicant asserts that the ASC will provide capacity to prevent problems in allocating space.
- d. **Transfer/Referral/Affiliation Agreements:** The Applicant states that Baptist Surgery Center will have a transfer agreement with Mississippi Baptist Medical Center as the ASC will be part of the BMHCC network and will access established facilities for pre-and post-surgical care. Further, the Applicant states that agreements will be established as needed after implementation of the ASC.

#### **GR Criterion 9 - Availability of Resources**

- a. **New Personnel:** The Applicant states new personnel associated with the proposed project include Registered Nurses and Licensed Practical Nurses and technicians. The Applicant further states that Baptist has resources for recruitment across the system and operates the Baptist Health Sciences University in Memphis. According to the Applicant, the University is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award the Doctor of Nursing Practice, Bachelor of Science in Nursing, the Bachelor of Health Sciences, and the Associate of Science.
- b. **Contractual Services:** The Applicant states that Baptist Surgery Center will identify and establish any needed and appropriate clinically related contractual support service needs prior to commencing operations; however, nothing is anticipated outside the Baptist system.
- c. **Satisfactory Staffing History:** The Applicant affirms that Baptist Memorial Health Care Corporation has a long history of providing health excellence through qualified and dedicated personnel.
- d. **Alternative Uses of Resources:** The Applicant asserts that the proposed ASC is the appropriate use of health resources to respond to patient needs.

#### **GR Criterion 10 – Relationship to Ancillary or Support Services**

- a. **Support and Ancillary Services:** The Applicant asserts all necessary support and ancillary services for the proposed project will be provided through the local and regional resources of BMHCC. The Applicant states that Baptist will also contract with other health care providers as needed to provide ASC services in Madison.
- b. **Changes in Costs or Charges:** The Applicant states that the costs and charges of the proposed project are presented in detail in the Financial Tables. As this is a new facility, there are no changes.
- c. **Accommodation of Changes in Cost or Charges:** The Applicant affirms

this criterion is not applicable to the proposed project.

### **GR Criterion 11 – Health Professional Training Programs**

The Applicant states that in addition to operating the Baptist Health Science University, Baptist has clinical affiliations with local colleges, universities, and other health-related programs. The Applicant affirms that Baptist Surgery Center will serve as a new provider available to meet the needs of health professional training programs in the service area.

### **GR Criterion 12 – Access by Health Professional Schools**

As previously stated, the Applicant affirms that Baptist Surgery Center will serve as a new provider available to meet the needs of health professional training programs in the service area.

### **GR Criterion 13 – Access by Individuals Outside Service Area**

The Applicant states Baptist Surgery Center will primarily serve the counties in ASPA 5 but will fully adapt to any special needs or circumstances possible through the resources and skills of BMHCC.

### **GR Criterion 14 - Construction Projects**

The Applicant affirms that the project does not require new construction; however, the Applicant will renovate approximately 14,318 square feet of space to accommodate the ASC.

### **GR Criterion 15 – Competing Applications**

There are no competing applications on file with the Mississippi State Department of Health for the establishment of a freestanding multi-specialty ambulatory surgery center.

### **GR Criterion 16 - Quality of Care**

- a. **Past Quality of Care:** This criterion is not applicable. The Applicant states that the project involves existing buildings, but the building will be modernized with new equipment for the newly licensed entity.
- b. **Improvement of Quality of Care:** The Applicant asserts that the project is a cost-effective use of existing space. The Applicant states the proposed project places an ASC in a county that currently does not have a multi-specialty setting and adds capacity to an ASPA that will support the service.

- c. **Accreditations and/or Certifications:** The Applicant affirms that the project will be certified for Medicare and Medicaid patients and will evaluate accreditation status after becoming operational.

**IV. FINANCIAL FEASIBILITY**

**A. Capital Expenditure Summary**

Cost Item	Projected Cost	Percentage of Cost (%)
Construction Cost – New	\$ 0.00	0.00%
Construction (Renovation)	100,000.00	1.88%
Capital Improvement	0.00	0.00%
Total Fixed Equipment	1,267,603.00	23.85%
Non-fixed Equipment	3,620,775.00	68.12%
Land Cost	0.00	0.00%
Site Preparation	0.00	0.00%
Fees (Architectural)	0.00	0.00%
Fees (Legal & Acct.)	15,000.00	0.28%
Contingency Reserve	54,000.00	1.02%
Capitalized Interest	0.00	0.00%
Other (Info. Technology)	258,000.00	4.85%
<b>Total Expenditure</b>	<b>\$ 5,315,378.00</b>	<b>100.00%</b>

**B. Method of Financing**

The Applicant proposes to finance the project with cash reserves from Baptist Memorial Health Care Corporation. The Applicant also proposes to lease the building for approximately \$312,000.00 per year. The application contains a letter signed by the Executive Vice President and Chief Financial Officer of Baptist Memorial Health Care Corporation attesting to the ability of Mississippi Baptist Surgery Center, LLC to undertake the project. In addition, the application contains a letter from Mississippi Baptist Health Systems, Inc. indicating its intent to enter into a lease agreement with Mississippi Baptist Surgery Center, d/b/a Baptist Surgery Center, for the lease of space for the operation of an ASC.

**C. Effect on Operating Cost**

The Applicant's three-year projected operating statement is presented in Attachment 1.

**D. Cost to Medicaid/Medicare**

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



<b>Payor Mix</b>	<b>Utilization Percentage (%)</b>	<b>First-Year Revenue (\$)</b>
<b>Medicare</b>	26%	\$4,862,067.00
<b>Medicaid</b>	12%	\$2,203,730.00
<b>Commercial</b>	59%	\$11,102,621.00
<b>Self-Pay</b>	1%	\$216,917.00
<b>Charity Care</b>	1%	\$139,327.00
<b>Other</b>	1%	\$191,601.00
<b>Total</b>	<b>100%</b>	<b>\$18,716,263.00</b>

**V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES**

The Division of Medicaid (“DOM”) was provided a copy of this application for review and comment. As of July 24, 2023, no comments have been received from DOM.

**VII. CONCLUSION AND RECOMMENDATION**

This project substantially complies with the criteria and standards for Ambulatory Surgery Services as contained in the *FY 2022 Mississippi State Health Plan, Third Edition*; the *Mississippi Certificate of Need Review Manual, September 1, 2019, Revision*; and the duly adopted rules, procedures, and plans of the Mississippi State Department of Health.

The Division of Health Planning and Resource Development recommends approval of the application submitted by Mississippi Baptist Surgery Center, LLC, d/b/a Baptist Surgery Center, for the Establishment of a Freestanding Ambulatory Surgery Facility and Offering of Ambulatory Surgery Services.

**Attachment 1**

<b>Mississippi Baptist Surgery Center, LLC d/b/a Baptist Surgery Center Three-Year Operating Statement (Project Only)</b>			
	Year 1	Year 2	Year 3
<b>Revenue</b>			
Patient Revenue:	N/A	N/A	N/A
Inpatient	N/A	N/A	N/A
Outpatient	\$18,716,263.00	\$ 26,537,484.00	\$ 28,396,174.00
<b>Gross Patient Revenue</b>	<b>\$18,716,263.00</b>	<b>\$ 26,537,484.00</b>	<b>\$ 28,396,174.00</b>
Charity Care	\$ 139,327.00	\$ 199,039.00	\$ 212,971.00
Deductions from Revenue	\$13,878,242.00	\$ 19,826,059.00	\$ 21,213,883.00
<b>Net Patient Revenue</b>	<b>\$ 4,698,694.00</b>	<b>\$ 6,512,386.00</b>	<b>\$ 6,969,320.00</b>
Other Operating Revenue			
<b>Total Operating Revenue</b>	<b>\$ 4,698,694.00</b>	<b>\$ 6,512,386.00</b>	<b>\$ 6,969,320.00</b>
<b>Expenses</b>			
Operating Expenses:			
Salaries	\$ 1,165,220.00	\$ 1,714,539.00	\$ 1,889,592.00
Benefits	291,305.00	428,635.00	472,398.00
Supplies	1,029,907.00	1,471,295.00	1,574,286.00
Services	734,073.00	1,048,690.00	1,122,097.00
Lease	312,000.00	312,000.00	312,000.00
Depreciation	715,947.00	715,947.00	715,947.00
Interest	0.00	0.00	0.00
Other	473,911.00	677,001.00	724,394.00
<b>Total Expenses</b>	<b>\$4,722,363.00</b>	<b>\$ 6,368,107.00</b>	<b>\$ 6,810,714.00</b>
<b>Net Income (Loss)</b>	<b>\$ (23,669.00)</b>	<b>\$ 144,279.00</b>	<b>\$ 158,606.00</b>
<b>Assumptions</b>			
Inpatient days	0	0	0
Outpatient days	260	260	260
Procedures	2,870	4,100	4,387
Charge/outpatient day	\$ 71,986.00	\$ 102,067.00	\$ 109,216.00
Charge per inpatient day	N/A	N/A	N/A
Charge per procedure	\$ 6,521.00	\$ 6,473.00	\$ 6,473.00
Cost per inpatient day	N/A	N/A	N/A
Cost per outpatient day	\$ 18,163.00	\$ 24,493.00	\$ 26,195.00
Cost per procedure	\$ 1,645.00	\$ 1,553.00	\$ 1,552.00

**Attachment 2**  
**Mississippi Baptist Surgery Center, LLC d/b/a Baptist Surgery Center**  
**Summary of Physician Affidavits**

<b><u>Physician Name</u></b>	<b><u>Surgeries/Procedures</u></b>
Pegah Hosseine-Carroll, M.D.	500
Gregory Fisher, M.D.	300
Brian Hamilton, M.D.	300
Kara Logan, M.D.	300
Amanda Nicols, M.D.	200
Lee Nicols, M.D.	500
Elizabeth Schimmel, M.D.	500
Andrew Weeks, M.D.	500
James Z. Whatley, M.D.	500
Tyler Winford, M.D.	<u>500</u>
Total Annual Surgeries/Procedures	4,100