MARYLAND Health Care Commission

Randolph S. Sergent, Esq., Chairman
Ben Steffen, Executive Director

MEMORANDUM

TO: Commissioners

FROM: Wynee E. Hawk
Chief, Certificate of Need

RE: Chesapeake Eye Surgery Center, LLC
Certificate of Need for an Ambulatory Surgical Facility in Anne Arundel County
Docket No. 22-03-2461

DATE: April 20, 2023

Chesapeake Eye Surgery Center (CESC) is an existing ambulatory surgery center (ASC-2)[1] that provides ophthalmic surgery outpatient procedures with two operating rooms (OR) and two procedure rooms located at 2002 Medical Parkway, Suite 330 in Annapolis, Anne Arundel County.

Project Description

CESC seeks a Certificate of Need from the Maryland Health Care Commission to add one sterile OR to its existing center, resulting in three sterile ORs after project completion and thereby establishing an ambulatory surgical facility (ASF).[2] The applicant states that the project will renovate and convert an existing recovery room to an OR, as well as expand the preoperative and postoperative area.

The estimated capital cost to renovate existing space into a third OR is $636,164, to be paid for by the applicant in cash. CESC states that the original facility was designed and built for three ORs, but only two were originally commissioned. The project includes 494 square feet of renovations and reconfigurations to the existing center to allow for the new staff areas.

[1] COMAR 10.24.11.07B(2) defines an "ambulatory surgery center" (ASC) as any center, service, office, facility, or office of one or more health care practitioners, a group practice, or a non-rate-regulated center owned by a hospital that has no more than two operating rooms, that operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization, and that seeks reimbursement from payors for the provision of ambulatory surgical services. An ASC-2 is an ambulatory surgery center with two operating rooms.

[2] COMAR 10.24.11.07B(3) defines an ambulatory surgical facility as a health care facility that: (a) has three or more operating rooms; (b) operates primarily for the purpose of providing surgical services to patients who do not require overnight hospitalization and (c) seeks reimbursement from payors as an ambulatory surgical facility.

Staff Recommendation

The relevant State Health Plan (SHP) chapter considered in the review of this project is COMAR 10.24.11, State Health Plan for Facilities and Services: General Surgical Services. Also considered are the general CON review criteria at COMAR 10.24.01.08G(3)(a) through (f).

Staff concludes that CESC has complied with all applicable SHP standards in COMAR 10.24.11. CESC's projected surgical case volume and OR surgical minutes support the need for the addition of a third operating room and the establishment of an ASF. Also, under the review criterion of COMAR 10.24.01.08G(3), staff concludes that CESC's forecasts are credible, the project is financially viable, and that the project is a cost-effective option for delivering outpatient surgical services for physicians and residents within its service area. The project will have a positive impact on patient access and will not negatively impact the cost of outpatient surgery in the service area, nor will the project have a significant negative impact on existing providers of outpatient surgical services.

Based on the conclusion that the proposed project complies with the applicable standards in COMAR 10.24.11, the General Surgical Services chapter of the State Health Plan, and with the Certificate of Need review criterion at COMAR 10.24.01.08G(3)(a)-(f), and as explained more fully in this Staff Report, Staff recommends the Maryland Health Care Commission find that applicant has met its burden and **APPROVE** CESC's application for a Certificate of Need with the following condition:

> Chesapeake Eye Surgery Center shall continue to provide a patient with an estimate of out-of-pocket charges prior to arrival for surgery.

cc: Jennifer Knopp, RN, Director of Surgical Services
Patricia Nay, M.D., Executive Director, Office of Health Care Quality, MDH
Alexa Bertinelli, Assistant Attorney General, MHCC
Caitlin Tepe, Assistant Attorney General, MHCC
Laura Hare, Program Manager, MHCC
Tonii Gedin, RN DNP, Acting Health Officer, Anne Arundel County

IN THE MATTER OF	*	**BEFORE THE**
	*	
CHESAPEAKE EYE SURGERY	*	**MARYLAND**
	*	
CENTER, LLC	*	**HEALTH CARE**
	*	
Docket No. 22-03-2461	*	**COMMISSION**
	*	

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STAFF REPORT AND RECOMMENDATION

April 20, 2023

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I. INTRODUCTION

The Applicant

Chesapeake Eye Surgery Center (CESC) is an existing ambulatory surgery center (ASC-2)[1] that provides ophthalmic surgery outpatient procedures with two operating rooms (OR) and two procedure rooms located at 2002 Medical Parkway, Suite 330 in Annapolis, Anne Arundel County. (DI #2, p. 7). Vision Innovation Partners Topco, L.P is the 100% owner of CESC. Vision Innovation Partners Topco, L.P. is owned by Gryphon Partners, VI, L.P. (30.3 percent), Gryphon Partners VI-A, L.P. (41 percent), Maria Scott, M.D. (4.5 percent), and several additional owners with less than two percent ownership each. (DI #2, Exh. 1).

The Project

CESC proposes the addition of one sterile OR, resulting in three sterile ORs after project completion, thereby establishing an ambulatory surgical facility (ASF).[2] The applicant states that the project will renovate and convert an existing recovery room to an OR, as well as expand the preoperative and postoperative area. (DI #2, p. 7). The new OR will be approximately 300 square feet (SF), the same size as the two existing ORs. The applicant specifically stated that this project will not cause changes to the physical plant or location, nor will it affect CESC's existing services. (DI #2, p. 8).

The estimated capital cost to renovate existing space into a third OR is $636,164, to be paid for by the applicant in cash. The applicant states that the original facility was designed and built for three ORs, but only two were originally commissioned. The space for the proposed third OR is currently used as a recovery room that will now be converted to an OR. CESC states that, in accordance with the FGI Guidelines, it will add additional support spaces for the staff and patients. The project includes 494 SF of renovations and reconfigurations to the existing center to allow for the new staff toilet, staff support, and related areas.

The applicant expects to begin renovation within three months after the capital obligation is secured, the proposed project is expected to be completed within four months after initiation of construction. Applicant projects requesting first use for the new OR in November 2023. (DI #2, pp. 8, 10).

Staff Recommendation

Staff concludes that CESC has complied with all applicable State Health Plan (SHP) standards in COMAR 10.24.11, specifically that projected surgical case volume and OR surgical

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minutes support the need for the addition of a third operating room and the establishment of an ASF. Also, under the review criterion of Viability at COMAR 10.24.01.08G(3)(d) staff concludes that CESC's forecasts are credible, the project is financially viable, and is a cost-effective option for delivering outpatient surgical services for physicians and residents within its service area. The project will have a positive impact on patient access and will not impact the cost of outpatient surgery in the service area, nor will the project have a significant negative impact on existing providers of outpatient surgical services.

Based on the conclusion that the proposed project complies with the applicable standards in COMAR 10.24.11, the General Surgical Services chapter of the State Health Plan, and with the Certificate of Need review criterion at COMAR 10.24.01.08G(3)(a)-(f), as explained more fully in this Staff Report, staff finds that applicant has met its burden of proof and recommends the Commission APPROVE a CON for the proposed ambulatory surgical facility with the following condition:

> Chesapeake Eye Surgery Center shall continue to provide a patient with an estimate of out-of-pocket charges prior to arrival for surgery.

II. PROCEDURAL HISTORY

A. Record of the Review

Please see Appendix 1, Record of the Review.

B. Interested Parties

There are no interested parties in this review.

C. Local Government Review and Comment

No comments were received from a local governmental body.

D. Community Support

No letters of community support were submitted on behalf of the applicant nor were any letters of community support received by the Commission.

III. REVIEW AND ANALYSIS

Commission regulations at COMAR 10.24.01.08G(3)(a) through (f) identify six criteria for use in the review of proposed projects seeking CON approval. The first is evaluation of the relevant SHP standards, policies, and criteria.

A. The State Health Plan

COMAR 10.24.01.08G(3)(a) State Health Plan

An application for a Certificate of Need shall be evaluated according to all relevant State Health Plan standards, policies, and criteria.

The relevant SHP chapter to be considered in the review of this project is COMAR 10.24.11, SHP for Facilities and Services: General Surgical Services.

COMAR 10.24.11.05A - General Standards. The following general standards encompass Commission expectations for the delivery of surgical services by all health care facilities in Maryland, as defined in Health General §19-114(d). Each applicant that seeks a Certificate of Need for a project covered by this Chapter shall address and document its compliance with each of the following general standards as part of its application.

(1) Information Regarding Charges and Network Participation.

Information regarding charges for surgical services shall be available to the public.

(a) Each ambulatory surgery center, ambulatory surgical facility, and hospital shall provide to the public, upon inquiry or as required by applicable regulations or law, information concerning charges for the full range of surgical services provided.

(b) Each ambulatory surgery center, ambulatory surgical facility, and general hospital shall provide to the public, upon inquiry or as required by applicable regulations, the names of the health carrier networks in which it currently participates.

(c) Each ambulatory surgery center, ambulatory surgical facility, and general hospital shall provide to the public, upon inquiry, the names of the health carrier networks in which each surgeon and other health care practitioner that provides services at the facility currently participates.

(d) The Commission shall consider complaints to the Consumer Protection Division in the Office of the Attorney General of Maryland or to the Maryland Insurance Administration when evaluating an applicant's compliance with this standard in addition to evaluating other sources of information.

(e) Providing a patient with an estimate of out-of-pocket charges prior to arrival for surgery shall be a condition of any CON issued by the Commission.

CESC maintains a charge list for all procedures in its practice management software and updates it periodically. A document version of this list is available to the public upon request. The applicant states in its CON application and on its website that it provides information regarding charges to all patients prior to surgery.[3] This information consists of an educational guide on financial services explaining estimates of charges and insurance specific payments and rates based upon procedure. CESC also states that it communicates regularly with patients and insurance providers regarding what will and will not be covered by insurance providers. (DI#1, pp. 14-15). The following is a list of the health carrier networks with which CESC's physicians participate:

[3] https://www.chesapeakeeyecare.com/services/cataract-surgery

Atena, Alterwood Advantage, Blue Cross Blue Shield, Carefirst BCBC, Cigna, CHAMPVA, Humana, Johns Hopkins, Medicaid MD, Medicare, Railroad Medicare, Tricare, and United Healthcare. CESC will provide specific information regarding health carrier networks to the public upon request. (DI#9, p. 2).

The applicant also states that it is unaware of any complaints to the Consumer Protection Division in the Office of the Attorney General of Maryland or to the Maryland Insurance Administration. (DI#9, p. 2).

Staff concludes that CESC meets this standard, and in response to subpart (e), recommends that if the Commission chooses to approve a CON, it should include the following condition:

> Chesapeake Eye Surgery Center shall continue to provide a patient with an estimate of out-of-pocket charges prior to arrival for surgery.

(2) <u>Information Regarding Procedure Volume.</u>

Each hospital, ambulatory surgical facility, and ambulatory surgery center shall provide to the public upon inquiry information concerning the volume of specific surgical procedures performed at the location. A hospital, ambulatory surgical facility, or ASC shall provide the requested information on surgical procedure volume for the most recent 12 months available, updated at least annually.

CESC states that, upon inquiry, it will provide information on surgical procedure volume for the most recent 12 months available and will update this information at least annually. (DI #9, p. 3).

Staff concludes that CESC complies with this standard.

(3) <u>Charity Care and Financial Assistance Policy.</u>

Each hospital and ambulatory surgical facility shall have a written policy for the provision of charity care and financial assistance regarding free and reduced-cost care to uninsured, underinsured, or indigent patients and shall provide ambulatory surgical services on a charitable basis to qualified persons consistent with the policy. The policy shall include, as applicable below, at a minimum:

(a) Determination of Eligibility for Charity Care or Financial Assistance. Within two business days following a patient's request for charity care services, application for medical assistance, or both, the hospital or ambulatory surgical facility shall make a determination of probable eligibility and notify the patient of that determination.

The applicant's charity care policy states that it will make and communicate a decision regarding a patient's probable eligibility within two days of receiving a request for charity care and will base its decision on the patient's statement of annual income and number of family members. (DI #1, Exh. 10, Item 5b).

(b) Notice of Charity Care and Financial Assistance Policy. Public notice and information regarding the hospital or ambulatory surgical facility's charity care policy shall be disseminated, on an annual basis, through methods designed to best reach the facility's service area population in a format understandable by the service area population. Notices regarding the facility's charity care policy shall be posted in the registration area and business office of the facility. This notice shall include general information about who qualifies and how to obtain a copy of the policy or may include a posted copy of the policy. Prior to a patient's arrival for surgery, the facility shall address any financial concerns of the patient, and individual notice regarding the facility's charity care policy shall be provided.

CESC states that notice of its Charity Care Policy is posted in the Business Office and in the waiting area in English and Spanish. Other language interpretations are available upon request. CESC also provides public notice and information regarding the facility's Charity Care Policy through the Annapolis Capital Gazette and on relevant websites. (DI #2, p. 16, DI#9, p. 52).

(c) Criteria for Eligibility. A hospital shall comply with applicable State statutes and HSCRC regulations regarding financial assistance policies and charity care eligibility. A health maintenance organization, acting as both the insurer and provider of health care services for members, shall have a financial assistance policy for its members that is consistent with the minimum eligibility criteria for charity care required of ambulatory surgical facilities described in these regulations. An ambulatory surgical facility, at a minimum, shall include the following eligibility criteria in its charity care policies:

(i) Persons with family income below 100 percent of the current federal poverty guideline who have no health insurance coverage and are not eligible for any public program providing coverage for medical expenses shall be eligible for services free of charge; and

(ii) Persons with family income above 100 percent of the federal poverty guideline but below 200 percent of the federal poverty guideline shall be eligible for services at a discounted charge, based on a sliding scale of discounts for family income bands.

CESC policy directs employees to provide support to patients regarding financial assistance and provide guidance on the eligibility for charity and reduced charge care. CESC provides written notices and policies available in both English and Spanish or language of choice, as well as provides interpreters for non-English speaking patients at no charge. (DI#2, Exh. 10).

CESC's Charity Care Policy defines Criteria for Eligibility as: "Persons with a family income below 100% of current federal poverty guidelines who have no health insurance coverage, insufficient coverage, and are not eligible for any public program to cover medical expenses are eligible for services free of charge. Those above 100% but below 200% are eligible for discounts on a sliding scale for families. Any person stating hardship and are unable to pay the balance of their bill after surgery due to sudden unforeseen hardship will have their situation assessed and evaluated for need and consideration for assistance on a sliding scale prior to being sent for collections. Eligibility criteria will remain the same for that period. (DI#2, Exh. 10). All situations

will be considered and evaluated upon request. The patient will be provided with "a determination of coverage within two business days from (CESC's receipt of) application" for probable eligibility. (DI#2, p. 17).

(d) A hospital with a level of charity care, defined as the percentage of total operating expenses that falls within the bottom quartile of all hospitals, as reported in the most recent HSCRC Community Benefit Report, shall demonstrate that its level of charity care is appropriate to the needs of its service area population.

This standard is not applicable, this is not a hospital application.

(e) A hospital shall be able to demonstrate that its historic level of charity care or its projected level of charity care is appropriate to the needs of its actual or projected service area population. This demonstration shall include an analysis of the socio-economic conditions of the hospital's actual or projected service area population, a comparison of those conditions with those of Maryland's overall socio-economic indicators, and a comparative analysis of charity care provision by the applicant hospital and other hospitals in Maryland. The socio-economic indicators evaluated shall include median income and type of insurance by zip code area, when available. The analysis provided may also include an analysis of the social determinants of care affecting use of health care facilities and services and the health status of the actual or projected hospital service area population.

This standard is not applicable, this is not a hospital application.

(f) An applicant submitting a proposal to establish or expand an ambulatory surgical facility for which third party reimbursement is available, shall commit to provide charitable surgical services to indigent patients that are equivalent to at least the average amount of charity care provided by ambulatory surgical facilities in the most recent year reported, measured as a percentage of total operating expenses. The applicant shall demonstrate that:

(i) Its track record in the provision of charitable health care facility services supports the credibility of its commitment;

(ii) It has a specific plan for achieving the level of charitable care provision to which it is committed; and

(iii) If an existing ambulatory surgical facility has not met the expected level of charity care for the two most recent years reported to the Commission, the applicant shall demonstrate that its historic level of charity care was appropriate to the needs of its service area population.

The average amount of charity care provided in the state of Maryland by ASFs for which third party reimbursement is available was 0.64% in 2019 (the most recent year for which data is available). The applicant acknowledges that any percentage below the State average is inadequate. CESC admits that it cannot document that it has met the Maryland average percentage of charity care for ASFs, because it has not tracked the provision of charity care. CESC was unable to provide the charity care contribution because of how the cases were coded in their former practice

management and billing software. They have since switched to new software that can standardize how charity care is captured and CESC plans to use the new software to monitor their contributions to their projected annual goals. (DI#9, p. 7).

CESC states that it plans to require all staff to attend annual trainings regarding its charity care program. The applicant also stated that it will carefully track and document its charity care provision through its use of Nextgen software. The software can serve as a real- time reporting mechanism that is capable of alerting management towards its progress. Additionally, CESC created a "Charity Care Action Plan" which includes meeting annually with various community organizations to promote the program and commitment to provide surgical services to persons in need. (DI#9, p. 8).

CESC states that these measures will ensure that it has met or exceeded the average amount of charity care provided by ASFs in Maryland. (DI#2, pp. 18-19). CESC also states that it commits to providing charitable surgical services annually at a rate of 1% of total operating expenses. (DI#9, pp. 7-8).

(g) A health maintenance organization, acting as both the insurer and provider of health care services for members, if applying for a Certificate of Need for a surgical facility project, shall make a commitment to provide charitable services to indigent patients. Charitable services may be surgical or non-surgical and may include charitable programs that subsidize health plan coverage. At a minimum, the amount of charitable services provided as a percentage of total operating expenses for the health maintenance organization will be equivalent to the average amount of charity care provided statewide by ambulatory surgical facilities, measured as a percentage of total ambulatory surgical facility expenses, in the most recent year reported. The applicant shall demonstrate that:

(i) Its track record in the provision of charitable health care facility services supports the credibility of its commitment; and

(ii) It has a specific plan for achieving the level of charitable care provision to which it is committed.

(iii) If the health maintenance organization's track record is not consistent with the expected level for the population in the proposed service area, the applicant shall demonstrate that its historic level of charity care was appropriate to the needs of the population in the proposed service area.

The applicant is not a health maintenance organization so this is not applicable.

Based on the answers provided by the applicant, staff concludes that the applicant has met the requirements of all components of the charity care standard.

(4) Quality of Care

A facility providing surgical services shall provide high quality care.

(a) An existing hospital or ambulatory surgical facility shall document that it is licensed, in good standing, by the Maryland Department of Health.

The applicant submitted a copy of its license dated July 1, 2018, from the Maryland Department of Health. (DI#2 Exh. 15).

(b) A hospital shall document that it is accredited by the Joint Commission or other accreditation organization organized by the Centers for Medicare and Medicaid and the Maryland Department of Health as acceptable for obtaining Medicare certification and Maryland licensure.

The applicant is not a hospital.

(c) An existing ambulatory surgical facility or ASC shall document that it is:

(i) In compliance with the conditions of participation of the Medicare and Medicaid programs;

(ii) Accredited by the Joint Commission, the Accreditation Association for Ambulatory Health Care, the American Association for Accreditation of Ambulatory Surgery Facilities, or another accreditation organization recognized by the Centers for Medicare and Medicaid Services as acceptable for obtaining Medicare certification; and

(iii) A provider of quality services, as demonstrated by its performance on publicly reported performance measures, including quality measures adopted by the Centers for Medicare and Medicaid Services. The applicant shall explain how its ambulatory surgical facility or each ASC, as applicable, compares on these quality measures to other facilities that provide the same type of specialized services in Maryland.

To demonstrate compliance with Medicare and Medicaid conditions of participation, the applicant provided letters from the Office of Health Care Quality of the Maryland Department of Health (MDH) dated June 23, 2022, indicating that it was in compliance with Federal participation requirements for an ambulatory surgery center participating in the Medicare and/or Medicaid programs. (DI #2, Ex 17a- 17c). Additionally, CESC states they are certified by the Health Care Financing Administration as a provider in the Medicare program and received certification from the Maryland Department of Health to be a provider in the Medicaid program.

CESC also provided documentation that CESC is accredited by the Accreditation Association for Ambulatory Health Care AAAHC from June 12, 2022 through June 11, 2025. (DI #2, Ex 16).

The applicant states that CESC is enrolled in an ambulatory surgery center quality reporting program, ASCQR, and provided a submission verification showing they had submitted all required measures for the reporting period 2021. CESC also reports through CDC.gov for all HCP Covid-19 vaccination safety component reporting. (DI#9, pgs. 16-18).

(d) An applicant seeking to establish an ambulatory surgical facility shall:

(i) Demonstrate that the proposed facility will meet or exceed the minimum requirements for licensure in Maryland in the areas of administration, personnel, surgical services provision, anesthesia services provision, emergency services, hospitalization, pharmaceutical services, laboratory and radiologic services, medical records, and physical environment;

(ii) Agree that, within two years of initiating service at the facility, it will obtain accreditation by the Joint Commission, the Accreditation Association for Ambulatory Health Care, or the American Association for Accreditation of Ambulatory Surgery Facilities or another accreditation organization recognized by the Centers for Medicare and Medicaid Services as acceptable for obtaining Medicare certification and approved by the State of Maryland; and

(iii) Acknowledge in writing that, if the facility fails to obtain the accreditation in subparagraph (ii) on a timely basis, it shall voluntarily suspend operation of the facility.

The applicant states that upon CON approval, they will notify OHCQ to obtain a new license. A Licensing Survey and Life Safety Survey will be requested and conducted. And Medicare certification will be obtained. Additionally, CESC provided their current State of Maryland license, AAAHC accreditation letter, and Notice of Compliance with Health Component Requirements to demonstrate that the facility currently meets the requirements of licensure and will continue to do so in the future. (DI #9, pgs. 19-20).

CESC provided a signed affirmation from Kevin Blank, CEO, affirming they will obtain accreditation by The Accreditation Association for Ambulatory Health Care (AAAHC) in a timely manner. Mr. Blank also acknowledged in writing that if the facility fails to obtain the accreditation, CESC will voluntarily suspend operation of the facility. (DI #9, pg. 72).

(e) An applicant or a related entity that currently or previously has operated or owned one or more ASCs or ambulatory surgical facilities in or outside of Maryland in the five years prior to the applicant's filing of an application to establish an ambulatory surgical facility, shall provide details regarding the quality of care provided at each such ASC or ambulatory surgical facility including information on licensure, accreditation, performance metrics, and other relevant information.

CESC has 100% ownership in ten other ambulatory surgery centers in Maryland and Pennsylvania. The applicant states all ASCs are compliant with Medicare and Medicaid guidelines and maintain current licensure and accreditation. The application identifies the state license and status as proof. (DI #9, pgs. 20-21). Additionally, the applicant included performance metrics showing the 2021 revenues for each ASC. (DI #9, pg. 21).

Staff finds that applicant complies with this standard.

(5) Transfer Agreements.

(a) Each hospital shall have arrangements for transfer of surgical patients to another hospital that comply with the requirements of Health-General Article §19-308.2

(b) Each ambulatory surgical facility shall have a process for assuring the emergency transfer of surgical patients to a hospital that complies with the requirements of COMAR 10.05.05.09.

CESC submitted a transfer and referral agreement with Anne Arundel Medical Center (DI #2, Exh. 13). The applicant also provided a copy of the facility's policy for emergency transfer of patients from the ASF to a hospital that complies with COMAR 10.05.05.09. (DI#2, Exh 14).

Staff finds the applicant complies with this standard.

B. Project Review Standards.

The standards in this regulation govern reviews of Certificate of Need applications involving surgical facilities and services. An applicant for a Certificate of Need shall demonstrate consistency with all applicable review standards.

(1) Service Area.

An applicant proposing to establish a hospital providing surgical services or an ambulatory surgical facility shall identify its projected service area. An applicant proposing to expand the number of operating rooms at an existing hospital or ambulatory surgical facility shall document its existing service area, based on the origin of patients served.

The primary service area for CESC includes zip code areas located in Anne Arundel County, where more than 50 percent of patients originate. A secondary service area accounting for the balance of total patients includes Queen Anne's and Prince George's County and neighboring regions including Baltimore, Eastern and Southern Shores, as well as Southern Maryland. (DI #2, p. 22, Exh. 22; DI# 9, p. 22).

CESC identified the existing service area consistent with the standard.

(2) Need – Minimum Utilization for Establishment of a New or Replacement Facility.

An applicant proposing to establish or replace a hospital or ambulatory surgical facility shall:

(a) Demonstrate the need for the number of operating rooms proposed for the facility, consistent with the operating room capacity assumptions and other guidance included in Regulation .06 of this Chapter.

(b) Provide a needs assessment demonstrating that each proposed operating room is likely to be utilized at optimal capacity or higher levels within three years of the

initiation of surgical services at the proposed facility, consistent with Regulation .06 of this Chapter.

(c) An applicant proposing to establish or replace a hospital shall submit a needs assessment that includes:

(i) Historic trends in the use of surgical facilities for inpatient and outpatient surgical procedures by the new or replacement hospital's likely service area population;

(ii) The operating room time required for surgical cases projected at the proposed new or replacement hospital by surgical specialty or operating room category; and

(iii) In the case of a replacement hospital project involving relocation to a new site, an analysis of how surgical case volume is likely to change as a result of the relocation.

(d) An applicant proposing the establishment of a new ambulatory surgical facility shall submit a needs assessment that includes the following:

(i) Historic trends in the use of surgical facilities for outpatient surgical procedures by the proposed facility's likely service area population;

(ii) The operating room time required for surgical cases projected at the proposed facility by surgical specialty or, if approved by Commission staff, another set of categories; and

(iii) Documentation of the current surgical caseload of each physician likely to perform surgery at the proposed facility.

CESC proposes the addition of one operating room to its current complement of two ORs, constituting the establishment of this ASC as an ASF. The applicant states that by the year 2026 each OR has the potential to support 2,348 cases for a total case volume of 7,045 cases and 366, 801 OR minutes for the ASF. (DI #13, Tables 2, 3, pp. 3-4).

The applicant currently has six surgeons providing surgical services at their facility. (DI #11, p. 3). Additionally, CESC has recently finalized a contract with a new surgeon and is actively recruiting a second new surgeon to start in 2024. (DI #13, pgs. 3-6). CESC provided a case and OR minute count for each provider for the last two years and projected future case volume and OR minutes for these providers. CESC conservatively projects, based on experience, that the new surgeons will start with a relatively low number of cases in their first year at the practice that will grow over time. (DI#13, p. 2).

CESC projected its volumes based on an assumption that all surgeons currently practicing at the facility will continue, and that their case volumes will return to pre-pandemic levels. The applicant also plans to increase the surgical practice with the addition of two new physicians. (DI#13, p. 2). Staff believes the projected volume is a fair and potentially conservative estimate given the negative impact that the COVID-19 pandemic has had on outpatient surgical volumes statewide and given that the applicant will add two new surgeons over the next calendar year. The applicant provided actual data from their patient management system, ModMed showing its

historical volumes (CY2020-CY2021), and based on the current physician surgical caseloads, the projected volumes. (DI #13, pp. 3-4).

Table III-1 shows the actual surgery volumes at CESC for CY 2020 through CY 2021, and projections for CY 2022 through CY 2026. The total surgical case minutes at CESC increased from 139,867 in 2020 to 194,622 in 2021, approximately 40 percent. The applicant projects a 162 percent increase in total minutes from CY 2020 to CY 2026 based on the anticipation of recovering from the pandemic and the addition of two new physicians. (DI#13, p. 2).

Table III-1: Surgical Cases and Operating Room Minutes
Actual CY2020 – CY2021, and Projected 2022 through 2026

	Actual		Projected					Change 2020-2026
	CY2020	CY2021	CY2022*	CY2023	CY2024	CY2025	CY2026	
Total Cases	**2,331**	**3,585**	**3,541**	**5,445**	**6,755**	**6,990**	**7,045**	**202%**
Total Minutes (Includes turnaround time)	139,867	194,622	191,668	289,155	352,352	363,882	366,801	162%
Total Hours (minutes/60)	2,331	3,244	3,194	4,819	5,873	6,065	6,113	162%
OR Need (Based on Optimal Capacity)	1.43	1.99	1.96	2.95	3.6	3.7	3.75	N/A

Source: DI #13, Tables 2, 3, pp. 3-4
* 2022 volume was impacted by Dr. Scott on medical leave for two months.
Notes: CESC Assumption for turnaround time is 25 minutes

To further justify projected increases in total cases and minutes, CESC cited United States Census Bureau data for its service area related to the aging population. (DI#2, p, 28). According to that data, by 2030, more than 72 million people in the United States will be over 60 years of age, with people older than 85 years a fast-growing segment of the population. The applicant further states that people are living longer, and with advanced age comes increased risks for eye related medical conditions such as: cataracts, glaucoma, macular degeneration, and retinopathy, surgical procedures commonly performed at CESC. (DI#2, p. 28).

The optimal capacity for a dedicated outpatient general purpose OR as set forth in Regulation .06 of the Surgical Services Chapter, is 1,632 hours per year or 97,920 minutes per OR.[4] The 366,801 total minutes projected by CESC yields a need for 3.75 ORs. CESC meets the optimal capacity use standard for this project while continuing to make efficient use of its overall surgical capacity. Staff concludes that CESC has demonstrated near optimal actual utilization of its existing two ORs. With the likelihood of recapturing volume post COVID and adding two

[4] "Optimal capacity" is defined in the General Surgical Services Chapter, COMAR 10.24.11.07A(1)(b)(iii), as 80% of "full capacity use." "Full capacity" for a dedicated outpatient general purpose operating room is defined as operating for a minimum of 255 days per year, eight hours per day, which results in an available full capacity of 2,040 hours per year. Thus, optimal capacity is 1,632 hours per year.

additional surgeons, CESC shows a need for three ORs within the year of completion of the proposed project.

Since filing the original CON application, CESC has submitted several revisions to the OR utilization and needs assessment using the Regulation .06 assumptions of COMAR 10.24.11. CESC states that the previously submitted case minutes in the OR did not capture the time where the patient was being assessed by anesthesia and prepped for the surgical procedure. The amended report was purported to capture all the minutes allocated to the patient while in the OR. (DI #13, p. 1).

Staff concludes that CESC has documented the need for three ORs.

(3) <u>Need – Minimum Utilization for Expansion of An Existing Facility.</u>

An applicant proposing to expand the number of operating rooms at an existing hospital or ambulatory surgical facility shall:

(a) Demonstrate the need for each proposed additional operating room, utilizing the operating room capacity assumptions and other guidance included at Regulation .07 of this chapter;

(b) Demonstrate that its existing operating rooms were utilized at optimal capacity in the most recent 12-month period for which data has been reported to the Health Services Cost Review Commission or to the Maryland Health Care Commission; and

(c) Provide a needs assessment demonstrating that each proposed operating room is likely to be utilized at optimal capacity or higher levels within three years of the completion of the additional operating room capacity, consistent with Regulation .06 of this chapter. The needs assessment shall include the following:

(i) Historic and projected trends in the demand for specific types of surgery among the population in the proposed service area;

(ii) Operating room time required for surgical cases historically provided at the facility by surgical specialty or operating room category; and

(iii)Projected cases to be performed in each proposed additional operating room.

This standard is not applicable, as this applicant seeks to establish a new ASF rather than expand an existing ASF.

(4) Design Requirements

Floor plans submitted by an applicant must be consistent with the current FGI Guidelines:

(a) A hospital shall meet the requirements in current Section 2.2 of the FGI Guidelines.

(b) An ambulatory surgical facility shall meet the requirements in current Section 3.7 of the FGI Guidelines.

(c) Design features of a hospital or ambulatory surgical facility that are at variance with the current FGI Guidelines shall be justified. The Commission may consider the opinion of staff at the Facility Guidelines Institute, which publishes the FGI Guidelines, to help determine whether the proposed variance is acceptable.

CESC provided a copy of a letter signed by Jordan G. Clark, AIA, that the design and construction of the anticipated ASC Expansion and Renovations will adhere to the latest requirements of the FGI guidelines. (DI #2, Exh. 3). A copy of the floor plans for the proposed project can be found in Appendix 3.

Staff finds the applicant complies with this standard.

(5) Support Services

Each applicant seeking to establish or expand an ambulatory surgical facility shall provide or agree to provide laboratory, radiology, and pathology services as needed, either directly or through contractual agreements, in compliance with COMAR 10.05.05.

The applicant provided a Clinical Laboratory Improvement Amendments (CLIA) waiver for limited testing, which was issued on April 15, 2022, and expires on April 14, 2024. (DI#2, Exh. 18). CESC states all other services are outsourced through AAMC and other local providers in the state through contractual agreements.

Staff finds the applicant complies with this standard.

(6) <u>Patient Safety.</u>

The design of surgical facilities or changes to existing surgical facilities shall include features that enhance and improve patient safety. An applicant shall:

(a) Document the manner in which the planning of the project took patient safety into account; and

(b) Provide an analysis of patient safety features included in the design of proposed new, replacement, or renovated surgical facilities.

CESC states that it has considered patient safety in all aspects of the design of the project. Patient safety will be addressed by compliance with and maintaining space requirements outlined in the FGI guidelines with proper finish selections to maximize the ability to sanitize the space. CESC will update the HVAC system to meet or exceed the required air changes in the room, and ensure that the medical gases, call systems, and power meet the FGI requirements. The renovated OR will be designed similarly to the existing ORs, which will allow the facility's staff to navigate the ORs more easily. (DI#2, p. 24).

Staff concludes that the applicant considered patient safety in its design of the proposed ASF and meets this standard.

(7) Construction Costs.

The cost of constructing surgical facilities shall be reasonable and consistent with current industry cost experience.

(a) Hospital projects.

(i) The projected cost per square foot of a hospital construction or renovation project that includes surgical facilities shall be compared to the benchmark cost of good quality Class A hospital construction given in the Marshall Valuation Service® guide, updated using Marshall Valuation Service® update multipliers, and adjusted as shown in the Marshall Valuation Service® guide as necessary for site terrain, number of building levels, geographic locality, and other listed factors.

(ii) If the projected cost per square foot exceeds the Marshall Valuation Service® benchmark cost, any adjustment of the hospital's global budget revenue authorized for the hospital related to the capital cost of the project shall not include:

(1) The amount of the projected construction cost and associated capitalized construction cost that exceeds the Marshall Valuation Service® benchmark; and

(2) Those portions of the contingency allowance, inflation allowance, and capitalized construction interest expenditure that are based on the excess construction cost.

Paragraph (a) does not apply because this is not a hospital project.

(b) Ambulatory Surgical Facilities.

(i) The projected cost per square foot of new construction shall be compared to the benchmark cost of good quality Class A construction given in the Marshall Valuation Service® guide, updated using Marshall Valuation Service® update multipliers, and adjusted as shown in the Marshall Valuation Service® guide as necessary for site terrain, number of building levels, geographic locality, and other listed factors. This standard does not apply to the costs of renovation or the fitting out of shell space.

(ii) If the projected cost per square foot of new construction exceeds the Marshall Valuation Service® benchmark cost by 25% or more, then the applicant's project shall not be approved unless the applicant demonstrates the reasonableness of the construction costs. Additional independent construction cost estimates or information on the actual cost of recently constructed surgical facilities similar to the proposed facility may be provided to support an applicant's analysis of the reasonableness of the construction costs.

Paragraph (b) does not apply because this project does not include new construction. Applicant seeks to renovate existing space within the ASC-2.

(8) Financial Feasibility.

A surgical facility project shall be financially feasible. Financial projections filed as part of an application that includes the establishment or expansion of surgical facilities and services shall be accompanied by a statement containing each assumption used to develop the projections.

(a) An applicant shall document that:

(i) Utilization projections are consistent with observed historic trends in use of the applicable service by the likely service area population of the facility;

(ii) Revenue estimates are consistent with utilization projections and are based on current charge levels, rates of reimbursement, contractual adjustments and discounts, bad debt, and charity care provision, as experienced by the applicant facility or, if a new facility, the recent experience of similar facilities;

(iii) **(iii) Staffing and overall expense projections are consistent with utilization projections and are based on current expenditure levels and reasonably anticipated future staffing levels as experienced by the applicant facility, or, if a new facility, the recent experience of similar facilities; and**

(iv) **The hospital or ambulatory surgical facility will generate excess revenues over total expenses for specific services affected by the project (including debt service expenses and plant and equipment depreciation), if utilization forecasts are achieved for the specific services affected by the project within five years of initiating operations.**

(a) A project that does not generate excess revenues over total expenses even if utilization forecasts are achieved for the services affected by the project may be approved upon demonstration that overall facility financial performance will be positive and that the services will benefit the facility's primary service area population.

In the Need section, supra, pp 18-19. the applicant demonstrated that the utilization projections are consistent with observed historic trends, both for the surgeons currently practicing at CESC, each procedure type, the service area population, and for the new surgeons joining CESC.

The applicant based its revenue estimates on the utilization projections and current charges and rates of reimbursement. (DI#9, p. 32; DI#2, Exh.4, Table G). The projected revenue estimates align with the increases in projected volume. Each individual physician's projected case volume for CYs 2023-2026 was provided and based on the individual physician's historical trends, their current and projected weekly working schedules, and/or by how much their procedure volume is

projected to grow. The projected new physician volumes grow over the projected period (CYs 2023-2026) to align with the currently employed physician volumes. (DI#2, p. 26, DI#15, p. 2).

The applicant based its projected staffing levels on its current utilization projections and its experience with OR staffing. (DI #11, p. 32). CESC expects to hire four direct care full-time employees (FTE), two registered nurses and two surgical scrub techs, to accommodate the increase in volume that will result from this project. (DI#13, Table L). The addition of these four FTEs is reasonable considering the applicant's projected increase in volume.

The applicant projects an excess of revenues over expenses currently and continuing to FY 2026, as shown in Table III-2 below.

Table III-2: Chesapeake Eye Surgery Center Revenues and Expenses, Historic CY2020-CY2021 and Projected CY2022-CY2026

	Two Most Recent Years (Actual)		Projected Years				
	CY2020	CY2021	CY2022	CY2023	CY2024	CY2025	CY2026
OR Cases	**2,331**	**3,585**	**3,541**	**5,445**	**6,755**	**6,990**	**7,045**
Net Operating Revenue	$6,828,077	$7,288,382	$7,213,788	$10,429,373	$12,731,156	$13,235,887	$13,343,038
Total Operating Expenses	$4,565,639	$4,819,229	$4,790,707	$6,647,880	$8,089,019	$8,399,110	$8,482,826
Net Income (Loss)	$2,316,438	$2,469,153	$2,423,082	$3,781,493	$4,642,137	$4,836,777	$4,860,211

DI #13, Table G

The applicant projected positive financial results, as shown in Table III-2. Its assumed utilization projections are reasonable and based on the historical volumes and the projected increased demand for ophthalmic surgical procedures due to an aging population. The revenue and expense projections, as well as projected staffing levels are based on current experience, utilization projections and current charges.

Staff concludes that the financial feasibility standard has been met.

(9) Impact.

(a) An application to establish a new ambulatory surgical facility shall present the following data as part of its impact assessment, in addition to addressing COMAR 10.24.01.08G(3)(f):

(i) The number of surgical cases projected for the facility and for each physician and practitioner;

(ii) A minimum of two years of historic surgical case volume data for each physician or practitioner, identifying each facility at which cases were performed and the average operating room time per case. Calendar year or fiscal year data may be provided as long as the time period is identified and is consistent for all physicians and other practitioners; and

(iii) The proportion of case volume expected to shift from each existing facility to the proposed facility.

CESC provided historic and projected surgical volume. (DI #13, p. 4). The applicant states that the new case volume will largely come from an aging population (60+) in the service area and the recruitment of new surgeons. (DI#9, p. 36; DI#13, p. 2). CESC states that no proportion of case volume is expected to shift from other facilities. (DI #9, pg. 34).

(b) An application shall assess the impact of the proposed project on surgical case volume at general hospitals;

(i) If the applicant's needs assessment includes surgical cases performed by one or more physicians who currently perform cases at a hospital within the defined service area of the proposed ambulatory surgical facility that, in the aggregate, account for 18 percent or more of the operating room time in use at a hospital, then the applicant shall include, as part of its impact assessment, a projection of the levels of use at the affected hospital for at least three years following the anticipated opening of the proposed ambulatory surgical facility.

The applicant states that they do not expect a negative impact on area hospitals because ophthalmic cases are low risk and one of the most common elective surgery procedures currently provided in an ambulatory surgery setting. It would be unlikely that a case being performed at the surgery center would need to be transferred to the hospital. However, most CESC providers have credentials at Anne Arundel Medical Center in the event a case being performed at the surgery center requires a transfer to the hospital. (DI#9, pp. 35-36).

(ii) The operating room capacity assumptions in Regulation .06A of this chapter and the operating room inventory rules in Regulation .06C of this chapter shall be used in the impact assessment.

CESC states that it does not anticipate a negative impact on surgical case volume at hospitals, as cataract removal (one of the facility's most common procedures) is one of the most common elective surgeries and already provided through ambulatory surgical facilities and not hospitals. CESC projects that use of the projected operating room will reach optimal capacity within the four years of receiving the CON. (DI#9, p. 35).

Staff concludes that the applicant complies with this standard.

B. Need

COMAR 10.24.01.08G (3)(b) The Commission shall consider the applicable need analysis in the State Health Plan. If no State Health Plan need analysis is applicable, the Commission shall consider whether the applicant has demonstrated unmet needs of the population to be served and established that the proposed project meets those needs.

This criterion directs the Commission to consider the "applicable need analysis in the State Health Plan." The discussion for this recommendation can be found in the Surgical Services Chapter at COMAR 10.24.11.05B(2), Need – Minimum Utilization for Establishment of a New Facility.

In staff's review of the applicable State Health Plan need standard (Project Review Standard 2- Need- Minimum Utilization for Establishment of a New or Replacement Facility (*supra*, pp. 10-13,) staff concluded that applicant's projected utilization growth is reasonable, and that CESC is likely to meet the minimal capacity use standard for a three OR ASF.

Staff recommends that the Commission find that the applicant demonstrated a need for the proposed project.

C. Availability of More Cost-Effective Alternatives

COMAR 10.24.01.08G(3)(c) The Commission shall compare the cost effectiveness of the proposed project with the cost effectiveness of providing the service through alternative existing facilities, or alternative facilities which have submitted a competitive application as part of a comparative review.

The applicant states that the proposed expansion from two ORs to three ORs in the existing facility is the most cost-effective alternative. CESC provides surgical services from 6:00 am until 4:00 pm, operating 10 hours per day. The applicant considered extending hours to 12 or 14 hours per day but determined it was not feasible from a financial or staffing perspective. The applicant states that it has been a challenge to hire new staff because of a nationwide shortage of health care workers, and overtime expenses for additional hours of operation would not be financially sustainable in the long term. (DI #9, p. 40).

CESC's existing facility has two ORs and 7 pre/post-op beds. Alternative plans that did not involve renovation and expansion would only have allowed 4 pre/post-op beds to stay in compliance with FGI Guidelines. (DI# 2, p. 30). CESC examined the option of no expansion; however, this plan would not allow sufficient recovery space to support patient comfort and satisfaction and reduce the surgical wait time. The proposed project's floor plan will expand into the adjacent suite, which CESC has leased. The adjacent suite houses other CESC operations and the expansion will not significantly impact any services offered in this area. The applicant states that the proposed plan is the most cost-effective option to have three ORs and space for the appropriate number of recovery beds. (DI#2, p. 30).

The applicant has provided an explanation that supports that this project is the most cost-effective alternative to alleviating the existing scheduling strain. Expanding an existing facility from two to three ORs will result in space that is more economical to operate and is less costly than extended hours and paying overtime.

Staff recommends that the Commission find that the project is cost effective.

D. Viability of the Proposal

COMAR 10.24.01.08G(3)(d) The Commission shall consider the availability of financial and nonfinancial resources, including community support, necessary to implement the project within the time frames set forth in the Commission's performance requirements, as well as the availability of resources necessary to sustain the project.

Availability of Resources to Implement the Proposed Project

The applicant states that the project, with an estimated cost of $636,164[5] will be funded with cash and provided audited financial statements demonstrating sufficient cash to fund the project. (DI #2, Table E). According to the applicant's most recently available audited financial statements (CY 2020), it has the cash on hand at the end of that period to pay for this project and the new staff necessary for this project. (DI#9, p. 112).

Availability of Resources to Sustain the Proposed Project

CESC expects to hire four new direct care FTEs (two registered nurses and two surgical scrub tech) and contract the services of two additional registered nurses to accommodate the increase in volume that will result from this project. The applicant anticipates some challenges recruiting these new FTEs (DI #9, Table L), however, projected operating results for the surgical center were shown earlier, in the Financial Feasibility standard in Table III-2, *supra*, p. 17. CESC has demonstrated that the expanded facility is likely to generate excess revenue over expenses, and accounting for new FTEs, projects positive total revenues for the facility in excess of $4.3 million in the first year of operation (CY 2023), ramping up to over $4.9 million by CY 2024. (DI #9, Table G).

Availability of Community Support

CESC did not submit nor did the Commission receive letters of support from community members regarding this project.

Staff recommends that the Commission find that the proposed project is viable.

E. Compliance with Conditions of Previous Certificates of Need

COMAR 10.24.01.08G(3)(e) An applicant shall demonstrate compliance with all terms and conditions of each previous Certificate of Need granted to the applicant, and with all commitments made that earned preferences in obtaining each previous Certificate of Need or provide the Commission with a written notice and explanation as to why the conditions or commitments were not met.

The Commission issued a Certificate of Need to Chesapeake Eye Surgery Center on May 19, 2005. The CON included three performance requirements, with which the applicant has complied. (DI #2, p. 177).

[5] The project budget is attached in Appendix 2.

Staff recommends that the Commission find that the applicant met this standard.

F. Impact

COMAR 10.24.01.08G(3)(f) Impact on Existing Providers and the Health Care Delivery System. An applicant shall provide information and analysis with respect to the impact of the proposed project on existing health care providers in the health planning region, including the impact on geographic and demographic access to services, on occupancy, on costs and charges of other providers, and on costs to the health care delivery system.

Impact on Other Providers and Facilities

As described in the Impact standard earlier in this report, *supra*, pp. 17-18, the new case volume will largely come from an aging population (60+) in the service area and the recruitment of new surgeons by 2024. (DI#9, p. 36). Because ophthalmic cases are low risk and one of the most common elective surgery procedures provided in an ambulatory surgery setting, the types of procedures being performed at CESC will not shift out of the hospital. CESC physicians have credentials at Anne Arundel Medical Center; however, they are employed by CESC. (DI#9, pp. 35-36). Lastly, CESC submitted data that identifies the physicians and the historic number of surgical cases and surgical minutes (FY 2020 and FY 2021) as well as the projected number of cases and surgical minutes at the proposed ASF. (DI #13).

Impact on access to health care services, system costs, and costs and charges of other providers

CESC states that the proposed project will have an overall positive impact on the local healthcare delivery system because it is increasing access for an aging population to receive routine necessary surgical procedures. The applicant also states that the planned charity care commitment will share the financial burden resulting in a positive impact on the system and individual cost of health care services. (DI #9, p.47).

Staff concludes that the project is not likely to have an undue negative impact on existing providers and may positively affect costs to the health care delivery system and recommends that the Commission find that the applicant meets the impact standard.

IV. SUMMARY AND STAFF RECOMMENDATION

Based on the review of applicant's compliance with the Certificate of Need review criteria (COMAR 10.24.01.08G(3)(a) through (f)) and with the applicable standards in the General Surgical Services Chapter of the State Health Plan (COMAR 10.24.11), Commission staff recommends that the Commission issue a Certificate of Need to Chesapeake Eye Surgery Center for a Certificate of Need to convert existing space into a third operating room. Staff concludes that the applicant demonstrated that the project complies with the applicable standards in the Surgical Services Chapter, is needed, a cost-effective approach to meeting the project objectives, is viable, and will have a positive impact on the applicant's ability to provide outpatient surgery without adversely affecting costs and charges or other providers of surgical care.

Accordingly, Staff recommends that the Commission **APPROVE** Chesapeake Eye Surgery Center's application for a Certificate of Need authorizing addition of one operating room to its existing facility located at 2002 Medical Parkway, Suite 330 in Annapolis, Anne Arundel County, thereby creating an Ambulatory Surgical Facility, with the following condition:

> Chesapeake Eye Surgery Center shall continue to provide a patient with an estimate of out-of-pocket charges prior to arrival for surgery.

IN THE MATTER OF	*	**BEFORE THE**
	*	
CHESAPEAKE EYE SURGERY	*	**MARYLAND**
	*	
CENTER, LLC	*	**HEALTH CARE**
	*	
Docket No. 22-03-2461	*	**COMMISSION**
	*	

* *

FINAL ORDER

Based on the analysis and conclusions contained in the Staff Report and Recommendation, it, this 20th day of April 2023, by a majority of the Maryland Health Care Commission, **ORDERED:**

That the application by Chesapeake Eye Surgery Center for a Certificate of Need to renovate its existing ambulatory surgery center to have three operating rooms and two procedure rooms at to its existing facility located at 2002 Medical Parkway, Suite 330 in Annapolis, Anne Arundel County, at an estimated cost of $636,164, is hereby **APPROVED**, with the following condition:

> Chesapeake Eye Surgery Center shall continue to provide a patient with an estimate of out-of-pocket charges prior to arrival for surgery.

MARYLAND HEALTH CARE COMMISSION

APPENDIX 1:

Record of the Review

IN THE MATTER OF

Chesapeake Eye Surgery Center, LLC
Docket No. 22-03-2461

Docket Item #	Description	Date
1	MHCC acknowledges receipt of Chesapeake Eye Surgery Center's (CESC) Letter of Intent.	8/10/22
2	CON Application received	10/6/22
3	Acknowledgement of receipt of CON application	10/6/22
4	Request for notice of receipt of application to be published in the *Baltimore Sun*	10/6/22
5	Request for notice of receipt of application to be published in the *Maryland Register*	10/6/22
6	Notice of receipt as published in the *Baltimore Sun*	10/7/22
7	Following completeness review, MHCC requests additional information	10/25/22
8	MHCC grants an extension until 11/15/2022	11/1/22
9	MHCC receives additional information (first response)	11/14/22
10	MHCC requests follow up information	11/30/22
11	MHCC receives follow up information (second response)	12/7/22
12	MHCC requests a meeting with CESC regarding its application	12/14/22-1/5/23
13	MHCC receives additional information that was requested in the meeting with CESC that occurred on 1/5/23 (third response)	1/18/23
14	MHCC requests clarifying information	2/3/23
15	MHCC receives clarifying information (fourth response)	2/6/23
16	MHCC notifies CESC that its application will be docketed for formal review on February 24, 2023	2/7/23
17	Request for publication of the notice of formal start of review in the *Baltimore Sun*	2/7/23
18	Request for publication of the notice of formal start of review in the *Maryland Register*	2/7/23
19	MHCC sent copy of the application to the Anne Arundel County Health Department for review and comment	2/7/23
20	Notice of formal start of review as published in the *Baltimore Sun*	2/8/23
21	MHCC requests that CESC provide a revised floor plan	3/27/23
22	MHCC receives a revised floor plan	3/29/23

MARYLAND HEALTH CARE COMMISSION

APPENDIX 2:

Chesapeake Eye Surgery Center's Project Budget Estimate

Chesapeake Eye Surgery Center's Project Budget

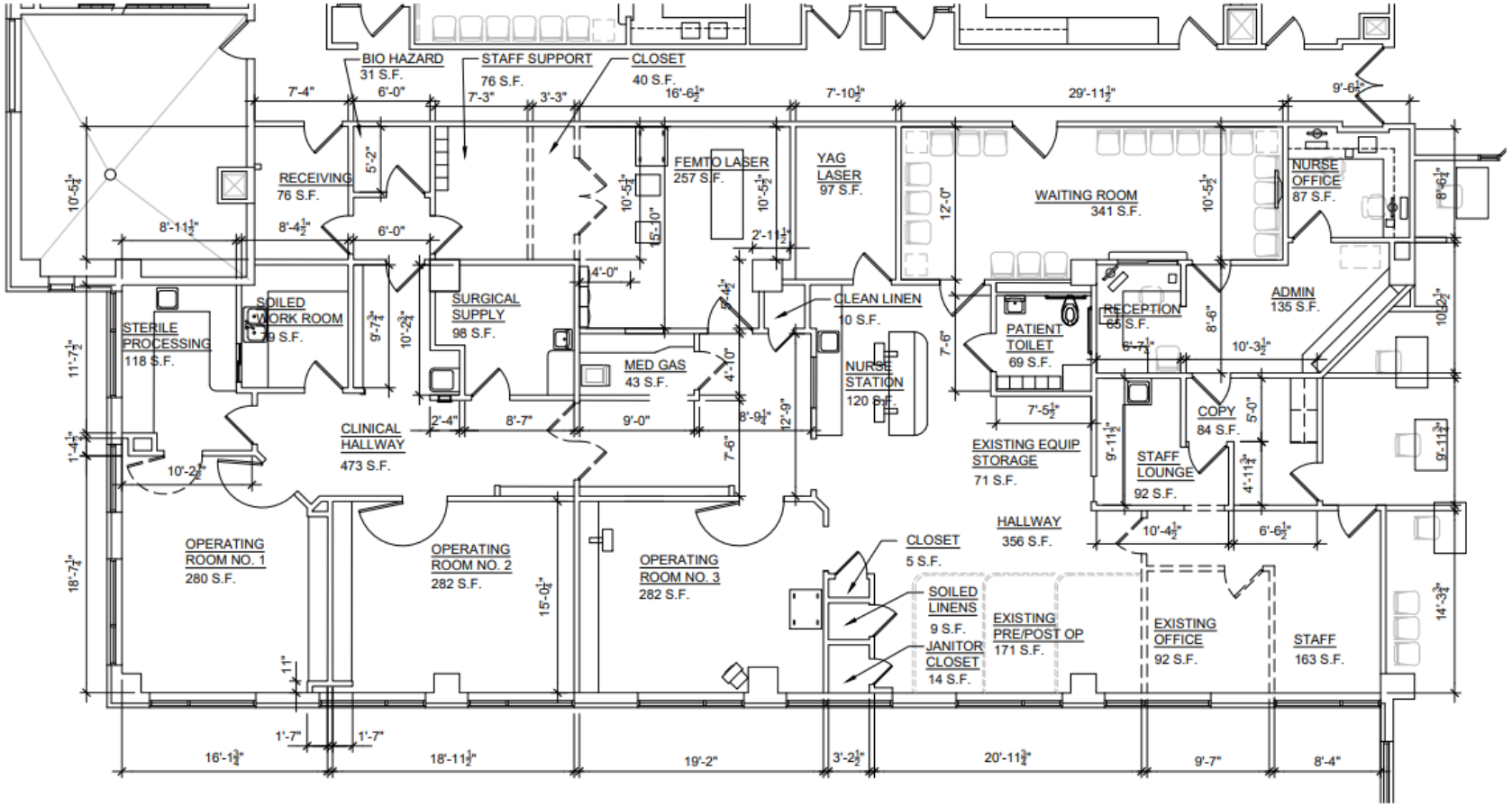
Use of Funds	
Renovations	
Building	$320,061
Fixed Equipment (not included in construction)	$13,500
Architect/Engineering Fees	$31,000
Permits	$3,340
Subtotal	**$367,901**
Other Capital Costs	
Moveable Equipment	$131,000
Contingency Allowance-equipment	$21,000
Gross interest during construction period	$10,236
Subtotal	**$162,236**
Total Current Capital Costs	**$530,137**
Inflation Allowance	$106,027
Total Capital Costs	$530,137
Total Uses of Funds	**$636,164**
Source of Funds	
Cash	$636,164
Total Source of Funds	**$636,164**

DI #5, Table E

MARYLAND HEALTH CARE COMMISSION

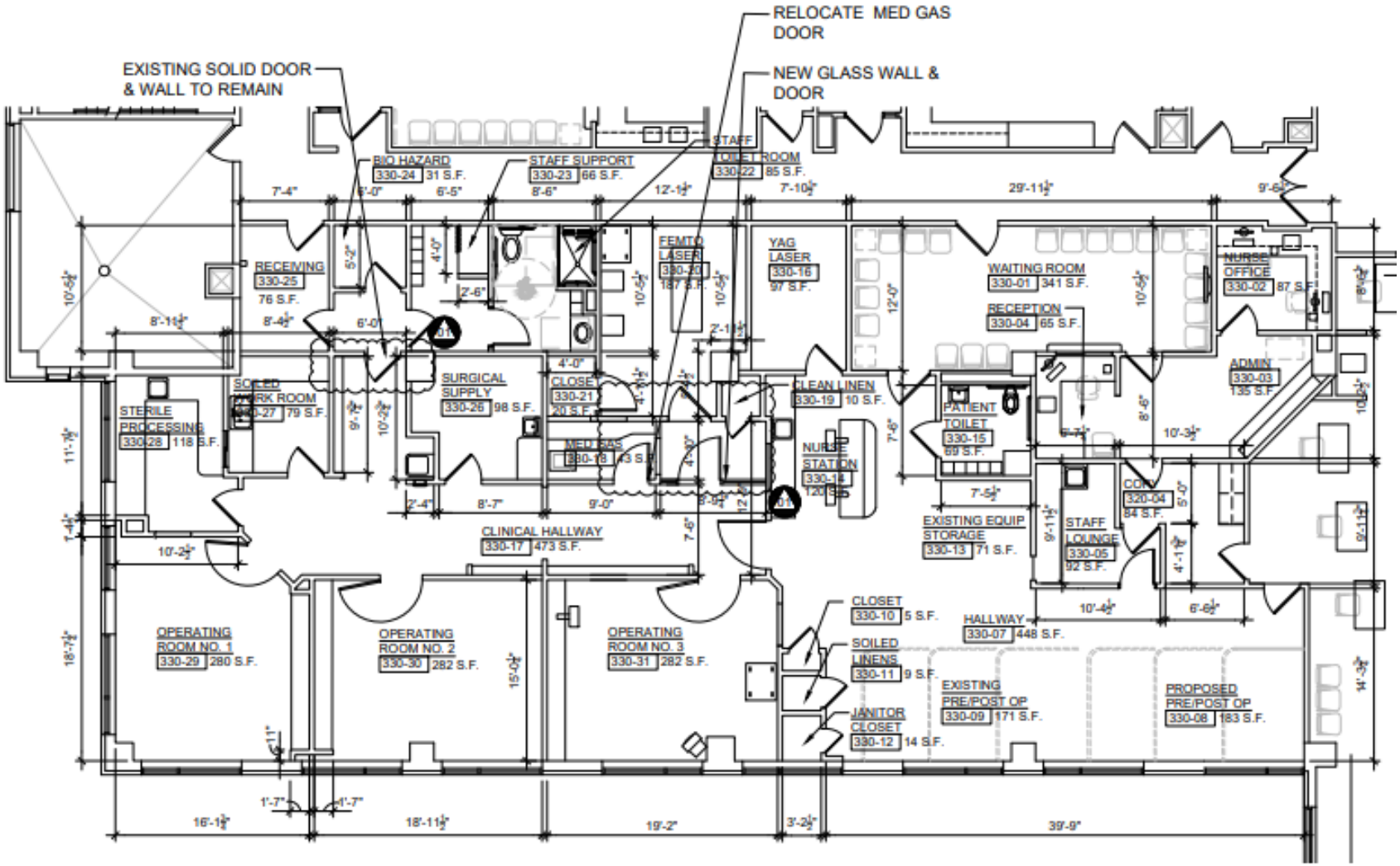
APPENDIX 3:

Chesapeake Eye Surgery Center's Existing and Proposed New Floor Plan



1
A-101
EXISTING FLOOR PLAN
SCALE: 1/8"=1'-0"

RELOCATE MED GAS
DOOR



2 / A-101 PROPOSED FLOOR PLAN

SCALE: 1/8"=1'-0"