MARYLAND
Health Care
Commission

Marcia Boyle, MS, Acting Chair
Douglas Jacobs, M.D., Executive Director

October 10, 2025

VIA E-MAIL

Mallory Regenbogen, Esq.
Alison Lutich, Esq.
Gallagher Evelius & Jones LLP
218 N. Charles Street, Suite 400
Baltimore, MD 21201

Re: Ruxton SurgiCenter, LLC – Certificate of Need Application
Establishment of a New Ambulatory Surgical Facility
Matter No. 25-03-2474

Dear Ms. Regenbogen and Lutich:

Upon review of the Ruxton SurgiCenter, LLC (Ruxton) application for a Certificate of Need (CON) to the Maryland Health Care Commission (MHCC or the Commission), Commission staff have questions and request written responses.

Part I: PROJECT IDENTIFICATION AND GENERAL INFORMATION

Owner of the Real Property and Improvements

1. Is there an option to lease or any other document memorializing the intention of Ruxton SurgiCenter, LLC to lease the space from the University of Maryland Medical Systems Corporation (UMMS)? If so, provide said document including the terms of the agreement and division of financial responsibility for construction.

Project Description

2. Will the owners of Ruxton SurgiCenter, LLC have any ownership interest in any of the other services or practices at the new building? If so, provide details (i.e., name of practice, percent ownership, services and specialties, and the number of operating rooms (ORs) and procedure rooms (PRs)).

Project Implementation Schedule

3. It appears that the fit-out will occur concurrently with the building construction. How will Ruxton collaborate with UMMS on this project? Who is responsible for what portion of the construction?

4. Which time period is Ruxton using for the project implementation schedule: (b) for a project involving a building replacement or (c) a project limited to renovation of existing building space.

Project Drawings

5. Regarding Exhibit 2:
   a. Provide the square footage of each room. Label all corridors on the drawing, provide the dimension, and specify whether they are restricted or non-restricted and sterile or non-sterile. Include dimensions for the five (5) sterile ORs, the two (2) non-sterile PRs, and the shell space intended for either an OR or PR.
   b. Clarify the number of prep/recovery bays. The proposed project description indicates there will be 23 prep/recovery bays (2 of which are private prep recovery rooms); however, the architectural drawing that was submitted indicates that there are 24 recovery bays.
   c. How many passenger and freight elevators will be accessible to the surgery center? Provide the dimensions.

PART II: PROJECT BUDGET

6. Will UMMS cover any improvements or fit out cost of the ASF? If so, please include these expenses in the Total Project Costs listed in Table E, Project Budget.

7. Regarding Table E:
   a. Will Ruxton SurgiCenter contribute to costs related to permits, code compliance, and inspections for the ASF?
   b. In reference to line (b)(1), what is included in the building costs?
   c. What is included in the $907,362 in architect/engineering fees?
   d. Please provide documentation for the $15.2 million mortgage loan. How were the loan terms, interest rate, and fees determined?
   e. Clarify why Gross Interest during the construction period is reported as $0 given the proposed mortgage financing?
   f. Provide support for $151,632 in loan placement fees, given the absence of documentation from a financial institution?
   g. Specify the "other" category under line item 2c2 for financing costs and cash requirements.
   h. Will there be any major or minor equipment that will be leased?

PART III- APPLICANT HISTORY, STATEMENT OF RESPONSIBILITY

8. Provide complete information on the applicant's involvement with other health facilities. MHCC records show that UM SJMC also owns Towson Surgical Center.

PART IV- CONSISTENCY WITH GENERAL REVIEW CRITERIA AT COMAR 10,24.01.08G(3)

Charity Care and Financial Assistance Policy

9. Provide the status on Ruxton's adoption of a more extensive Financial Assistance Policy, including the expected timeline for approval and implementation.

10. Provide the annual approval and denial rates for patients who applied for the financial assistance program in 2022, 2023, and 2024. Were all patients made aware of the financial assistance program?

11. Under paragraph (c), provide the full details of the sliding fee schedule that will be used to determine discounted charges based on family income bands. Is the sliding scale publicly available or provided upon request?

12. Affirm that, if the MHCC's average charity care is greater than the amount/percentage to which Ruxton has committed, Ruxton will make a new commitment and achieve the level of charity care required.

13. The Financial Assistance Policy (Exhibit 4) states that surgeons and anesthesia providers are notified when a patient is approved for financial assistance. Do surgeons have the option to decline participation in providing uncompensated or discounted care? If so, how will Ruxton SurgiCenter ensure that patients approved for charity care receive the necessary services?

Quality of Care

14. Under paragraph (d)(i), provide details on how Ruxton SurgiCenter exceeds the minimum requirements for licensure as an ASC-2. Provide the standard in relation to how the ASC exceeds this standard, and will this practice continue once it becomes an ASF?

15. Paragraph (e) is applicable to the applicant. Provide details regarding the quality of care for Ruxton's current ASC.

Service Area

16. Identify the variables in Table 4 (p. 31) to which the four Notes (or footnotes) belong.

Need -Minimum Utilization for Establishment of a New or Replacement Facility

17. What did Ruxton do to manage cases at 109.5 percent capacity in 2024?

18. Table 7 indicates that Ruxton SurgiCenter is projected to operate at optimal capacity levels ranging from 137.9 percent to 138.1 percent during calendar years 2025 through 2027. Describe how Ruxton will schedule and meet this projected capacity for the current two ORs if the ASC operates between 7:30am to 5:00pm, averaging 254 days a year.

19. Explain the calculations in Table 8. MHCC staff calculate different values for percent change for age groups 0-17 and 18-44.

20. Table 10 does not include Dr. Joshua Abzug and Dr. Thomas Grabow who were identified as surgeons at the ASC in Ruxton's August 2025 request for determination. Clarify whether these two physicians will perform surgical services at the ASF upon project completion, and if so, re-submit Exhibit 15 with historical and projected utilization for these two surgeons.

Support Services

21. Does Ruxton SurgiCenter have contractual agreements or referral partners for radiology services that do not require a C-arm machine? Will there be a C-arm machine in each OR?

Patient Safety

22. Identify the American National Standards Institute (ANSI) standards that were reviewed and addressed while designing the ASF.

Financial Feasibility

23. Under subparagraph (a)(i), how were the 1,350 outpatient joint cases from UM SJMCdetermined, and what additiona l/ types of surgical cases will UM SJMC perform once some of the SDScases are transferred to Ruxton .

24. Regarding Table 10, what considerations were given to increase gross revenue per case and Net reimbursement per case over time?

25. Page 44 states that the ASF lease estimate is based on 22,145 usable SF plus an allocation of 4,282 SF for common areas, priced at $50/SF. What is included in the 4,282 SF and why is its construction cost excluded from the Total Project Budget and Construction Cost tables?

Impact

26. Provide the surgical volume, average time per case (minutes), and location of current practice for the three new physicians who will join Ruxton (see Table 12).

27. For those physicians who perform cases at the hospital and whose cases will be transferred to Ruxton: provide the total OR time for the physicians at the hospital in 2024 and the total time for those cases in 2024 (that in future would be transferred to Ruxton).

28. Regarding subsection (b), explain how the shift in cases from UM SJMC will not adversely affect the hospital's revenue.

10.24.01.08G(3)(c) - Alternatives to the Project

29. The project is described as "cost-effective". Explain how and for whom it is cost-effective? What will be the cost difference for cases performed at the ASF versus at the hospital?

30. What will be the (patient) wait times after project implementation at UMSJ and Ruxton SurgiCenter?

10.24.01.08G(3)(d) - Project Feasibility and Facility or Program Viability

31. Provide either audited financials for the past two years or documentation signed by an independent Certified Public Accountant detailing the financial information that verifies adequate funding is available
32. Does Ruxton have a current loan? Provide details on Ruxton SurgiCenter's experience with securing debt financing or raising capital. Additionally, outline the contingency plan in place should the mortgage loan not be obtained.

33. Update Table 4 to reflect the additional three operating rather than the entire facility of five ORs.
34. When will Ruxton obtain the $15.2 million loan?

35. Regarding Table 3:

a. Line (1)(h), specify the "other" operating revenue that was generated in 2023 and 2024, but not any other year.
b. Line (2)(c), explain why the interest rate for the current debt tripled in 2024 in relation to the previous two years.
c. Line (2)(e-f), explain how project depreciation and current amortization were calculated.
d. Line (2)(j), specify "other" expenses.

36. Explain the deviations in payor source reported in Table 3 and Table 4.

37. Regarding Table 4, explain how Ruxton's patient demographics compare to the overall service area population for 2024 and 2025. Additionally, provide the percentage of orthopedic procedures performed by ASC within each age cohort.

38. Regarding Table L, include a list of all essential staff required to ensure safe, efficient, and compliant operations at the ASF, including full-time equivalents (FTEs) for roles such as orthopedic surgeons, anesthesiologists, administrators, business office personnel, and quality and compliance staff, as well as contractual employees.

39. Explain the rationale behind projected staff FTE increases resulting from the proposed project through the final projection year. Were cost of living increases considered? Explain considerations regarding other expected changes in operations through the last year of projections, if any.

40. Provide the Salaries, Wages, and Professional Fees for CY 2030 in Table L, reflecting cost for the second full year of ASF operations.

10.24.01.08G(3)(e) – Compliance with Terms…

41. Does UM SJMC own other facilities that have CONs?

10.24.01.08G(3)(f) - Project Impact

42. Provide examples of higher complexity cases that UM SJMC will perform to maintain its current surgical utilization.

43. Provide data on the wait times for procedures and cases at UM SJMC and Ruxton SurgiCenter, currently.

10.24.01.08G(3)(g) - Health Equity

44. Table 18 indicates that among individuals over age 65 in the Ruxton service area, 6.45% have commercial insurance, 54.86% have Medicare, 10.29% have Medicaid, and 28.4% are either uninsured or have other coverage. Does Ruxton have plans for their patient population to closely align with service area population? What is the ASC's current patient demographics, by age, race/ethnicity, insurance, and income?

45. Identify one or two health disparities in orthopedic services and pain medicine/management and how Ruxton will address these at the new ASF?

10.24.01.08G(3)(h) - Character and Competence

46. Describe Ruxton's community engagement efforts or provide other examples that reflect positively on Ruxton's character and competence?

Please submit four copies of the responses to this request for additional information within 15 business days of receipt. Also submit the response electronically, in both Word and PDF format, to Deanna Dunn and MHCC to the following email addresses deanna.dunn1@maryland.gov and mhcc.confilings@maryland.gov. If additional time is needed to prepare a response, please let me know at your earliest convenience.

As with the request itself, all information supplementing the request must be signed by person(s) available for cross-examination on the facts set forth in the supplementary information, who shall sign a statement as follows: "I hereby declare and affirm under the penalties of perjury that the facts stated in this application and its attachments are true and correct to the best of my knowledge, information, and belief."

If you have any questions regarding this matter, feel free to contact Ewurama Shaw-Taylor, CON Chief at ewurama.shaw-taylor@maryland.gov or (410)764-5982.

Sincerely,

Amani Miles
Program Manager

cc: Dr. Lucy Wilson, Baltimore County Health Officer
Wynee Hawk, Director, Center for Health Care Facilities Planning and Development, MHCC
Ewurama Shaw-Taylor, Chief, Certificate of Need, MHCC

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