

**MISSISSIPPI STATE DEPARTMENT OF HEALTH
DIVISION OF HEALTH PLANNING AND RESOURCE DEVELOPMENT
DECEMBER 20, 2021**

**CON REVIEW NUMBER: SC-RLS-1121-011
LOWERY A. WOODALL SURGERY FACILITY, LLC
D/B/A LOWERY A. WOODALL OUTPATIENT SURGERY CENTER
RELOCATION AND REPLACEMENT OF LOWERY A. WOODALL
OUTPATIENT SURGERY CENTER
CAPITAL EXPENDITURE: \$17,115,320.00
LOCATION: HATTIESBURG, FORREST COUNTY, MISSISSIPPI**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

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

B. Project Description

Lowery A. Woodall Surgery Facility, LLC d/b/a Lowery A. Woodall Outpatient Surgery Center (“LAW” or the “Applicant”) requests certificate of need (“CON”) authority for the relocation and replacement of its existing ambulatory surgical facility in Hattiesburg, Mississippi. The Applicant states LAW is currently located at 105 South 28th Avenue in Hattiesburg, in a building leased from Forrest General Hospital. According to the Applicant, the replacement facility will be located at Lincoln Center, 1 Lincoln Road in Hattiesburg. The Applicant states the Lincoln Center is owned by Hattiesburg Clinic Professional Association and is located approximately two (2) miles from LAW’s present site. The Applicant states Hattiesburg Clinic will enter into a lease with LAW for the operation of the ambulatory surgical facility.

The Applicant states the objective of the proposed project is to replace LAW' s outdated and constrained physical plant with a facility designed with a focus on enhancing both the clinical aspects of care with the latest technology and to facilitate an environment to continually improve the patient experience. According to the Applicant, LAW replacement facility (consisting of six (6) operating rooms) will be

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

The Applicant projects a total capital expenditure of \$17,115,320.00 as itemized in Section IV of this Staff Analysis. The Applicant proposes to finance the project with a loan of \$5,000,000.00 from Trustmark National Bank and finance the remainder of the project, \$12,115,320.00, with related company financing. LAW anticipates the capital expenditure will be obligated in the First Quarter of 2022 and the project will be completed in the Second Quarter of 2023.

The Applicant affirms that LAW will comply with all applicable State statutes and regulations for the protection of the environment, including 1) approved water supplies; 2) sewerage and water disposal; 3) hazardous waste disposal; 4) water pollution control; 5) air pollution control; and 6) radiation control.

The application contains a letter dated December 7, 2021, documenting the Mississippi State Department of Health (MSDH) Division of Health Facilities Licensure and Certification has approved the site for the new location of the ambulatory surgery center.

II. TYPE OF REVIEW REQUIRED

This project is reviewed in accordance with Section 41-7-173, 41-7-191 and 41-7-193 of the Mississippi Code of 1972, Annotated, as amended, and duly adopted rules, procedures, plans, criteria, and standards of the Mississippi State Department of Health. MSDH will also review applications for CON according to the general criteria listed in the *Mississippi Certificate of Need Review Manual, September 1, 2019, Revision*; all adopted rules, procedures, plans, criteria and standards of the MSDH; and the specific criteria and standards listed below.

In accordance with Section 41-7-197(2) of the Mississippi Code 1972, Annotated, as amended, any affected person may request a public hearing on this project within ten (10) days of publication of the staff analysis. The opportunity to request a hearing expires on December 30, 2021.

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

A. State Health Plan (SHP)

The *FY 2020 State Health Plan* contains criteria and standards which the applicant

is required to meet before receiving CON authority for the construction, renovation, expansion, capital improvements, replacement of health care facilities, and addition of hospital beds. The applicant is in substantial compliance with the applicable criteria and standards.

SHP Need Criterion 1 – Acute Care Beds

- a. **Project which do not involve the addition of any acute care beds:** The Applicant submits the existing LAW Outpatient Surgery Center was built in 1984 and has been utilized to provide outpatient surgery for the last thirty-seven (37) years. According to the Applicant, LAW’s physical plant is past its useful life and in order for LAW to continue to provide high quality, cost-effective care to the citizens of Hattiesburg and the surrounding areas, a replacement facility is needed. The Applicant states the new replacement facility will be designed with a focus on enhancing both the clinical aspects of care with the latest technology and to facilitate an environment to continually improve the patient experience.

According to the Applicant, LAW Outpatient Surgery Center has consistently maintained a high utilization of services, as evidenced by the number of surgical cases performed at the facility in recent years:

**LAW Outpatient Surgery Center Utilization Statistics
 Five-Year Period**

Year	2017	2018	2019	2020	2021 (Partial Year)
Cases	7,177	7,160	7,183	5,743*	6,893
ORs	6	6	6	6	6
Cases/OR	1,196	1,193	1,197	957*	1,149

- *Reduction in 2020 surgical case volume attributable to COVID-19 restrictions.

Source: CON Application, SC-RLS-1121-011.

The Applicant submits the proposed replacement facility will greatly benefit the high volume of patients by offering an updated, more clinically efficient environment for outpatient surgical care.

- b. **Projects which involve the addition of beds:** The Applicant confirms this criterion is not applicable to this project.

SHP Need Criterion 2 – Bed Service Transfer/Reallocation/Relocation

The Applicant affirms the LAW replacement facility will meet all federal and state regulatory/licensure requirements governing the construction and operation of

ambulatory surgical facilities.

SHP Need Criterion 3 – Charity/Indigent Care

LAW affirms it will provide a reasonable amount of indigent/charity care, as described in the *FY 2020 Mississippi State Health Plan*.

SHP Need Criterion 4 – Cost of Project

- a. **Cost per square foot:** The Applicant submits the renovation cost per square foot for the project is \$335.66, which is less than the median construction cost for similar projects in the State. In addition, the Applicant asserts the cost per square foot is less than comparable projects approved by the Department of Health.
- b. **Excess equipment cost by more than fifteen (15) percent:** The Applicant asserts the total cost of the new equipment for this project is \$5,000,000.00, which does not exceed the median costs of similar equipment by more than fifteen (15) percent.

SHP Need Criterion 5 – Project Specifications

- a. **Gross square footage:** The Applicant states the replacement facility will comprise 28,612 square feet. Furthermore, the architectural design will be consistent with state and national norms for similar projects.
- b. **Architectural design restraints:** The Applicant states the areas to be renovated on the first floor of the existing building do not place any restraints on the proposed project.
- c. **Special considerations:** The Applicant submits the project does not involve special considerations.

SHP Need Criterion 6 – Renovation/Expansion Justification

The Applicant affirms this criterion is not applicable as the application proposes the replacement of LAW Outpatient Surgery Center.

SHP Need Criterion 7 – Need for Service

LAW confirms this criterion is not applicable as no new services are proposed to be provided in the replacement ambulatory facility. The Applicant states LAW will continue to offer outpatient surgery through the utilization of six (6) operating rooms, as currently licensed. The Applicant states the proposed project does not involve the provision of a new institutional health service. LAW is a currently licensed ambulatory surgical facility and requests CON authority for the relocation and

replacement of the facility.

B. General Review (GR) Criteria

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

GR Criterion 1- State Health Plan

The Applicant asserts the project is consistent with all applicable policies, standards and criteria governing the renovation and replacement of health care facilities, as set forth in the *FY 2020 Mississippi State Health Plan*, in effect at the time of the submission of the application.

GR Criterion 2 – Long Range Plan

The Applicant submits LAW's management team, in consultation with Hattiesburg Clinic leadership and surgeons, determined LAW Outpatient Surgery Center's physical plant was beyond its useful life and in need of replacement. This work group, according to the Applicant, reviewed and evaluated various options, including upgrading the existing facility, constructing a new facility, or renovating an existing building owned by Hattiesburg Clinic. The Applicant states it was determined that renovating the Lincoln Center building to accommodate the replacement ambulatory surgical facility was the most feasible and cost-effective alternative.

The Applicant asserts the proposed project is consistent with LAW's and Hattiesburg Clinic's mission of providing quality health care in an efficient and cost-effective manner, with an emphasis on excellence and service to the patient.

GR Criterion 3 – Availability of Alternatives

a. Advantages and Disadvantages:

- i. Renovation of the Existing LAW Outpatient Surgery Center. The Applicant states this alternative was rejected as not being feasible due to the age and physical design of the existing thirty-seven (37)year-old building.
- ii. Construction of a New Facility. The Applicant states this alternative was determined to be more costly than renovating an existing building.
- iii. Renovation of Lincoln Center. The Applicant asserts this alternative was selected as the most cost-effective and desirable option for the

replacement of LAW Outpatient Surgery Center.

- b. New Construction Projects:** The Applicant affirms this criterion is not applicable as LAW proposes the renovation of an existing facility.
- c. Beneficial Effects to the Health Care System:** The Applicant states the proposed replacement facility will benefit the health care system by enhancing the provision of outpatient surgery services in direct response to patient needs.
- d. Effective and Less Costly Alternatives:**
 - i. Unnecessary Duplication of Services:** The Applicant states the proposed project was selected as the least costly alternative. The Applicant affirms the proposed project involves the relocation of existing operating rooms and ambulatory surgical services; no new services are proposed.
 - ii. Efficient Solution:** The Applicant asserts the proposed project was determined to be the least costly option and most efficient solution with respect to the need to replace LAW Outpatient Surgery Center.
- e. Improvements and Innovations:** The Applicant states the replacement ambulatory surgical facility will be designed, constructed and operated with the objective of providing an enhanced patient care environment.
- f. Relevancy.** The Applicant asserts the clear trend of outpatient surgical migration from hospitals to ambulatory surgical facilities has accelerated in recent years, as evidenced by the consistently high-volume cases performed at LAW. The Applicant further asserts this trend is expected to continue, and LAW Outpatient Surgery Center must be updated and modernized in order to meet the patient demand.

GR Criterion 4 - Economic Viability

- a. Proposed Charge:** The Applicant submits the proposed charges for the services offered by LAW are based on the facility's historical charge structure.
- b. Projected Levels of Utilization:** The Applicant states LAW's current and projected levels of utilization reflect the need for the proposed replacement project.
- c. Financial Feasibility Study:** The application contains a letter from the Chief Financial Officer, attesting to the financial feasibility of the project.

- d. **Financial Forecasts:** The Applicant states LAW does not project its financial forecasts will deviate significantly.
- e. **Impact of Proposed Project on Health Care Cost:** The Applicant states LAW does not anticipate the project will fail to meet projected revenues but has financial resources available to cover expenses.
- f. **Impact on the Cost of Health Care:** The Applicant states the impact on Medicare, Medicaid and other payors is reflected in the financial analysis tables.

GR Criterion 5 - Need for the Project

- a. **Access by Population Served:** According to the Applicant, the relocation and replacement of LAW Outpatient Surgery Center is proposed in direct response to the needs of the population served by the facility. The Applicant states all residents of the service area, including the medically underserved groups identified in this criterion will continue to have access to the services provided.
- b. **Relocation of Services:** The Applicant states the existing facility is owned by Forrest General Hospital and leased to LAW. Therefore, the Applicant states LAW is unaware of Forrest General Hospital's plans for the building after LAW relocates, but the disposition of the building will not have any financial impact on the proposed project.
- c. **Current and Projected Utilization of Comparable Facilities:** The Applicant submits the proposed project is based on the institution-specific needs of LAW Outpatient Surgery Center and involves the relocation and replacement of an existing facility and services.
- d. **Probable Effect on Existing Facilities in the Area:** The Applicant states the proposed project will not have an adverse impact on existing ambulatory surgical facilities in the service area as it proposes the relocation and replacement of an existing facility that currently offers outpatient surgery services.
- e. **Community Reaction:** The application contains approximately twenty-five (25) letters of support from physicians, for the project.

GR Criterion 6 - Access to the Facility or Service

- a. **Access to Services.** The Applicant submits all residents of the health planning service area, hospital service area and patient service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women, handicapped persons and the elderly have and

will continue to have access to the services of the facility.

The Applicant asserts LAW services medically indigent patients primarily through its participation in the Mississippi Medicaid program. The table below indicates the amount of gross patient revenues provided to Medicaid patients during the most recent fiscal year and the projected amount.

	Most Recent Year	Projected
Medicaid	\$5,012,102.00	N/A
Percentage of Total	15%	15%

- b. Existing Obligations:** The Applicant submits that LAW does not have any obligations under any federal regulations requiring provision of uncompensated care, community service, or access by minority/handicapped persons.
- c. Unmet Needs of Medicare/Medicaid and Medically Indigent Patients:** The Applicant states LAW will continue to serve the needs of all residents of the service area, including Medicare, Medicaid, and medically indigent patients.
- d. Access to Proposed Facility:** The Applicant submits the services offered by LAW Outpatient Surgery Center are accessible to residents of the area served by the facility.
- e. Access Issues:**
 - i. Transportation and Travel:** The Applicant submits the replacement facility will be located at Lincoln Center in Hattiesburg, which is easily accessible from U.S. Highway 49 and Interstate 59.
 - ii. Restrictive Admissions Policy:** The Applicant asserts this criterion is not applicable as LAW is not an inpatient facility.
 - iii. Access to Care by Medically Indigent Patients:** The Applicant states Law is accessible to medically indigent patients.
 - iv. Operational Hours of Service:** The Applicant states the current operating hours of LAW are Monday through Friday, 7:00 a.m. to 5:00 p.m. LAW expects the replacement facility will maintain the same days and hours of operation. The Applicant indicates there is no emergency only operation.

GR Criterion 7 - Information Requirement

LAW affirms that it will record, maintain, and provide the required information and make it available to the Mississippi State Department of Health within fifteen (15) days of request.

GR Criterion 8 - Relationship to Existing Health Care Baptist System

- a. Comparable Services.** The Applicant submits the current State Health Plan indicates there are five (5) freestanding, multispecialty ambulatory surgery centers, including LAW Surgery Center, in Ambulatory Surgery Planning Area (“ASPA”) 8. The Applicant states during the fiscal year reported in the State Health Plan, these facilities performed a total of 21,510 ambulatory surgeries in twenty (20) operating rooms (“OR”), for an average of 1,076 surgeries per OR.
- b. Effect on Existing Health Services**
 - i. Complement Existing Services:** The Applicant confirms LAW will continue to offer the same outpatient surgical services currently performed in its existing facility, but in an upgraded and more efficient environment.
 - ii. Provide Alternative or Unique Service:** The Applicant states the LAW replacement facility will offer patients the alternative of having outpatient surgery performed in a new, convenient and accessible setting.
 - iii. Provide a service for a specified target population:** The Applicant states the proposed project is directly responsive to the growing number of patients electing to have surgery performed in an outpatient facility.
 - iv. Provide services for which there is an unmet need:** According to the Applicant, the high volume of outpatient surgeries performed by LAW and other ambulatory surgery centers in ASPA 8 demonstrates that there is a continuing need and patient demand for these facilities.
- c. Adverse Impact.** The Applicant submits if the proposed project is not implemented, patients will be deprived of the significant benefit of receiving outpatient surgical care in an enhanced and more efficient physical environment.

- d. **Transfer/Referral/Affiliation Agreements.** The Applicant submits LAW has a Patient Transfer Agreement with Forrest General Hospital and will continue arrangements in the replacement facility.

GR Criterion 9 - Availability of Resources

- a. **New Personnel.** The Applicant states Hattiesburg Clinic surgeons will continue to utilize the LAW replacement facility. In addition, the applicant states LAW's current staff will also move to the new facility. The Applicant affirms no additional FTEs (full time equivalent) personnel will be acquired for the proposed project.
- b. **Contractual Services.** The Applicant states LAW has a Medical Director Agreement with Hattiesburg Clinic Professional Association.
- c. **Existing Facilities or Services.** The Applicant states LAW is licensed by the Mississippi State Department of Health, and fully complies with applicable regulations on staffing.
- d. **Alternative Uses of Resources.** The Applicant believes the proposed project is the best alternative for the provision of health services in response to community needs.

GR Criterion 10 – Relationship to Ancillary or Support Services

- a. **Support and Ancillary Services.** The Applicant asserts LAW is a licensed Medicare/Medicaid certified facility that currently has all necessary support and ancillary services needed for the proposed project.
- b. **Changes in Costs or Charges.** The Applicant submits LAW does not anticipate a material change in cost and charges as a result of this project.
- c. **Accommodation of Changes in Cost or Charges.** The Applicant affirms this criterion is not applicable.

GR Criterion 11 – Health Professional Training Programs

The Applicant affirms this criterion is not applicable.

GR Criterion 12 – Access by Health Professional Schools

The Applicant affirms this criterion is not applicable.

GR Criterion 13 – Access by Individuals Outside Service Area

The Applicant affirms this criterion is not applicable to this project.

GR Criterion 14 - Construction Projects

The application contains construction cost estimates and schematic drawings regarding the proposed project.

GR Criterion 15 – Competing Applications

There are no competing applications on file with the Mississippi State Department of Health.

GR Criterion 16 - Quality of Care

- a. **Past Quality of Care.** The Applicant submits LAW is licensed by the Mississippi State Department of Health and certified for participation in the Medicaid and Medicare programs.
- b. **Improvement of Quality of Care.** The Applicant states the design and layout of the new LAW replacement facility will greatly enhance the clinical experience of the facility’s patients.
- c. **Accreditations and/or Certifications.** The Applicant submits LAW is Medicare and Medicaid certified.

IV. FINANCIAL FEASIBILITY

A. Capital Expenditure Summary

Cost Item	Projected Cost	Percentage of Cost (%)
Construction Cost – New	\$ 0.00	0.00%
Construction - Renovation	9,603,873.00	56.11%
Capital Improvement	0.00	0.00%
Total Fixed Equipment	0.00	0.00%
Non-fixed Equipment	5,000,000.00	29.21%
Land Cost	0.00	0.00%
Site Preparation	0.00	0.00%
Fees (Architectural)	576,232.00	3.37%
Fees (Legal & Acct.)	0.00	0.00%
Contingency Reserve	1,500,000.00	8.76%
Capitalized Interest	435,215.00	2.54%
Other	0.00	0.00%
Total Expenditure	\$ 17,115,320.00	*99.99%

*Percentages do not calculate to 100% due to rounding.

The Applicant proposes to renovate 28,612 square feet of space at a cost of approximately \$423.43 per square foot.

B. Method of Financing

The Applicant proposes to finance the project with a loan of \$5,000,000.00 with a three percent (3%) interest rate for a period of six (6) years and to finance the remainder of the project, \$12,115,320.00, with related company financing. In addition, the building will be leased at a three percent (3%) interest rate for a period of twenty (20) years. The application contains a letter from Trustmark indicating an intent to provide financing. The Applicant filed confidential financial statements that indicate LAW has the financial backing to undertake the project.

C. Effect on Operating Cost

The Hospital's three-year projected operating statement is presented at Attachment 1.

D. Cost to Medicaid/Medicare

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

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

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of this application for review and comment. As of December 20, 2021, no comments had been received from the Division of Medicaid.

VI. CONCLUSION AND RECOMMENDATION

This project is in substantial compliance with the criteria and standards for the construction, renovation, expansion, capital improvement, and replacement of a health care facility, as contained in the *FY 2020 Mississippi State Health Plan and the Mississippi Certificate of*

Need Review Manual, September 1, 2019 Revision; and 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 Lowery A. Woodall Surgery Facility, LLC for the relocation and replacement of Lowery A. Woodall Outpatient Surgery Center.

Attachment 1

Lowery A. Woodall Surgery Facility, LLC Three-Year Operating Statement (With Project)			
	Year 1	Year 2	Year 3
Revenue			
Patient Revenue:			
Inpatient			
Outpatient	\$35,923,939.00	\$ 37,001,657.00	\$ 38,111,706.00
Gross Patient Revenue	\$35,923,939.00	\$ 37,001,657.00	\$ 38,111,706.00
Charity Care	\$ 0.00	\$ 0.00	\$ 0.00
Deductions from Revenue	\$25,732,590.00	\$ 26,504,568.00	\$ 27,299,705.00
Net Patient Revenue	\$10,191,349.00	\$ 10,497,089.00	\$ 10,812,001.00
Other Operating Revenue	\$ 0.00	\$ 0.00	\$ 0.00
Total Operating Revenue	\$10,191,349.00	\$ 10,497,089 .00	\$ 10,812,001.00
Expenses			
Operating Expenses:			
Salaries	\$2,297,063.00	\$ 2,343,004.00	\$ 2,389,864.00
Benefits	643,178.00	656,041.00	669,162.00
Supplies	3,492,806.00	3,562,663.00	3,633,916.00
Services	585,000.00	585,000.00	585,000.00
Lease	1,906,292.00	1,906,292.00	1,906,292.00
Depreciation	500,000.00	500,000.00	500,000.00
Interest	149,500.00	126,382.00	102,573.00
Other	125,000.00	125,000.00	125,000.00
Total Expenses	\$ 9,698,839.00	\$ 9,804,382.00	\$ 9,911,807.00
Net Income (Loss)	\$ 492,510.00	\$ 692,707.00	\$ 900,194.00
Assumptions			
Inpatient days	0	0	0
Outpatient visits	250	249	251
Procedures	6,900	6,900	6,900
Charge/outpatient day	\$ 143,696.00	\$ 148,601.00	\$ 151,839.00
Charge per inpatient day	N/A	N/A	N/A
Charge per procedure	\$ 5,206.00	\$ 5,363.00	\$ 5,523.00
Cost per inpatient day	N/A	N/A	N/A
Cost per outpatient day	\$ 38,795.00	\$39,375.00	\$ 39,489.00
Cost per procedure	\$ 1,406.00	\$ 1,421.00	\$ 1,436.00