

Boston Outpatient Surgical Suites, LLC
DoN # BOSS-22051213-AS

APPLICANT QUESTIONS #2

Responses should be sent to DoN staff at DPH.DON@State.MA.US

While you may submit each answer as available, please

- List question number and question for each answer you provide
- Submit responses as a separate word document, using the above application title and number as a running header and page numbers in the footer
- When providing the answer to the final question, submit all questions and answers in one final document
- Submit responses in WORD or EXCEL; only use PDF's if absolutely necessary. If "cutting and pasting" charts, provide them in a PDF so they can be clearly seen
- **Whenever possible, include a table with the response**
- **For HIPAA compliance Do not include numbers <11.**

Factor 1a: Patient Panel Need

1. Factor 1a of the DON regulations requires an Applicant demonstrate sufficient need for the Proposed Project by the Applicant's Patient Panel, which is defined as patients seen by BOSS ASC over the most recent 36-month period. The Applicant has outlined the following about the Proposed Project:
 - The number of ORs will increase from three to eight to address Patient Panel need for BOSS' services.
 - In Year I of the proposed ASC's operations, the Applicant is forecasting a 123% increase in case volume over CY2023. Approximately 45% of the case volume is made up of existing cases.
 - The Applicant estimates that 45% of new case volume will come from new surgeons with block time.
- a. Explain why increasing OR capacity from three to eight addresses Patient Panel need for BOSS services, when part of the demand for the ORs originates from new surgeons and the proposed ORs will be used to accommodate a substantial number of new cases?
 - **Applicant Response:** The Applicant has been running an ASC with 3 operating rooms at its current site since 2004. Currently, 17 of the 33 surgeons on the Applicant's medical staff have medical office space in the same building as the Applicant and these surgeons will also be moving their medical offices to the new site that the Applicant is moving to. These surgeons would like to perform more of their ambulatory surgery cases at the Applicant's ASC given the convenience for their patients and for themselves, however the Applicant is not able to grant them additional OR block time within the current constraints of three operating rooms. These surgeons are also very concerned about the potential loss of the Applicant's ASC operating rooms when the Applicant's existing lease extension terminates February 28, 2025 given surgical capacity constraints at other facilities. Within the practices that currently employ physicians on the Applicant's medical staff, there are other surgeons (new surgeons) who have also expressed strong interest in performing ambulatory surgeries at the Applicant's ASC, when additional

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block time becomes available at the new site. These “new” cases are currently being performed at HOPDs and in some cases, the surgeons are performing surgeries on their Massachusetts patients in ASCs located in New Hampshire. The Applicant has calculated patient need and the number of operating rooms to meet that need, based on input from existing surgeons and “new” surgeons relating to estimated case count and types of surgeries, recognizing that anticipated increases in higher acuity cases such as Arthroplasty and spine in the ASC setting will require more OR time for such cases. It is noted that, if this project is approved, the Applicant intends to serve the needs of both the current and future surgeons who will provide services at the ASC, including by offering the array of procedures that are currently performed at the ASC and the higher acuity procedures referenced above.

b. What assurances does the Applicant have that it will be able to achieve the forecasted case volume and occupancy at the proposed facility?

- **Applicant Response:** The Applicant is confident it will be able to achieve the forecasted case volume and occupancy at the proposed facility. The Applicant has provided its outlook on the forecast for outpatient surgery given the data available to it, as well as input from surgeons on its medical staff and surgeons who have expressed strong interest in joining the Applicant's medical staff. This includes data on a shift of services from the inpatient to the outpatient setting, shift from HOPD to ASC, advances in outpatient arthroplasty and spine, as well as data on the aging population and future orthopedic needs. The Applicant has also referenced payers' recognition of the appropriateness of (and determination to pay in the ASC setting for) higher acuity services in ambulatory surgery settings, as well as Health Policy Commission (HPC) reports that demonstrate the Commonwealth's need for more outpatient ASC capacity. (HPC Data Points, Issue 26, Trends in Ambulatory Surgical Centers in Massachusetts (February 15, 2024) and 2023 Health Care Cost Trends Report (June 7, 2023)).

2. Between 2022 and 2023, the Applicant experienced a 2% decrease in Orthopedic cases and a 4.5% decrease in Podiatry cases. To what does the Applicant attribute the decrease in cases, and how does decreasing case volume in these two specialties support increasing need for operating room capacity?

- **Applicant Response:** Although the number of cases has decreased, the Applicant's OR capacity has remained consistently full between 2022 and 2023. With elective surgery, surgeons see patients in their medical office, then book their surgery into their available block time at the ASC. As surgical cases have become longer and more complex, the number of surgeries that can be performed in a facility with a limited number of ORs (and OR time) necessarily decreases. For example a surgeon can perform eight 1-hour surgeries in an 8-hour OR block, or four 2-hour surgeries. There continues to be increased demand for OR block time at the facility. Any available block time is routinely filled by our existing surgeons.

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3. In 2023, the number of patients seen at BOSS is 9% smaller than the number that was seen in 2019. Are there any other reasons Patient Panel volume has not returned to pre-pandemic levels, besides the impact of the COVID-19 pandemic, and the loss of a pain management specialist?

- **Applicant Response:** The Applicant's patient panel decreased from 2019 to 2023 for the same reasons noted above in response to question #2 for the decrease in number of cases - limited number of ORs (3), high OR utilization, and higher acuity cases requiring longer OR time.

With regards to the pandemic, the Applicant continues to experience higher last-minute cancellation rates due to COVID infection or other illness, than prior to the pandemic. Last-minute cancellations negatively impact the Applicant's surgical case volume because the Applicant is unable to schedule last-minute OR cases to replace the last-minute cancellations; however, these cancellations have less impact on lower case volume than the other reasons provided above and in in #2.

4. To better understand Patient Panel need for BOSS' services, please provide procedures by specialty for CY2019, CY2020, CY2021 and CY2022.

- **Applicant Response:** Please see table below for procedures by specialty for CY2019-CY2022 as requested.

	2019		2020		2021		2022		2023	
Specialty	# Procedures	%	# Procedures	%	# Procedures	%	# Procedures	%	# Procedures	%
Orthopedic Surgery	8,959	80.0%	7,512	84.2%	7,909	96.1%	7,809	97.6%	7,466	94.6%
Podiatry	156	1.4%	116	1.3%	78	1.0%	58	.7%	63	0.8%
General Surgery	84	.8%	143	1.6%	123	1.5%	136	1.7%	217	2.7%
Pain	1,989	17.8%	1,146	12.9%	117	1.4%	0	0%	148	1.9%
Procedures	11,188	100%	8,917	100%	8,227	100%	8,003	100%	7,894	100%

Factor 4: Financial Feasibility

5. The CPA report states, "Based upon the anticipated increase in total number of cases and the number of Arthroplasty cases, the total cost of Supplies and Drugs is forecasted to be approximately \$15.3M in Year 1 and grow to approximately \$20M in Year 5 driven by the increase in number of cases and an estimated 2% increase in cost per case per annum. This is higher than industry averages of 26-28%, as the cases performed at the new facility require more expensive implants than the typical ASC." (pg. 6)

- a. Why does the proposed facility require implants that are more expensive than implants at the typical ASC?

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- **Applicant Response:** The market is shifting to higher acuity orthopedic cases being performed in ASC settings including arthroplasty and spine procedures that were traditionally performed in hospital operating rooms. With this shift comes more expensive implants than were used in previous "traditional" ASC cases. On average, these implants are 10 times the cost of implants that had been utilized in lower acuity ASC orthopedic cases. For example, if a traditional orthopedic anchor utilized in a rotator cuff costs about \$350, an orthopedic implant for a total knee arthroplasty would cost about \$3,500. This is a simple generalization to provide a reference point. Implants used in the ASC are typically not more expensive than implants used in a hospital setting. Cost control is an integral part of ASC operations. As an independent ASC, the Applicant typically receives 50-60% reimbursement when compared to HOPD reimbursement for the same procedure and surgeon, simply based on site of care. ASCs require diligent expense management to maintain their margins and viability; therefore the Applicant would not purposefully pay more than necessary for implants.

b. Are these implants used at the current facility?

- **Applicant Response:** Yes, the Applicant performs joint arthroplasty and spine cases with associated higher implant costs at its current facility. Implant costs are not passed onto the patient. As an ASC, the Applicant is paid in accordance with a fee schedule, regardless of cost of implants, which is typically 50-60% of the cost of the same surgery performed in a hospital setting.