



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

March 12, 2021

Sandra VanderYacht, RN
Northwest Endoscopy Center, LLC
e-mail: sjvanderya@hinet.org

Health Facilities Planning and Development
e-mail: healthfac@healthfacilitiesplanning.com

RE: Certificate of Need Application #21-12

Dear Ms. VanderYacht:

We have completed review of the Certificate of Need application submitted by Northwest Endoscopy Center, LLC. The application proposes to relocate a Certificate of Need approved ambulatory surgical facility (ASF) to a new site in Whatcom County and expand the number of operating rooms. Enclosed is a written evaluation of the application.

For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Northwest Endoscopy Center, LLC agrees to the following in its entirety.

Project Description:

This certificate approves the establishment of an ambulatory surgical facility in Whatcom County. The surgical facility will have five operating rooms and provide endoscopy services as described in the application. The surgical facility will serve patients who require surgical services, are not expected to require hospitalization, and can be served appropriately in an outpatient setting.

Conditions:

1. Northwest Endoscopy Center, LLC agrees with the project description as stated above. Northwest Endoscopy Center, LLC further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
2. Northwest Endoscopy Center, LLC will obtain and maintain Medicare and Medicaid certification for the surgery center at the new site.
3. Northwest Endoscopy Center, LLC shall finance this project as described in the application.
4. Prior to providing surgical services, Northwest Endoscopy Center, LLC shall submit to the Certificate of Need Program the Non-Discrimination Policy in final form. The final policy shall be consistent with the draft policy provided in the application.

5. Northwest Endoscopy Center, LLC will provide charity care in compliance with its charity care policy reviewed for this project. Northwest Endoscopy Center, LLC will use reasonable efforts to provide charity care in the amount consistent with the three-year average of charity care for gross revenue provided by PeaceHealth St. Joseph Hospice located in Whatcom County. The gross revenue three-year average for years 2017 – 2019 is 1.48%.
6. Northwest Endoscopy Center, LLC will maintain records of charity care applications received and the dollar amount of charity care discounts granted at the new surgery center. The records must be available upon request.

Approved Costs:

The approved capital expenditure for this project is \$7,741,085 and includes construction costs and fixed and moveable equipment (including associated taxes) necessary for the establishment of a new ambulatory surgical facility, fees for consulting and inspections, and costs for securing financing for the project.

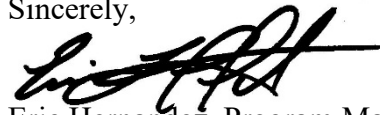
Please notify the Department of Health within 20 days of the date of this letter whether you accept the above project description, conditions, and capital costs for your project. If you accept these in their entirety, your application will be approved, and a Certificate of Need sent to you.

If you reject any of the above provisions, your application will be denied. The department will send you a letter denying your application and provide you information about your appeal rights.

Send your written response to the Certificate of Need Program at this e-mail address:
fslcon@doh.wa.gov.

If you have any questions or would like to arrange for a meeting to discuss our decision, please contact the Certificate of Need Program at (360) 236-2955.

Sincerely,



Eric Hernandez, Program Manager
Certificate of Need
Office of Community Health Systems

Enclosure

EVALUATION DATED MARCH 12, 2021 FOR THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY NORTHWEST ENDOSCOPY CENTER, LLC PROPOSING TO RELOCATE AND EXPAND AN AMBULATORY SURGICAL FACILITY LOCATED IN WHATCOM COUNTY

APPLICANT DESCRIPTION

Northwest Endoscopy Center, LLC

Northwest Endoscopy Center, LLC is a Washington State corporation established in July 1998. It is governed by eight individuals with 70% ownership and Physicians Endoscopy LLC with 30% ownership. The eight individuals sharing 70% ownership are identified below.

- Kelly McCullough, MD
- Gregory Munson, MD
- Christoph Reitz, MD
- James Schoenecker, MD
- Hannah Sheinin, MD
- Benjamin Siemanowski, MD
- Sandra VanderYacht, RN
- Todd Witte, MD

Focusing on Physicians Endoscopy, LLC, this entity is an investor with 30% ownership. Physicians Endoscopy, LLC was formed in July 1998, and specializes in the development and management of freestanding, single-specialty endoscopic ASCs in partnership with practicing physicians and hospitals. Physicians Endoscopy, LLC provides services in the areas of professional management, billing and collections, design and development, and physician recruitment. [source: Physicians Endoscopy, LLC website at <https://www.endocenters.com>]

In year 2014, Northwest Endoscopy Center, LLC entered into a management agreement with Physicians Endoscopy, LLC. The agreement had a six-year term, which expired in December 2020. As of the writing of this evaluation, the management agreement is no longer in effect, however, Physicians Endoscopy, LLC continues to have 30% ownership of Northwest Endoscopy Center, LLC. [source: Application, p15]

For this project, Northwest Endoscopy Center, LLC is the applicant and will be referenced in this evaluation as ‘Northwest Endoscopy Center, LLC.’

PROJECT DESCRIPTION

Northwest Endoscopy Center, LLC

The Northwest Endoscopy Center, LLC practice is currently located at 2930 Squalicum Parkway, #202, in Bellingham [98225], within Whatcom County. On August 23, 2013, Certificate of Need (CN) #1507 was issued to Northwest Endoscopy Center, LLC approving the establishment of a three-operating room (OR) surgery center at the site identified above. The surgery center became operational in December 2013.

This project proposes to relocate the existing CN approved surgery center to a new site in Whatcom County and add two ORs. The applicant provided the following description of the project. [source: Application, p6 and p8]

“NVEC has operated its existing 3 procedure room facility at its present location for 26 years; first under a practice exemption and then under a Certificate of Need (CN #1507), which was approved in 2013. The existing facility is reaching the end of its useful life and NVEC has outgrown the space. NVEC is proposing to relocate and expand its facility at a new site. The expanded facility will add an additional two procedure rooms [total of 5 ORS] and allow for future growth. The new facility, which will have more than twice the square footage of the existing facility, will also expand the pre and post spaces and will have six pre-procedure and 12 private post-procedure rooms. All 5 procedure rooms will be dedicated to gastroenterology.”

The applicant provided the following description of services to be provided at the new site. [source: Application, p8]

“The primary ambulatory surgical procedures anticipated to be performed include colonoscopies, flexible sigmoidoscopies, enteroscopies, and upper endoscopies. NWECC’s patients are generally age 16 and over but, as indicated in the admission policy (Exhibit 2), patients are accepted based on clinical need and not age.”

The estimated capital expenditure for this project is \$7,741,085. The costs include land purchase, building construction including site preparation, fixed and moveable equipment and associated taxes. The costs will be paid by two entities: Northwest Endoscopy Center, PLLC is responsible for approximately 11% of the costs and the Landlord, known as 311 Woburn, LLC is responsible for 89% of the costs. [source: November 30, 2020, screening response, Attachment 1]

If this project is approved, the applicant anticipates the surgery center and additional ORs will be operational at the new site in March 2022. Under this timeline, the first full calendar year of operation is 2023 and year three is 2025. [source: Application, p7]

Given that the applicant, Northwest Endoscopy Center, LLC, and the name of the surgery center, Northwest Endoscopy Center are similar, to avoid confusion in the evaluation, the department will refer to the surgery center as ‘NEC ASC.’

APPLICABILITY OF CERTIFICATE OF NEED LAW

This application is subject to Certificate of Need review as the construction, establishment, or other development of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

EVALUATION CRITERIA

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. If WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations.

To obtain Certificate of Need approval, an applicant must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment). Additionally, WAC 246-310-270 (ambulatory surgery) contains service or facility specific criteria for ambulatory surgical facility (ASF) projects and must be used to make the required determinations for applicable criteria in WAC 246-310-210.

TYPE OF REVIEW

This application was reviewed under a regular review timeline. The table below shows a summary of the timeline used for the project.

APPLICATION CHRONOLOGY

Action	Northwest Endoscopy Center, LLC
Letter of Intent Received	April 27, 2020
Application Received	July 22, 2020
Department's pre-review activities: <ul style="list-style-type: none">• DOH 1st Screening Letter• Applicant's Responses Received¹	August 12, 2020 November 30, 2020
Beginning of Review	December 7, 2020
Public Hearing Conducted	None requested or conducted
Public Comments Deadline	January 11, 2021
Rebuttal Comments Deadline	January 26, 2021
Department's Anticipated Decision	March 12, 2021
Department's Actual Decision	March 12, 2021

AFFECTED PERSONS

"Affected persons" are defined under WAC 246-310-010(2). In order to qualify as an affected person someone must first qualify as an "interested person" defined under WAC 246-310-010(34). For this project no entities requested interested or affected person status.

PUBLIC COMMENT AND REBUTTAL

There was no public comment submitted for this application; as a result, the applicant was precluded from providing rebuttal comments. This fact is stated here and will not be restated throughout this evaluation.

SOURCE INFORMATION REVIEWED

- Northwest Endoscopy Center, LLC's Certificate of Need application received on July 22, 2020
- Northwest Endoscopy Center, LLC's screening response received November 30, 2020
- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission and Nursing Quality Assurance Commission
- Compliance history for facilities and services from the Washington State Department of Health – Office of Health Systems Oversight
- DOH Provider Credential Search website: <http://www.doh.wa.gov/pcs>
- Historical charity care data for years 2017, 2018, and 2019 obtained from the Department of Health/Finance and Charity Care.
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- Washington State Secretary of State website: <http://www.sos.wa.gov>

CONCLUSION

Northwest Endoscopy Center, LLC

For the reasons stated in this evaluation, the application submitted by Northwest Endoscopy Center, LLC proposing to establish an ambulatory surgical facility with five operating rooms in Whatcom County is consistent with applicable criteria of the Certificate of Need Program, provided Northwest Endoscopy Center, LLC agrees to the following in its entirety.

¹ On September 24, 2020, the department granted a 60-day extension for the applicant to provide its screening responses.

Project Description

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Conditions

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2. Northwest Endoscopy Center, LLC will obtain and maintain Medicare and Medicaid certification for the surgery center at the new site.
3. Northwest Endoscopy Center, LLC shall finance this project as described in the application.
4. Prior to providing surgical services, Northwest Endoscopy Center, LLC shall submit to the Certificate of Need Program the Non-Discrimination Policy in final form. The final policy shall be consistent with the draft policy provided in the application.
5. Northwest Endoscopy Center, LLC will provide charity care in compliance with its charity care policy reviewed for this project. Northwest Endoscopy Center, LLC will use reasonable efforts to provide charity care in the amount consistent with the three-year average of charity care for gross revenue provided by PeaceHealth St. Joseph Hospice located in Whatcom County. The gross revenue three-year average for years 2017 – 2019 is 1.48%.
6. Northwest Endoscopy Center, LLC will maintain records of charity care applications received and the dollar amount of charity care discounts granted at the new surgery center. The records must be available upon request.

Approved Costs

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CRITERIA DETERMINATIONS

A. NEED (WAC 246-310-210)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Northwest Endoscopy Center, LLC met the applicable need criteria in WAC 246-310-210 and the applicable ambulatory surgery facility criteria in WAC 246-310-270.

- (1) *The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.*

To evaluate this sub-criterion, the department uses facility-specific criteria found in WAC 246-310-270.

WAC 246-310-270(6)

WAC 246-310-270(6) requires a minimum of two operating rooms (ORs) in an ASF.

Northwest Endoscopy Center, LLC

NEC ASC currently operates with three ORs. At the new site, NEC ASC will have five ORs. The applicant provided the line drawings for the facility. [source: Application, Exhibit 4]

Department Evaluation

The applicant provided documentation and statements to demonstrate the surgical facility will have a total of five ORs. **This sub-criterion is met.**

Northwest Endoscopy Center, LLC

The applicant provided the following information related to a numeric methodology for this project. [source: Application, p12]

“The numeric need methodology does not apply to this project. This question is not applicable as NWECC is exclusively dedicated to Endoscopy.”

Numeric Need Methodology and Department Evaluation

The Department of Health’s Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270 for determining the need for additional ASFs in Washington State. The numeric methodology provides a basis of comparison of existing OR capacity for both outpatient and inpatient ORs in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 secondary health services planning areas. This facility is located in Bellingham, within the Whatcom County secondary health service planning area. [source: WAC 246-310-270(3)]

The methodology estimates OR need in a planning area using multiple steps as defined in WAC 246-310-270(9). This methodology relies on a variety of assumptions and initially determines existing capacity of dedicated outpatient and mixed-use operating room in the planning area, subtracts this capacity from the forecast number of surgeries expected in the planning area in the target year, and examines the difference to determine:

- (a) Whether a surplus or shortage of ORs is predicted to exist in the target year; and
- (b) If a shortage of ORs is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.

Data used to make these projections specifically exclude special purpose and endoscopy ORs and procedures. Dedicated interventional pain management surgical services are also among the excluded ORs and procedures.

Because this project proposes ORs that would be exclusively dedicated to endoscopy services, the department will not complete the numeric need methodology and will instead move forward with analysis under WAC 246-310-210, assessing whether existing services are sufficiently available or accessible to serve the projected population.

WAC 246-310-210

For this project, Northwest Endoscopy Center must also demonstrate that existing services are not sufficiently available and accessible to meet that need.

Northwest Endoscopy Center, LLC

The applicant provided the following statements that focus on this sub-criterion. [source: Application, p10]

“This project proposes to expand a well utilized facility that is unable to meet current demand. In our 2012 application, NWECC assumed an annual growth rate of 2%. In fact, and as seen in Table 3, NWECC’s actual growth rate averaged nearly 4% annually between 2013 and 2019 with growth of 5-6% annually

for the past three years. Growth, in total, since 2013, has been 30%. Currently, NWECC has a six-month waiting list for procedures or an average of 1,000/month.”

Applicant’s Table

Table 3

Northwest Endoscopy, Projected and Actual Procedures by Year, 2013-2019

Year	2013 CN Application Projected No. of Procedures	Actual No. of Procedures	% that Actual Volume Exceeded Estimated	Actual Year-over-Year % Change
2013	8,177	8,457	3.4%	
2014	8,341	9,224	10.6%	9.1%
2015	8,508	9,135	7.4%	-1.0%
2016	8,678	9,296	7.1%	1.8%
2017	8,851	9,763	10.3%	5.0%
2018		10,384		6.4%
2019		11,026		6.2%

Source: Applicant

Focusing on the historical utilization of NEC ASC for years 2017 through 2019, the applicant provided the following statements regarding patient access to these services. [source: Application, p13]

If this project is not approved and NWECC is not permitted to expand, wait times for colonoscopy screenings will continue to increase. This has the potential to delay lifesaving treatments for the segment of the population that is ultimately diagnosed with polyps or with colon cancer.”

Department Evaluation

Under this sub-criterion the department must determine whether other services and facilities for the type proposed are not or will not be sufficiently available and accessible to meet that need. Given that the surgery center is currently operational and has been for more than seven years, NEC ASC is an integral part of the Whatcom County healthcare infrastructure. Northwest Endoscopy Center identified two facilities that offer endoscopy services in Whatcom County. One is the hospital located in Bellingham, PeaceHealth St. Joseph Medical Center. The other provider is PeaceHealth Medical Group Endoscopy Center, a medical group owned and operated by the hospital.² Both have also been providing endoscopy services for many years. The department did not receive any public comment to suggest that either of these two providers opposed the relocation and expansion of OR capacity in the planning area.

In summary, the department concludes that the applicant demonstrated need for its project. The existing supply of ORs for endoscopic surgical services may not be sufficiently available and accessible in Whatcom County for future years. **This sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

To evaluate this sub-criterion, the department evaluates an applicant’s admission policies, willingness to serve Medicare and Medicaid patients, and to serve patients that cannot afford to pay for services. The

² On March 27, 2009, CN #1396 was issued to PeaceHealth St. Joseph Medical Center approving the acquisition and conversion of Madrona Medical Group’s ASC to a hospital-based program.

admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and assurances regarding access to treatment.

The admission policy must also include language to ensure all residents of the planning area would have access to the proposed services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

Medicare certification is a measure of an applicant's willingness to serve the elderly. With limited exceptions, Medicare is coverage for individuals age 65 and over. It is also well recognized that women live longer than men and therefore more likely to be on Medicare longer.

Medicaid certification is a measure of an applicant's willingness to serve low income persons and may include individuals with disabilities.

Charity care shows a willingness of a provider to provide services to individuals who do not have private insurance, do not qualify for Medicare, do not qualify for Medicaid, or are under insured. With the passage of the Affordable Care Act, the amount of charity care is expected to decrease, but not disappear. Specific to ASFs, WAC 246-310-270(7) requires that ASFs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed project.

Northwest Endoscopy Center, LLC

Northwest Endoscopy Center provided the following statements directly related to this sub-criterion. [source: Application, p13]

"Admission to NWECC is based on clinical need. Services are made available to all persons regardless of race, color, religion, national origin, age, financial class, gender and/or handicap. A copy of NWECC's admission policy is included as Exhibit 2."

The applicant also provided copies of the following policies currently used at NEC ASC. [source: Application, Exhibit 2]

- Admission Policy
- Charity Care Policy
- Patient Rights, Responsibilities, and Grievances Policy

Northwest Endoscopy Center also provided a draft of the following policy to be used at NEC ASC. [source: November 30, 2020, screening response, Attachment 8]

- Non-Discriminatory Policy [Draft]

Within the application, Northwest Endoscopy Center provided the following description of patients that would be served at NEC ASC. [source: Application, p8]

"The primary ambulatory surgical procedures anticipated to be performed include colonoscopies, flexible sigmoidoscopies, enteroscopies, and upper endoscopies. NWECC's patients are generally age 16 and over but, as indicated in the admission policy (Exhibit 2), patients are accepted based on clinical need and not age."

In addition to the policies and statements above, Northwest Endoscopy Center provided the following statements associated with its current and projected sources of revenue by payer and patient for NEC ASC. [source: Application, p19]

“NWECC is not assuming any change in our current payer mix resulting from this project. The requested information is included in Table 8:”

Applicant's Table
Table 8
Northwest Endoscopy Center
Current and Projected Payer Mix

Payer	Percentage by Revenue WAC 246-310-220(1)	Percentage by Patient WAC 246-310-210(2)
Medicare	25%	41%
Medicaid	4%	8%
Commercial	56%	49%
Other	15%	2%
Total	100%	100.0%

Source: Applicant

Department Evaluation

NEC ASC is expected to be operational at the new site in March 2022. Given that the surgery center is already operational at its current site, Northwest Endoscopy Center provided three policies currently in use and one policy in draft format. The three policies currently in use at the CN approved surgery center are the Admission Policy, Charity Care Policy, and the Patient Rights, Responsibilities, and Grievances Policy. Each of these three policies have the information necessary to ensure compliance with this sub-criterion.

The Non-Discriminatory Policy was submitted as a draft. Even though the three current policies cover most of the information that is included in this policy, this draft policy was included in the application materials. The Non-Discrimination Policy provides guidance for physicians, staff, and any contract providers regarding non-discrimination. This policy includes the following language. [source: November 30, 2020, screening response, Attachment 8]

“The physicians and staff of the Center, along with any contracted providers, agree to comply with the provisions of the Federal Civil Rights Act of 1964, the Affordable Care Act Section 1557, and any state regulations and requirements imposed so that no person, on the grounds of race, color, national origin, ancestry, language, age, gender, gender identity, sex stereotyping, religious creed, disability, or ability to pay is excluded from any care or service while a patient or staff member at our Center.

In addition, the physicians and staff agree to treat every patient with respect, consideration, dignity, while ensuring their privacy and confidentiality, giving them access to information so that they may make informed decisions and participate in their care. These components of our commitment to our patients are outlined in the Patient's Rights and Responsibilities policy.

Staff is encouraged to be sensitive and avoid making gender assumptions. Documentation and communication of pronouns that refer to gender should be avoided; instead, using the term “patient” or using the patient's name is preferred.

The nurse manager assumes the responsibility of the “Civil Rights Coordinator” and is the contact for any questions or concerns.”

Each of the policies reference above provides the necessary information specific to the purpose of the policy. If this project is approved, the department would condition the approval requiring the applicant to provide final Non-Discrimination Policy consistent with the draft provided in the application. The final policy would be required to be submitted and approved by the department prior to providing surgical services at the newly relocated ASF.

The center will continue to be Medicare and Medicaid-certified and hold an active Washington State license. Northwest Endoscopy Center provided its current and projected percentages of revenue by payer for the surgical facility. The Medicaid and Medicaid payer mixes are in range of what is typically seen in CN applications for endoscopy ASFs.

To ensure the surgical facility would be available to all residents of the service area, if this project is approved, the department would condition the approval requiring the applicant to maintain both Medicare and Medicaid certification.

Based on this information, the department concludes that approval of this project has the potential to increase or maintain the availability and accessibility of outpatient endoscopic services to the residents of Whatcom County.

Based on the information reviewed and with Northwest Endoscopy Center's agreement to the conditions identified above, the department concludes **this sub-criterion is met.**

WAC 246-310-270(7) – Charity Care Requirement

WAC 246-310-270(7) requires that ASFs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed ASFs.

Northwest Endoscopy Center, LLC

To demonstrate compliance with this sub-criterion, Northwest Endoscopy Center provided the following statements and table regarding historical and projected charity care provided by NEC ASC. [source: Application, p16 and November 30, 2020, screening response, pp2-3]

“The only hospital located in the ASF Planning Area is PeaceHealth St. Joseph Medical Center, and its charity care percentage is detailed in Table 6. NVEC’s financial projections assume the same percentage of charity care (1.08%).

NVEC has combined the two tables included in the CN Program’s screening response into a single table for reader ease (Table 1).

Applicant’s Table

Table 1
Northwest Endoscopy Center
Charity Care as a Percentage of Gross Revenue and Adjusted Revenue, 2017-2019

Year	Gross Revenue	Adjusted Revenue	Charity Care	Charity Care as a % of Gross Revenue	Charity Care as a % of Adjusted Revenue
2017 CY	6,485,237	5,227,944	44,964	0.69%	0.86%
2018 CY	6,712,822	5,383,215	47,864	0.71%	0.89%
2019 CY	7,195,816	5,461,497	63,128	0.88%	1.16%

Source: Applicant

As was discussed with CN Program staff on September 15, 2020, and consistent with WAC, the assumption included in the application was intended to assure that NWEC budget at the average of PeaceHealth St. Joseph Medical Center during the 2016-2018 timeframe (the latest data currently available) and that the project be financially feasible at that level of charity care. NWEC acknowledges that our charity care has been lower than that of PeaceHealth St. Joseph Medical Center, and we understand that a condition is likely to be placed on the award of our Certificate of Need requiring that we use reasonable efforts to attain the budgeted levels. We will agree to such a condition.

NWEC's historical charity care has been trending up but remains slightly lower for several reasons. Primarily, this is due to the fact that the most common services provided at NWEC are covered by insurance (either commercial or Medicare). Importantly, those that are uninsured or underinsured and that have been qualified for financial assistance (bridging the gap for patients in need) at PeaceHealth St. Joseph Medical Center automatically qualify for charity care at NWEC, assuming they meet our admissions criteria. See website <https://www.peacehealth.org/patient-financial-assistance>. NWEC plans to continue to continue this access as outlined in our Charity Care Policy.

In addition to the bridge policy, NWEC has taken steps to ensure that all patients in need of services are made aware of its charity care policy. NWEC's website has been updated to include a section for patients that do not have health insurance. This section provides information on the charity care process and a link to an application for the patient to fill out to request charity care."

Department Evaluation – Charity Care Requirement

For charity care reporting purposes, Washington State is divided into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. Whatcom County is included in the Puget Sound Region. For this review, the department focuses on years 2017, 2018, and 2019 charity care data reported by the hospitals in the region.³

Currently there are 25 hospitals operating within the Puget Sound Region. Of the 25 hospitals, two were established in year 2019 and did not have charity care data to report; and one hospital did not report in year 2018.⁴

Of the 25 hospitals, only PeaceHealth St. Joseph Hospital in Bellingham within Whatcom County may be affected by this proposed project. The table below compares the three-year historical average of charity care provided by the hospitals operating in the Puget Sound Washington Region⁵, PeaceHealth St. Joseph Hospital located in Bellingham, and, the applicant's projected charity care percentages.

**Department's Table 1
Charity Care – Three Year Average**

	% of Total Revenue	% of Adjusted Revenue
Puget Sound Region	1.34%	4.02%
PeaceHealth St. Joseph Hospital	1.48%	5.14%
Northwest Endoscopy Center	1.08%	1.52%

[source: Department of Health's charity care reports for years 2017, 2018, and 2019 and Application, Exhibit 5]

³ As of the writing of this evaluation, year 2020 charity care data is not yet available.

⁴ The two new hospitals are MultiCare's Wellfound Behavioral Health and CHI Franciscan's Rehabilitation Hospital. Fairfax Behavioral Health did not report data in 2018.

⁵ With the exception of the hospitals previously identified that did not report.

As shown above, the projected percentage of charity care proposed by the applicant is lower than both the regional average and the average of PeaceHealth St. Joseph Hospital.

The 2017 Report of Charity Care in Washington Hospitals offers the following analysis of charity care costs across Washington State Hospitals with the introduction of the Affordable Care Act (ACA):

“Implementation of the ACA has changed the landscape of charity care in Washington. More patients have health coverage, either through Medicaid expansion or through purchase of private coverage. As a result, Washington saw the first decline in the amount of charity care reported by hospitals since the department began gathering these data in 1989. That decline, however, has ceased and charity care is increasing again, though it remains well below 2013 levels.

Effective January 1, 2019, Congress removed the fiscal penalty in the individual mandate, one of the key provisions of the ACA driving increased insurance coverage. Disagreement exists about the full impact of this change but some believe that repeal or significant roll-back of ACA could cause charity care to revert to pre-2014 levels.” [Source: 2017 Washington State Charity Care in Washington Hospitals]

The Certificate of Need Program recognizes that charity care in Washington State is expected to increase in coming years since ACA penalties are removed for lack of insurance coverage. Current data confirms hospitals are beginning to see an increase in charity care costs.

Additionally, NEC ASC’s historical charity care has been significantly below both the regional and PeaceHealth St. Joseph Hospital averages for total and adjusted revenues. For these reasons, the department recalculated the charity care dollars to be provided at NEC ASC to be consistent with the total revenue average for the region and PeaceHealth St. Joseph Hospital in Bellingham. The results are shown in the table below.

Department’s Table 2
Charity Care – Three Year Average Comparison

	NEC ASC Proposed = 1.08%	Puget Sound Region Average = 1.34%	St. Joseph Hospital Average = 1.48%
Year 1 - 2023	\$211,877	\$263,076	\$290,759
Year 2 - 2024	\$222,470	\$276,230	\$305,297
Year 3 - 2025	\$277,951	\$345,116	\$381,433

When comparing the applicant’s projected charity care dollars with the regional and planning area projections shown above, the increased amounts would affect the net profits of the surgery center. Taking this into account, the department will also apply the increased charity care dollar amounts to the financial feasibility criteria in WAC 246-310-220(1) of this evaluation.

Northwest Endoscopy Center acknowledged the requirement under WAC 246-310-270(7) to provide charity care. **With agreement to a charity care condition, this sub-criterion is met.** The financial implications of this will be discussed under WAC 246-310-220(1).

(3) The applicant has substantiated any of the following special needs and circumstances the proposed project is to serve.

(a) The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers providing a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas.

- (b) The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.
 - (c) The special needs and circumstances of osteopathic hospitals and non-allopathic services.
- (4) The project will not have an adverse effect on health professional schools and training programs. The assessment of the conformance of a project with this criterion shall include consideration of:
- (a) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.
 - (b) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools serving the area will have access to the services for training purposes.
- (5) The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of a health maintenance organization or proposed health maintenance organization and the services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization.

Department Evaluation

WAC 246-310-210(3), (4), and (5) do not apply to this project under review.

B. FINANCIAL FEASIBILITY (WAC 246-310-220)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Northwest Endoscopy Center, LLC meets the applicable financial feasibility criteria in WAC 246-310-220.

- (1) The immediate and long-range capital and operating costs of the project can be met.
- WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

To evaluate this sub-criterion, the department reviews the assumptions provided by an applicant, projected revenue and expense (income) statements, and projected balance sheets. The assumptions are the foundation for the projected statements. The income statement is a financial statement that reports a company's financial performance over a specific period—either historical or projected. Projected financial performance is assessed by giving a summary of how the business expects its revenues to cover its expenses for both operating and non-operating activities. It also projects the net profit or loss incurred over a specific accounting period.⁶

⁶ One purpose behind the income statement is to allow key decision makers to evaluate the company's current situation and make changes as needed. Creditors use these statements to decide on loans it might make to the company. Stock investors use these statements to determine whether the company represents a good investment.

The purpose of the balance sheet is to review the financial status of company at a specific point in time. The balance sheet shows what the company owns (assets) and how much it owes (liabilities), as well as the amount invested in the business (equity). This information is more valuable when the balance sheets for several consecutive periods are grouped together, so that trends in the different line items can be viewed.

As a part of its review, the department must determine that a project is financially feasible – not just as a stand-alone entity, but also as an addition to its own existing operations, if applicable. To complete its review, the department may request an applicant to provide projected financial information for the parent corporation if the proposed agency would be operated under the parent.

Northwest Endoscopy Center, LLC

NEC ASC has been operational since approximately 2012, first as a Certificate of Need exempt surgery center⁷ then as a Certificate of Need approved facility⁸. The surgery center and the practice have been in operation more than eight years. This project proposes to relocate an existing Certificate of Need approved ambulatory surgical facility and add operating rooms (ORs).

Northwest Endoscopy Center provided the assumptions used to determine the projected number of cases at the surgery center. [source: Application, pp12-13]

“Table 4 provides the historical utilization for the last three full calendar years.

Applicant’s Table

Table 4

Northwest Endoscopy, Actual Procedures by Year, 2017-2019

Year	Actual No. of Procedures
2017	9,763
2018	10,384
2019	11,026

Source: Applicant

The applicant provided its projected utilization for 2020 (current year) through 2025, the third full year following project completion. The projections and assumptions are shown in the table recreated below. [source: Application, p13 and November 30, 2020, screening response, Attachment 9]

Department’s Table 3

NEC ASC Projected Utilization

Year	Number of ORs in Use	Cases	Assumption
2020 [COVID]	Three ORs when facility was operational during the pandemic.	9,250	Actual
2021	Three ORs for 12 months	13,231	1% increase over 2020; facility essentially at capacity
2022	Three ORs for nine months; Four ORs for 3 months	13,230	1% increase over 2020; facility essentially at capacity

⁷ Determination of Reviewability #13-08 issued on October 26, 2012.

⁸ Certificate of Need #1507 issued on August 23, 2013.

Year	Number of ORs in Use	Cases	Assumption
2023	Four ORs for 12 months	16,200	Growth of 3,336 cases due to wait list. Assumes 4 procedure rooms in use.
2024	Four ORs for 12 months	17,010	5% growth in volumes due to population growth and aging
2025	Five ORs for 12 months	21,252	Assumes 5 procedure rooms in use.

Northwest Endoscopy Center provided the current and projected payer mix for the surgery center and confirmed that the relocation and addition of two ORs to NEC ASC is not expected to change the payer mix. The applicant's payer mix is shown in the table below. [source: Application, p19]

**Department's Table 4
NEC ASC Projected Payer Mix**

Payer	Percent by Revenue	Percent by Patient
Medicare	25.0%	41.0%
Medicaid	4.0%	8.0%
All Other Payers*	71.0%	51.0%
Total	100.0%	100.0%

* All other payers includes commercial payers.

Following are the assumptions Northwest Endoscopy Center used to project revenue, expenses, and net income for the relocated NEC ASC with five ORs. [source: November 30, 2020, screening response, Attachment 9]

**Department's Table 5
Applicant's Assumption Table Recreated**

Line Item	Assumption
Revenue	<i>Charge per procedure at 2019 rate (\$1,211). Net Revenue per Procedure (\$652) based on current collection rate. Please note that the 2020 revenue has been revised to reflect actual year to date experience. Because it is an unusual year, 2019 was used for projection purposes. In addition, utilization assumptions for 2020 are also based on year to date experience and the postponement of procedures during the COVID-19 restrictions earlier this year. In addition, utilization assumptions for 2021-2022 are also revised to reflect the move to a 6 day per week operation.</i>
Charity Care	<i>1.08% of gross revenue</i>
Bad Debt	<i>0.22% of gross revenue for 2021-2025. 2020 reflects year to date experience which is positive because payments have been made on bad debt expenses from previous years (and, larger than current bad debt).</i>
Salaries & Wages	<i>Based on FTEs and average salary per FTE</i>
Payroll Taxes	<i>7.65% of Salary and Wages</i>
Employee Benefits-Insurance	<i>8.70% of salaries and wages</i>
Employee Benefits-401K Match	<i>4% of Salary and Wages</i>
Drugs & Medication	<i>\$4.14 per procedure (2019 actual)</i>

Line Item	Assumption
<i>Medical Supplies</i>	<i>\$60.25 per procedure (2019 actual)</i>
<i>Office Supplies</i>	<i>\$1.94 per procedure (2019 actual)</i>
<i>Postage & Printing</i>	<i>\$0.37 per procedure (2019 actual)</i>
<i>Repairs, Maintenance, & Cleaning</i>	<i>5% increase annually beginning in 2021 due to volume increases (however, the expenses for 2020 have been increased by 13% to account for increases due to COVID-19). In 2023, only 2% increase assumed. 5% increase in 2024 and 2025.</i>
<i>Uniforms & Laundry</i>	<i>\$13.00 per procedure in 2023-2025</i>
<i>Accounting & Consulting</i>	<i>Assumed to be \$7,500 per year. 2018, 2019, 2020 contained additional costs that are not expected to occur again.</i>
<i>Bank & Collection Fees</i>	<i>0.6% of total collections based on 2019 experience.</i>
<i>Billing Service Fees</i>	<i>6.75% of collections to billing service.</i>
<i>Dues & Subscription Expenses</i>	<i>2019 costs were assumed each year (no change due to new site or increases in volume); rounded to \$70,000/year.</i>
<i>Insurance</i>	<i>2019 costs were assumed each year (no change due to new site or increases in volume).</i>
<i>Management Fee</i>	<i>\$1,000 per year per current agreement for 2019 and 2020 only.</i>
<i>Miscellaneous</i>	<i>Interpretation services, security services/access to building, shredding service, patient statements; another collection agency, cleaning (curtains), staff appreciation. Assume to increase by 5% each year.</i>
<i>Rent</i>	<i>Based on lease agreement. Included with these assumptions is a table with the monthly lease expense detail.</i>
<i>Triple Net</i>	<i>5% of gross rent for new space (2022-2025). 2020-2022 (First 3 months) based on existing lease.</i>
<i>Seminars & Conference Fees</i>	<i>Assumed to be \$5,500 per year</i>
<i>Taxes and Licenses</i>	<i>2.4% of total collections for B&O taxes, state, city and property taxes, state licenses</i>
<i>Telephone & Utilities</i>	<i>Assumed to be \$10,000 based on 2019</i>
<i>Travel & Entertainment</i>	<i>Assumed to be \$2,000 in even years for staff travel and entertainment. Every other year, NWECC provides a holiday party for staff (this increased the line item by \$8,000)</i>
<i>Depreciation</i>	<i>Equipment purchased for new space will be depreciated straight line over 7 years beginning in 2023; also includes existing depreciation.</i>
<i>Interest Expense</i>	<i>Current loans paid off in 2020. Interest expense for the loan is assumed at 3.25% per year. Included with these assumptions is an amortization schedule.</i>

Northwest Endoscopy Center provided the following clarification regarding its current and future relationship with Physicians Endoscopy. [source: Application, p15]

“NWECC has an existing management agreement with Physicians Endoscopy. The existing agreement, which has a six-year term, commenced in 2014. The agreement will not be renewed. The expenses associated with this agreement (\$1,000 annually) have been included in the financials through 2020.”

The applicant also clarified that the medical director is employed by Northwest Endoscopy Center, therefore there is no contract for the medical director services. The applicant further stated that *“there are no other agreements associated with this project.”* [source: Application, p15]

Based on the assumptions and information above, Northwest Endoscopy Center provided its projected revenues, expenses, and net income for the surgery center for partial year one (2022) and full calendar years one through three (2023 – 2025). The projections are summarized in the table below. [source: November 30, 2020, screening response, Attachment 9]

Department Table 6
NEC ASC Revenue and Expense Statement Summary

	Partial Year 1-2022	Year 1-2023	Year 2-2024	Year 3-2025
Total Net Revenue	\$8,443,346	\$10,338,791	\$10,855,731	\$13,562,962
Total Expenses	\$6,736,991	\$7,499,083	\$7,757,269	\$9,029,158
Net Profit / (Loss)	\$1,706,355	\$2,839,708	\$3,098,462	\$4,533,804

The “Total Net Revenue” line item is gross patient revenue, minus deductions from revenue for contractual allowances, bad debt, and charity care. The “Total Expenses” line item includes operating expenses, including personnel, marketing, supplies, taxes, IT, fees, utilities, insurance, and depreciation. These costs are based on the specific information outlined earlier in this section.

Northwest Endoscopy Center also provided its projected balance sheets for the first three years of operation that are summarized in the table below. [source: November 30, 2020, Attachment 9]

Department’s Table 7
NEC ASC Projected Balance Sheets for Years 2022 through 2025

Assets	Partial Year 2022	Year 1-2023	Year 2-2024	Year 3-2025
Current Assets	\$1,597,071	\$1,697,447	\$1,820,356	\$1,949,414
Property & Equipment	\$224,188	\$990,549	\$802,995	\$641,284
Other Assets	\$12,000	\$12,000	\$12,000	\$12,000
Total Assets	\$1,833,259	\$2,699,996	\$2,635,351	\$2,602,698

Liabilities	Partial Year 1-2022	Year 1-2023	Year 2-2024	Year 3-2025
Current Liabilities	\$286,801	\$275,472	\$262,140	\$248,808
Long Term Liabilities	\$0	\$764,000	\$713,000	\$662,000
Total Capital	\$1,546,456	\$1,660,524	\$1,660,212	\$1,691,890
Total Liabilities & Capital	\$1,833,257	\$2,699,996	\$2,635,352	\$2,602,698

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by Northwest Endoscopy Center to determine the projected number of procedures and utilization of the surgery center. The utilization assumptions are based on the historical number of procedures performed at the surgery center and includes a modest percentage of increase. Given that the surgery center has been operational since late year 2013, this approach is reasonable.

Northwest Endoscopy Center based its revenue and expense assumptions on historical figures or contracts currently in place. Most categories were based on 2019 data because the COVID-19 pandemic resulted in closure of the practice and surgery center in year 2020. Also, some categories were held constant and others were estimated as a percent of anticipated revenue, this approach is reasonable.

The pro forma financial statements show NEC ASC's revenues would cover expenses in year 2021 at the existing site through year 2025, the third full calendar year of operation at the proposed site with a total of five ORs.

As discussed in WAC 246-310-210(2), the department recalculated the proposed surgery center's projected charity care dollars to be consistent with the Puget Sound Region and PeaceHealth's St. Joseph Hospital located in Whatcom County. Those calculations increased the charity care dollars for all three projection years. The table below is a recalculation of the Revenue and Expense Statement Summary with the projected increase in charity care dollars equal to the total percentage provided by St. Joseph Hospital. This approach is used because it would include the larger dollar amount for charity care and would show the most impact to the net profit / (loss) line item.

Department Table 8
Northwest Endoscopy Center Ambulatory Surgery Center
Revenue and Expense Statement Summary Recalculated

	Year 1-2023	Year 2-2024	Year 3-2025
Total Net Revenue	\$10,259,909	\$10,772,904	\$13,459,480
Total Expenses	\$7,188,588	\$7,440,198	\$8,705,135
Net Profit / (Loss)	\$2,760,826	\$3,015,635	\$4,430,322

With the increase of charity care to \$290,759 in year one, \$305,297 in year two, and \$381,433 in year three, the table above shows a smaller net profit, however, the surgery center's revenues would continue to cover expenses.

Based on the information submitted, the department concludes that the immediate and long-range operating costs of the project can be met. If this project is approved, the department would attach a charity care condition consistent with past surgical center projects. **This sub-criterion is met.**

- (2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project's costs with those previously considered by the department.

Northwest Endoscopy Center, LLC

The applicant provided the following statements related to this sub-criterion. [source: Application, p18]

"NWECC's charges for services are not based upon the capital costs associated with this project. As noted in other sections of this application, NWECC has outgrown its existing facility and an expanded facility is much needed to address demand. NWECC's rates are based on fee schedules with CMS and negotiated rates with other payers. These are not directly impacted by project related costs."

Department Evaluation

The applicant provided significant information to demonstrate that the use of a surgery center for endoscopic procedures is a cost savings to the patients and the payers. To assist in evaluating this sub-criterion, the department also calculated the net revenue per case for all three projection years.

**Department's Table 9
Department Calculation of Revenue per Case**

	Year 1-2023	Year 2-2024	Year 3-2025
Net Revenue*	\$10,259,909	\$10,772,904	\$13,459,480
Number of Procedures	16,200	17,010	21,252
Net Revenue per Procedure	\$633.33	\$633.33	\$633.33

* Net revenue amount calculated from department's Table 8 on the previous page.

As shown above, the anticipated net revenue per procedure holds constant through the projection period.

Additionally, the applicant has already met with the Department of Health's Construction Review Services (CRS), which is a necessary step prior to constructing the surgery center. To assist in this evaluation, the department reviewed technical assistance (TA) documentation between the applicant and the Department of Health's Construction Review Services (CRS) office.⁹ This documentation identifies the construction that is necessary for the proposed surgery center with five operating rooms and support space. While Northwest Endoscopy may not have submitted its plans to the local authority having jurisdiction for review, the department's research shows the applicant has started the necessary steps for this project.

Based on this information, the department concludes that the relocation and OR addition for the surgery Center in Whatcom County will not likely have an unreasonable impact on the costs and charges for healthcare services in the county. **This sub-criterion is met.**

(3) *The project can be appropriately financed.*

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

Northwest Endoscopy Center, LLC

Funding for the capital expenditure will be paid by the applicant and the landlord. Northwest Endoscopy Center provided a breakdown of the estimated capital expenditure for each entity. The breakdown is shown in the table below. [source: November 30, 2020, screening response, Attachment 1]

**Department's Table 10
Estimated Capital Expenditure Breakdown**

Item	Applicant	Landlord	Total
Land Purchase	\$0	\$861,617	\$861,617
Building Construction (includes some fixed equipment)	\$0	\$4,250,000	\$4,250,000
Moveable Equipment	\$764,000	\$0	\$764,000
Consulting Fees	\$25,000	\$0	\$25,000
Site Preparation	\$0	\$1,799,000	\$1,799,000
Equipment Sales Tax	\$66,468	\$0	\$66,468
Total	\$830,468	\$6,910,617	\$7,741,085

⁹ CRS #61086340

The applicant also clarified that architect fees are already included in the site preparation costs identified above. [source: November 30, 2020, Attachment 1]

Northwest Endoscopy Center provided a letter from Barkley Company that provides an estimate of the costs for the site development and building, which include sales tax. The estimate is \$6,910,000. [source: November 30, 2020, screening response, Attachment 5] The applicant also provided the following explanation of the funding sources for this project. [source: Application, p18]

“As indicated in Exhibit C of the lease agreement, the landlord agrees to construct the building which will house NWECC. Landlord will also complete the tenant improvements for ASC (90% of total costs). NWECC will be responsible for the remainder.”

As shown in the table above, the total cost of the project is \$7,741,085. The applicant’s portion of the funding is \$830,468 or approximately 11% of the total costs. To demonstrate compliance with this sub-criterion, Northwest Endoscopy Center provided its historical financial statements for years 2016 through 2018 and a letter from US Bank substantiating the amount of the equipment loan and associated terms. [source: Application, Exhibit 10, November 30, 2020, screening response, Attachment 4, and Attachment 9]

Given that the landlord, known as 3111 Woburn LLC¹⁰, is responsible for \$6,910,617, or approximately 89% of the funding for the project, Northwest Endoscopy Center provided a letter from Peoples Bank confirming that the funding for the project is available. [source: November 30, 2020, screening response, Attachment 3]

Department Evaluation

As stated above, Northwest Endoscopy Center intends to finance its portion of this project with reserves. A review of the historical financial statements provided in the application demonstrates that the applicant has the financial health to provide its portion of the funding. The table below shows a summary of the historical balance sheets for Northwest Endoscopy Center.

Department’s Table 11
Northwest Endoscopy Center, LLC Historical Balance Sheet Summary

Assets	Historical Year 2019	Historical Year 2020
Current Assets	\$949,019	\$1,496,687
Property & Equipment	\$302,950	\$152,177
Other Assets	\$9,848	\$12,000
Total Assets	\$1,261,817	\$1,660,864
Liabilities	Historical Year 2019	Historical Year 2020
Current Liabilities	\$219,669	\$300,136
Long Term Liabilities	\$86,173	\$0
Total Capital	\$955,975	\$1,360,728
Total Liabilities & Capital	\$1,261,817	\$1,660,864

The majority of the funding will be provided by the landlord and repaid by Northwest Endoscopy Center through lease costs. This is both a common and acceptable approach for projects with a large capital

¹⁰ 3111 Woburn, LLC is a real property investment company governed by Talbot Real Estate, LLC and Exxel Properties, LLC and registered with the Washington State Secretary of State office under UBI #604 621 849.

expenditure that includes land purchase and building construction costs. Documentation provided in the application demonstrates that the landlord has the financial health to fund its portion of this project.

Although the capital expenditure is sizable, the department reviewed the applicant's projected Revenue and Expense Statements and Balance Sheets to confirm that revenues would cover expenses for the surgery center, and that the overall practice and surgery center would be financially viable.

Based on this review, the department concludes that the finances for the estimated capital expenditure are available and the financing is appropriate. **This sub-criterion is met.**

C. STRUCTURE AND PROCESS (QUALITY) OF CARE (WAC 246-310-230)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Northwest Endoscopy Center, LLC meets the applicable structure and process (quality) of care criteria in WAC 246-310-230.

(1) A sufficient supply of qualified staff for the project, including both health personnel and management personnel, are available or can be recruited.

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs [full time equivalents] that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

Northwest Endoscopy Center, LLC

Northwest Endoscopy Center provided a table showing current and projected staff for the surgery center. The staff projections are based on the existing staff to patient ratios and adjusted for estimated cases and scheduled hours of operation. [source: Application, p23]

The applicant also provided the following clarification regarding the table shown below. [source: November 30, 2020, screening response, p4]

"NWECE increased staffing by 5.0 FTEs from its initial application because we increased hours of operation in an effort to make up the backlog of procedures that were postponed in response to COVID-19 limitations. The names and license numbers of the recently added clinical staffing is included in Attachment 6.

In addition, and since the application was initially submitted, NWECE added a new 0.5 Chief Administrative Officer (CAO) position (not reflected on the initial application); but this position is administrative, not clinical.

In the new staffing table (Attachment 6), NWECE will maintain current staffing until the 4th procedure room is fully opened in 2023. By 2023, 3.5 additional FTES are assumed. Given that the opening date is more than 15 months away, NWECE does not know the names and professional licensed numbers for the new staff."

The applicant provided its historical and projected number of full-time equivalents (FTEs) for the surgery center. A summary of the information, beginning with year 2020, is shown in the table below. [source: November 30, 2020, screening response, p25]

Department's Table 12
Northwest Endoscopy Center Surgery Center
Current Projected FTEs for Years 2020 through 2025

FTE Type	2020 Current	2021 Increase	2022 Increase	Year 1 2023 Increase	Year 2 2024 Increase	Year 3 2025 Increase	Total
Chief Administrative Officer	0.50	0.00	0.00	0.00	0.00	0.00	0.50
Clinical Director	1.00	0.00	0.00	0.00	0.00	0.00	1.00
Assistant Nursing Manager	1.00	0.00	0.00	0.00	0.00	0.00	1.00
Registered Nurses	17.50	0.00	0.00	1.50	0.00	2.00	21.00
LPNs and CMAs	9.50	0.00	0.00	1.00	0.00	1.50	12.00
Endoscopy Technicians	10.00	0.00	0.00	1.00	0.00	1.00	12.00
Registration/Reception	2.00	0.00	0.00	0.00	0.00	0.50	2.50
Schedulers	6.00	0.00	0.00	0.00	0.00	0.00	6.00
Total FTEs	47.50	0.00	0.00	3.50	0.00	5.00	56.00

Focusing on recruitment and retention of staff, Northwest Endoscopy Center provided the following information. [source: Application, p24]

“...NWECC is proposing to increase staff twice during the first three years of expanded operation. NWECC has been in operation for more than 25 years in Bellingham and has always been able to recruit and retain staff. NWECC offers a competitive wage and benefit package (401k, general vacation, and flexible scheduling. NWECC also serves as a precepting site for nursing students. These factors have proven to be attractive recruitment and retention tools. For these reasons, NWECC does not anticipate any difficulties recruiting the small number of incremental staff required.”

Focusing on the medical director, Northwest Endoscopy Center provided the following information. [source: Application, p23 and Exhibit 11]

“The current medical director is Benjamin Siemanowski, MD. Dr. Siemanowski’s professional license number is MD00047499. The assistant medical director is Christoph Reitz, MD. Dr. Reitz’s professional license number is MD00039787. The medical director is an appointment. The medical director does not receive compensation for this position. The medical director’s job description is included as Exhibit 11.”

Department Evaluation

Given that NEC ASC is currently operational and this project requests a relocation to a new site, the majority of staff needed have already been recruited. Northwest Endoscopy Center provided its current and projected staffing through year 2025. As noted in the table above, additional staff is necessary once the surgery center’s utilization increases. The increase in staff is consistent with the projected increase in procedures for years 2023 through 2025. This approach is reasonable.

Northwest Endoscopy Center intends to rely on its recruitment and retention strategies it has successfully used in the past. This approach is also reasonable.

Given that the medical director of the facility is one of the physician owners, the medical director is already in place and no medical director contract is necessary.

Information provided in the application demonstrates the applicant has the ability to staff the surgery center. Based on the information above, the department concludes that the Northwest Endoscopy Center project **meets this sub-criterion.**

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

WAC 246-310 does not contain specific WAC 246-310-230(2) as identified in WAC 246- 310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246- 310-200(2)(a)(ii) and (b) that directs what relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

Northwest Endoscopy Center, LLC

Given that NEC ASC is currently operational and will relocate within the same planning area, the applicant provided a listing of ancillary and support services currently in place for the surgery center. [source: Application, p25]

- *Aramark-Linen service*
- *Clean Care Professionals-Janitorial Service*
- *Fujinon-Endoscope repair service*
- *Medivators-AER (automated endoscope reprocessor)*
- *NW Biomedical-Provides annual biomed checks and service as needed*
- *Salish Sedation Services (owned by NWG) provides CRNAs (contracted) to administer MAC to all patients.*

No changes to any of the ancillary or support agreements are anticipated as a result of this project.”

Focusing on working relationships and a transfer agreement with a local hospital, the applicant provided the following clarification and documentation. [source: Application p25 and Exhibit 13]

“NVEC has worked closely with PeaceHealth St. Joseph Medical for a number of years, and we maintain an existing transfer agreement with them. The existing relationship with PeaceHealth St. Joseph Medical is not expected to change as a result of this project.”

Department Evaluation

The surgery center is currently operational; therefore, all ancillary and support agreement are in place, including the Patient Transfer Agreement. For an existing surgery center proposing to relocate within the planning area, this approach is reasonable.

Based on the information reviewed in the application, the department concludes that there is reasonable assurance that Northwest Endoscopy Center will maintain the necessary relationships with ancillary and support services for the surgery center if this project is approved. **This sub-criterion is met.**

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246- 310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310- 200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its

experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

Northwest Endoscopy Center, LLC

The applicant provided the following statements related to this sub-criterion. [source: Application, p27]

"Neither NVEC, its members nor any provider associated with NVEC has a history of any actions noted in WAC 246-210-230(5)."

Department Evaluation

As a part of this review, the department must conclude that the proposed services provided by an applicant would be provided in a manner that ensures safe and adequate care to the public.¹¹ For surgery centers, the department reviews two different areas when evaluating this sub-criterion. One is a review of the Centers for Medicare and Medicaid Services (CMS) "Terminated Provider Counts Report" covering years 2017 through 2021. The department uses this report to identify surgery centers that were involuntarily terminated from participation in Medicare reimbursement.

The department also reviews an applicant's conformance with Medicare and Medicaid standards, with a focus on Washington State facilities. The department uses the CMS 'Survey Activity Report' to identify Washington State facilities with a history of condition level findings. For CMS surveys, there are two levels of deficiencies: standard and condition.¹²

- **Standard Level**

A deficiency is at the Standard level when there is noncompliance with any single requirement (or several requirements) within a particular standard that is not of such character as to substantially limit a facility's capacity to furnish adequate care, or which would not jeopardize or adversely affect the health or safety of patients if the deficient practice recurred.

- **Condition Level**

Deficiency at the Condition level may be due to noncompliance with requirements in a single standard that, collectively, represent a severe or critical health or safety breach, or it may be the result of noncompliance with several standards within the condition. Even a seemingly small breach in critical actions, or at critical times, can kill or severely injure a patient, and such breaches would represent a serious or severe health or safety threat.

Below is a summary of the two areas reviewed for Northwest Endoscopy Center and its existing surgery center.

Terminated Provider Counts Report

Focusing on years 2017 through 2021, Northwest Endoscopy Center's surgery center was not involuntarily terminated from participation in Medicare reimbursement.

Conformance with Medicare and Medicaid Standards

Focusing on years 2017 through 2021, Northwest Endoscopy Center's surgery center was not included in those surveyed and reported to CMS. As a result, staff reviewed quality of care information from its own internal database.

¹¹ WAC 246-310-230(5)

¹² Definitions of standard and condition level surveys: <https://www.compass-clinical.com/deciphering-tjc-condition-level-findings/>

NEC ASC's most recent survey occurred in February 2015. The CMS survey noted standard level deficiencies in the area of infection control that required one follow up visit by surveyors. No other deficiencies or surveys were noted. NEC ASC is currently operating in full compliance with state and federal requirements.

Northwest Endoscopy Center identified one of the physician owners, Benjamin Siemanowski, MD, as the current medical director. Using data from the Medical Quality Assurance Commission, the department confirmed that Dr. Siemanowski holds an active medical license with no enforcement actions.

Northwest Endoscopy Center also provided a listing of seven additional physician partners or employees for the practice and surgery center. Using data from the DOH Office of Customer Service, the department found all staff are in full compliance with state requirements, hold active state licenses, and have no conditions or limits on their license.

Northwest Endoscopy Center provided a listing of other professional staff that includes: 18 registered nurses, 2 licensed nurses, and 8 medical assistants. Again, using data from the DOH Office of Customer Service, the department found all current staff are in full compliance with state requirements, hold active state licenses, and have no conditions or limits on their license.

In review of this sub-criterion, the department considered the total compliance history of the surgery center owned and operated by Northwest Endoscopy Center. The department also considered the compliance history of the medical director, current physician partners, and employees of the practice and the surgery center. Based on the information reviewed, the department concludes that Northwest Endoscopy Center's currently operational ASF has been in compliance with applicable state and federal licensing and certification requirements. The department also concludes there is reasonable assurance that the relocation and increase in ORs for this surgery center would not have a negative effect on Northwest Endoscopy Center's compliance. **This sub-criterion is met.**

- (4) *The proposed project will promote continuity in the provision of health care, not result in an unwarranted fragmentation of services, and have an appropriate relationship to the service area's existing health care system.*

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that direct how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

Northwest Endoscopy Center, LLC

Northwest Endoscopy Center provided the following statements in response to this sub-criterion. [source: Application, p26]

"The relocated and expanded facility will provide improved access to gastroenterology procedures for patients residing in Whatcom County. Currently, as detailed in other parts of this application, the wait time for routine colonoscopies are at six months. We understand that patients that cannot or choose not to wait are increasingly travelling out of the planning area for the procedure. This both increases costs and has the potential to cause fragmentation."

Department Evaluation

Even though the relocation and OR addition for a surgery center is considered a new surgical center for Certificate of Need review purposes, the applicant has an operational history to review for this sub-criterion. Further, the department considers the conclusions reached in this evaluation regarding need for the surgery center and whether the facility would be available and accessible to residents of Whatcom County. The department also considers the conclusions reached in the financial feasibility and structure and process of care reviews of the project. Northwest Endoscopy Center's project met the financial feasibility criteria in WAC 246-310-220(1) and the structure and process of care criteria in WAC 246-310-230(2).

Based on the information provided in the application, the department concludes there is reasonable assurance that approval of this project would promote continuity in the provision of health care services in the community. **This sub-criterion is met.**

- (5) *There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.*

This sub-criterion is addressed in sub-section (3) above and is met.

D. COST CONTAINMENT (WAC 246-310-240)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Northwest Endoscopy Center, LLC meets the applicable cost containment criteria in WAC 246-310-240.

- (1) *Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.*

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria, then the project is determined not to be the best alternative and would fail this sub-criterion.

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, in step two, the department assesses the other options considered by the applicant. If the department determines the proposed project is better or equal to other options considered by the applicant and the department has not identified any other better options this criterion is determined to be met unless there are multiple applications.

If there are multiple applications, the department's assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type in Step three. The superiority criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility type superiority criteria as directed by WAC 246-310-200(2) (a)(i), then the department would use WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

Step One

Northwest Endoscopy Center met the applicable review criteria under WAC 246-310-210 through 230. Its application will be evaluated further under Step Two.

Step Two

Northwest Endoscopy Center, LLC

The applicant provided the following statements regarding this sub-criterion. [source: Application, p28]

“Given the very high occupancy and long waiting times, the only options considered were:

- 1) Replace and expand the current facility, or*
- 2) Build a second facility and continue operating at the current location*

Option #2 was explored, but ultimately rejected even though the initial capital investment is less (less square footage and rooms). This option was eliminated due to higher ongoing operating costs. The costs of operating two nearly identical ASCs would require significant investments in staff, two sets of licensure and certification, and duplication in inventory. These were deemed to more than offset the lower one-time capital investment.”

Department Evaluation

The applicant provided sound rationale for foregoing the “no project” option. Once the choice is made to relocate and expand an existing surgery center, the only option available is to submit a Certificate of Need application for review. The applicant correctly concluded that its only option was to submit a project for review.

The department did not identify any other alternatives that that would be considered superior based on quality, efficiency, and costs that are available or practicable for Northwest Endoscopy Center. Further, this project met the review criteria under need, financial feasibility, and structure and process of care. Based on the above information, the department conclude that **this sub-criterion is met.**

Step Three

This step is applicable only when there are two or more approvable projects. Northwest Endoscopy Center’s application is the only surgery center application under review for Whatcom County. Therefore, this step does not apply.

(2) In the case of a project involving construction:

- (a) The costs, scope, and methods of construction and energy conservation are reasonable;*
- (b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.*

Department Evaluation

This sub-criterion was evaluated in conjunction with WAC 246-310-220 and is considered met.

(3) The project will involve appropriate improvements or innovations in the financing and delivery of health services which foster cost containment and which promote quality assurance and cost effectiveness.

Northwest Endoscopy Center, LLC

Northwest Endoscopy Center provided the following response related to this sub-criterion. [source: Application, p28]

“The proposed relocated and expanded ASF will occupy a building that is being built to exceed all energy code requirements. The envelope design will incorporate efficiencies to enhance the thermal performance of the building and substantially reduce energy costs while increasing building indoor comfort. High performance LED Lighting will be incorporated throughout the facility, including occupancy sensors and energy control systems. Mechanical HVAC design is intended to use VRF technology with ERV heat recovery ventilation for enhanced energy conservation and comfort for applied space usage. Recirculated hot water tanks will be used that have a 96.6% AFUE efficiency.”

Department Evaluation

This project proposes to relocate an existing Certificate of Need approved surgery center and add two ORs for a facility total of five ORs at NEC ASC in Whatcom County. Although the cost of the project is significant, the project results in the continuation and availability of much needed outpatient services in the county. Additionally, outpatient services are proven to be a cost-effective solution for many patients. Based on information provided within the application, and evaluated under WAC 246-310-210, 220, and 230, the department is satisfied that this project is appropriate and needed. If approved, this project has the potential to improve or maintain the delivery of health services in the Whatcom County planning area. **This sub-criterion is met.**