



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

February 27, 2023

Eric Chandler, Regional VP Operations
Surgery Partners
310 Seven Springs Way, Suite 500
Brentwood, TN 37027

Sent via email: echandler@surgerypartners.com

RE: Certificate of Need Application #23-06 – Department’s Decision and Evaluation

Eric Chandler:

The review of the Certificate of Need application submitted by South Sound Neurosurgery, PLLC seeking Certificate of Need approval to add one procedure room and additional services to Microsurgical Spine Center located within the East Pierce County Secondary Health Services Planning Area has been completed. Attached is a written evaluation of the application.

For the reasons stated in the attached evaluation the South Sound Neurosurgery, PLLC dba Microsurgical Spine Center application is consistent with applicable criteria of the Certificate of Need Program, provided that the applicant agrees to the following in its entirety.

Project Description

This certificate approves the expansion of an ambulatory surgical facility located at 1519 Third Street Southeast, Suite #102 in Puyallup, within Pierce County [98372], within the East Pierce County Secondary Health Services Planning Area. At project completion there will be three operating rooms, and surgical services provided to persons three years and older include neurosurgery, pain management, orthopedics, interventional radiology, cardiology, and podiatry services that can be appropriately performed in an outpatient setting.

Conditions

1. South Sound Neurosurgery, PLLC agrees with the project description as stated above. South Sound Neurosurgery, PLLC 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. South Sound Neurosurgery, PLLC will maintain both Medicare and Medicaid certification at Microsurgical Spine Center.
3. South Sound Neurosurgery, PLLC will maintain its Washington State ambulatory surgical facility license for Microsurgical Spine Center.

4. South Sound Neurosurgery, PLLC will finance this project as was proposed and approved using the applicant's cash reserves.
5. South Sound Neurosurgery, PLLC will provide charity care at the surgical facility in compliance with its charity care policy reviewed for this project. South Sound Neurosurgery, PLLC will use reasonable efforts to provide charity care in the amount consistent with the three-year average of charity care provided by the only hospital in the planning area. The charity care amount for the planning area's only hospital is averaged from years 2019 through 2021 to be 2.02% of gross revenue and 5.59% of adjusted revenue.
6. South Sound Neurosurgery, PLLC will maintain records of charity care applications received and the dollar amount of charity care discounts granted at Microsurgical Spine Center. The records must be available upon request.
7. South Sound Neurosurgery, PLLC will provide the Certificate of Need Program with a final executed version of its draft First Amendment to Management Services Agreement that is substantially similar to the agreement in its application.

Approved Costs

The approved capital expenditure for this project is \$44,000 which includes equipment and associated sales tax. This cost is to be paid using the applicant's cash reserves.

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

If any of the above provisions are rejected, this 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 email 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

Attachment

cc: Frank Fox, PhD, frankgfox@comcast.net
Jonathan Fox, PhD, jfox@healthtrends.consulting

EVALUATION DATED FEBRUARY 27, 2023, FOR CERTIFICATE OF NEED APPLICATION SUBMITTED BY NEOSPINE PUYALLUP SPINE CENTER, LLC PROPOSING TO EXPAND AN EXISTING AMBULATORY SURGICAL FACILITY IN EAST PIERCE COUNTY

APPLICANT DESCRIPTION

South Sound Neurosurgery, PLLC

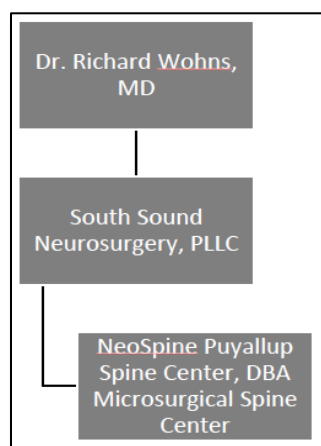
Within the application is a history of the establishment of NeoSpine Puyallup Spine Center, LLC doing business as Microsurgical Spine Center, following is a summary of this history. [sources: Application, pp4 and 6, and Washington State Secretary of State website]

Background and History of Ownership Changes

“NeoSpine Puyallup Spine Center LLC Doing Business As (DBA) Microsurgical Spine Center, located at 1519 3rd Street SE, Suite 102, Puyallup WA 98372, is a certificate of need (‘CN’) approved ambulatory surgical facility (‘ASF’) (CN #1317). It was approved on August 22, 2005, to operate two operating suites and provide spine and pain management cases. This current CN application requests approval to add one Procedure Room and Orthopedics, Interventional Radiology, Cardiology and Podiatry specialties to its CN-approved ASF.

In 2004, two entities, South Sound Neurosurgery PLC, dba Microsurgical Spine Center, which was a group surgical practice, owned by Doctors Peter Shin and Richard N.W. Wohns, and NeoSpine Surgery LLC. were approved to jointly establish, own, and operate NeoSpine Puyallup Spine Center LLC dba Microsurgical Spine Center. Since that time, there have been multiple consolidations, entity sales, and purchases such that currently Microsurgical Spine Center is wholly owned by South Sound Neurosurgery PLLC, which is in turn wholly owned by Dr. Wohns. In this regard, in addition to Microsurgical Spine Center being the applicant we would also consider Dr. Wohns and possibly South Sound Neurosurgery as applicants, since Dr. Wohns owns 100% of South Sound Neurosurgery PLLC, which, in turn owns 100% of Microsurgical Spine Center.”

The applicant includes the following organizational chart to show the ownership structure. [source: Application, p7]



Both South Sound Neurosurgery, PLLC¹ and NeoSpine Puyallup Spine Center, LLC² are registered with the Washington State Secretary of State office as a private, for-profit WA professional limited liability

¹ Unified business identifier 602 166 744

² Unified business identifier 602 419 505

company and foreign limited liability company respectively. The following names will be used for reader ease in this evaluation when referring to the listed entities.

The applicant, South Sound Neurosurgery, PLLC referred to as “*South Sound Neurosurgery.*”

The ambulatory surgical facility, Microsurgical Spine Center referred to as “*MSC.*”

The planning area, East Pierce County Secondary Health Services Planning Area referred to as “*East Pierce.*”

PROJECT DESCRIPTION

South Sound Neurosurgery, PLLC

As stated in above, MSC is a CN-approved surgical facility located at 1519 Third Street Southeast, Suite #102 in Puyallup, within Pierce County [98372]. Currently the surgical facility holds a Washington State ASF license³ and CN #1317 issued on September 9, 2005. This certificate approved the surgical facility to provide pain management and spine services in its two operating rooms (ORs). While the surgical facility will remain at its current site on Third Street in Puyallup, this project proposes to expand the number of ORs from two to three, expand the age range of its patients to those three years and older, and expand services to include: neurosurgery, pain management, orthopedics, interventional radiology, cardiology, and podiatry services. [source: Application, p4]

South Sound Neurosurgery states that since the surgical facility is fully operational and the additional OR is already in use, the expansion of the services requires a capital expenditure for equipment only. The estimated capital cost for this project is \$44,000 and includes needed equipment and associated sales tax. There is no construction costs and no start-up costs associated with this project. [source: September 30, 2022, screening response, pp2-3]

If this project is approved in February 2023, the applicant anticipates project completion in March 2023. Based on this timeline, partial year one is 2023, full calendar year one of the project is 2024, and year three is 2026. [source: Application, p8]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This application proposes to add another operating room and additional services to an operational Certificate of Need-approved surgical facility in East Pierce. This action is subject to review as the construction, development, or other establishment of new health care facility under Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code 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 Chapter 246-310 WAC 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 surgery projects and must be used to make the required determinations for applicable criteria in WAC 246-310-210.

³ ASF.FS.60101867

TYPE OF REVIEW

This application was reviewed under the regular review timeline outlined in WAC 246-310-160. The table below shows a summary of the review.

APPLICATION CHRONOLOGY

Action	South Sound Neurosurgery
Letter of Intent Received	February 3, 2022
Application Received	August 3, 2022
Department's pre-review activities: <ul style="list-style-type: none">• DOH 1st Screening Letter• Applicant's 1st Responses Received• DOH 2nd Screening Letter• Applicant's 2nd Responses Received	August 24, 2022 September 30, 2022 October 21, 2022 November 14, 2022
Beginning of Review	November 21, 2022
Public Hearing	None requested or conducted
End of Public Comment	December 27, 2022
Rebuttal Comments Deadline ⁴	January 11, 2023
Department's Anticipated Decision	February 27, 2023
Department's Actual Decision	February 27, 2023

AFFECTED PERSONS

"*Affected persons*" are defined under WAC 246-310-010(2). To qualify as an affected person, someone must first qualify as an "*interested person*" defined under WAC 246-310-010(34). For this project, one entity requested affected person status.

MultiCare Health System

MultiCare Health System is a non-profit corporation based in Tacoma, within Pierce County that operates a variety of healthcare services through its hospitals, surgical facilities, numerous clinics and medical practices, and home health and hospice agencies. On March 24, 2022, MultiCare Health system submitted a letter requesting interested person status for this project. MultiCare Health System did not provide public comments related to this project. As a result, MultiCare Health System qualifies for interested person, but does not meet the definition of affected person for this review.

No public comments or rebuttal comments were submitted during the review of this project. This fact is stated here and not repeated throughout the evaluation.

SOURCE INFORMATION REVIEWED

- South Sound Neurosurgery's certificate of need application received on August 3, 2022
- South Sound Neurosurgery's first screening responses received on September 30, 2022
- South Sound Neurosurgery's second screening responses received on November 14, 2022
- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission and Nursing Care Quality Assurance Commission
- Compliance history for facilities and services from the Washington State Department of Health – Office of Health Systems Oversight

⁴ Because there were no public comments submitted, the applicant did not provide rebuttal comments.

- DOH Provider Credential Search website: <http://www.doh.wa.gov/pcs>
- CMS QCOR Compliance website: https://qcor.cms.gov/index_new.jsp
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- Historical charity care data for years 2019, 2020, and 2021 obtained from the Department of Health/Finance and Charity Care
- Washington State Secretary of State website: <https://www.sos.wa.gov>
- NeoSpine Puyallup Spine Center, LLC website: <https://neospine.com>
- South Sound Neurosurgery's website: <https://mybackmylife.com/>

CONCLUSION

South Sound Neurosurgery, PLLC

For the reasons stated in this evaluation, the application submitted by South Sound Neurosurgery, PLLC is consistent with applicable criteria of the Certificate of Need Program, provided South Sound Neurosurgery, PLLC agrees to the following in its entirety.

Project Description

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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 South Sound Neurosurgery, PLLC met the applicable need criteria in WAC 246-310-210 and the applicable ambulatory surgical 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 outlined 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.

Department Evaluation

MSC currently operates with two ORs and this project requests approval of a third OR at the existing surgical facility. **This sub-criterion is met.**

WAC 246-310-270(9) – Ambulatory Surgery Numeric Need Methodology

The Department of Health's Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270(9) 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. The applicant's surgical facility, MSC is located in Puyallup, within the East Pierce County Secondary Health Services 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 rooms 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 is calculated.

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

South Sound Neurosurgery, PLLC

South Sound Neurosurgery submitted its application in August 2022 and relied on 2020 data that was complete and available at that time. The applicant's methodology projected to year 2025 and projected a surplus of 2.12 ORs in East Pierce. [source: Application, pp13-18 and Exhibit 5]

Department's Numeric Need Methodology

The numeric portion of the methodology requires a calculation of the annual capacity of the existing providers' inpatient and outpatient ORs in a planning area. WAC 246-310-270(3) defines the East Pierce County Secondary Health Services Planning Area and the 1987 State Health Plan assigns 23 ZIP codes to the planning area. Of the 23 ZIPs, two no longer exist⁵ and eight are assigned to post office boxes and not actual geographies.⁶ Given the age of the State Health Plan, the department also reviews the geography to determine if additional ZIP codes should be included. For East Pierce, five additional ZIP codes should be added, bringing the total number of East Pierce ZIP codes to 18.⁷ Following is a listing of the 18 ZIP codes and assigned cities for East Pierce.

ZIP Code	City
98304	Ashford
98321	Buckley
98323	Carbonado
98328	Eatonville
98330	Elbe
98338	Graham
98354	Milton
98360	Orting
98371	Puyallup

ZIP Code	City
98372	Puyallup
98373	Puyallup
98374	Puyallup
98375	Puyallup
98390	Sumner
98391	Bonney Lake
98446	Tacoma
98447	Tacoma
98580	Roy

There is no mandatory reporting requirement for utilization of ASF or hospital ORs, so the department sends an annual utilization survey to all hospitals and known ASFs in the State. When this application was submitted in August 2022, the most recent utilization survey was soliciting data for year 2020. The data provided in the utilization survey is used, if available. Otherwise, the department uses utilization survey information from the previous year (2019 data). If the provider did not respond with any survey data, the department relies on its internal database—Integrated Licensing & Regulatory System (ILRS)—with information each provider updates for licensure.

Further, the numeric methodology deliberately excludes the OR capacity and procedures of hospitals and surgical facilities if the services are provided in a dedicated specialty room, such as, pain management, endoscopy, dedicated cesarean, and open heart surgery.

According to the department's historical records, there is a total of ten facilities in the planning area. Of those, one is a hospital and nine are ASFs. The hospital—Good Samaritan Hospital located in Puyallup—has OR capacity that is counted in the methodology.

For the nine ASFs, two are dedicated to endoscopic procedures and are excluded from the numeric methodology.⁸ For the remaining seven surgery centers, four are CN-approved. For these four centers, both cases and ORs are counted in the numeric methodology.⁹ The remaining three surgery centers are CN-exempt and the cases, but not the ORs, are counted in the methodology.

⁵ 98301 and 98423.

⁶ 98344, 98348, 98352, 98385, 98396, 98397, 98398, and 98558.

⁷ 23 initial ZIPs, minus 2 ZIPs, minus 8 ZIPs, plus 5 ZIPs equals 18.

⁸ WAC 246-310-270(9)(a)(iv) Two dedicated endoscopy centers are Puyallup Endoscopy Center and Sunrise Endoscopy Center.

⁹ Four CN approved surgery centers are Meridian Surgery Center, Microsurgical Spine Center (the applicant's surgery center), Puyallup Ambulatory Surgery Center, and The Surgery Center at Rainier.

The table below shows a listing of all the eight facilities (excluding dedicated endoscopy centers), the type and number of ORs, and notes specific to the methodology.

Department's Table 1
East Pierce Operating Room Capacity for ASFs and Hospitals

Facility	Facility Type	Total ORs	Type of OR	Department Notes
MultiCare Good Samaritan Hospital	Hospital	10	Outpatient & Inpatient	10 mixed use ORs; 10 ORs and cases are counted in methodology
Cascade Eye and Skin Center DOR issued 06/19/1996	ASF	2	Outpatient	CN exempt surgical facility Cases, but not ORs, counted in methodology
Hillside Medical Surgery Center DOR #16-11	ASF	1	Outpatient	CN exempt surgical facility Cases, but not ORs, counted in methodology
Meridian Surgery Center CN #1813R	ASF	2	Outpatient	CN approved surgical facility Cases and 2 ORs counted in methodology
Microsurgical Spine Center (applicant's ASF) CN #1317	ASF	2	Outpatient	CN approved surgical facility Cases and 2 ORs counted in methodology
Philip Kierney, MD DOR #15-28	ASF	2	Outpatient	CN exempt surgical facility Cases, but not ORs, counted in methodology
Puyallup Ambulatory Surgery Center CN #1897	ASF	3	Outpatient	CN approved surgical facility Cases and 3 ORs counted in methodology
The Surgery Center at Rainier CN #1846	ASF	4	Outpatient	CN approved surgical facility Cases and 4 ORs counted in methodology

In summary, the OR count for the numeric methodology is:

- dedicated Inpatient/Mixed Use – 10 ORs; and
- dedicated Outpatient: 11 ORs.

The data points used in the department's numeric methodology are identified in the following table. The methodology and supporting data used by the department is provided in the attached Appendix A with this evaluation.

Department's Table 2
The Department's East Pierce Methodology Assumptions and Data

Data Point	Data Used	
Planning area	East Pierce	
Population estimates and forecasts	Age Group: All ages Claritas Population Data – Released 2021 Year 2020 – 338,519 / Year 2025 – 362,194	
Use rate	56.94 /1,000 population	
Year 2020 total number of surgical cases in the planning area	Inpatient or mixed use	Outpatient
	8,864 cases	10,410 cases
	Total cases 19,274	
Percent of surgeries: outpatient vs. inpatient (based on survey)	45.99%	54.01%
Average minutes per case (based on survey)	93.91 minutes	54.35 minutes
OR annual capacity in minutes (per methodology in rule)	94,250 surgery minutes	68,850 surgery minutes
Existing providers/ORs (using DOH survey)	10 inpatient and mixed-use ORs	11 dedicated outpatient ORs
Department's Methodology Results	Surplus of 2.16 mixed use ORs in the East Pierce County planning area	

As noted in the table above, the department's numeric methodology calculates a net surplus of slightly more than two mixed used ORs in the planning area. When comparing the results of the applicant's and the department's methodologies, there are no significant differences. The applicant's methodology projected a surplus of 2.12 mixed use ORs. Given the results of its own methodology, the department concludes that numeric need for this project has not been demonstrated.

WAC 246-310-270(4)

If numeric need for additional ORs in a planning area is not demonstrated, the department reviews the project under WAC 246-310-270(4) which allows for approval of a project absent numeric need. It states, “*Outpatient operating rooms should ordinarily not be approved in planning areas where the total number of operating rooms available for both inpatient and outpatient surgery exceeds the area need.*”

South Sound Neurosurgery acknowledges that the methodology projects a surplus (no numeric need) for East Pierce and provided the following rationale for approval of this project. [source: Application, pp18-21]

“The model shows no numeric need for additional operating rooms in the East Pierce County Planning Area. However, there are qualitative arguments that support approval of the proposed project. These include (1) likely significant planning area outmigration; (2) an increasing use rate; (3) significant shifting of surgical care to outpatient settings, driven by changing clinical practices, improved technology, and patient preference; and (4) lower cost of care for patients and their insurers in freestanding ASFs as compared to hospital-based providers.

1. Planning Area Outmigration

A characteristic of operating room use is significant differences in planning area use rates based on the availability of existing planning area providers. For example, in 2020, we calculate a planning area use rate of 267.9 for King Central residents, but a use rate of 58.7 for Pierce East

residents. [see footnote 6 below] This indicates a substantial amount of migration across planning areas by Washington State residents in need of surgical services. A survey of 19 planning areas accounting for over 80 percent of Washington population indicates an overall Washington State surgical use rate of 106.3 cases per 1,000 residents. [see footnote 7 below] The difference in use rates between Pierce East and the overall Washington use rate suggests that residents of Pierce East account for 16,773 cases in other Washington planning areas. [see footnote 8 below] This corresponds to about a 47% outmigration rate. Thus, we estimate that nearly half of all surgical services to Pierce East residents takes place at providers outside of the East Pierce planning area.

2. Increasing use rate

The model as presented above and in Exhibit 5 assumes a constant use rate. However, it is likely this use rate will continue to increase over the forecast period given (1) the planning area population is aging, and (2) older persons have much higher surgical utilization rates.

High population growth rates for older persons in the East Pierce County Planning Area Population forecasts project average annual growth rates over 4.80% for persons aged 65+ in the East Pierce County planning area. This rate reflects growth about 3 times higher than the rate of population growth for the planning area overall. Please see Table 4, which presents population statistics and associated growth factors across the different planning area age cohorts over the period 2010 to 2025.

Applicant's Table

Table 4: East Pierce County Planning Area Population Growth Rates by Age Group, 2010 to 2025					
Age Group	Population Estimates			Average Annual Growth	
	2010	2020	2025	2010 to 2021	2019 to 2024
Total	278,375	326,323	351,990	1.65%	1.53%
Under 15	59,012	63,701	67,008	0.77%	1.02%
15 to 44	113,429	131,184	138,750	1.49%	1.13%
45 to 64	77,502	85,981	88,769	1.08%	0.64%
65+	28,432	45,456	57,463	4.93%	4.80%
65 to 74	16,719	28,158	35,889	5.35%	4.97%
75 and over	11,713	17,298	21,573	3.97%	4.52%

Source: Claritas 2021

Higher surgical use rates for older persons

Surgical utilization by major age group is published within the latest National Center for Health Statistics ('NCHS') survey study, 'Ambulatory Surgery in the United States.' Table 5 uses this data to present use rates by age group. From Table 5, surgical utilization rates for persons 65+ year of age are about 2.5 times greater than overall population surgical utilization rates.

Applicant's Table

Table 5: ASC Utilization Rates by Age Group for the U.S. Population, 2010			
Age Group	U.S. Total, 2010		
	ASC Procedures (Thousands)	Population	Utilization Rate per 10,000
Total	48,263	309,326,085	1,560.26
Under 15	2,916	61,200,686	476.47
15 to 44	10,478	125,876,000	832.41
45 to 64	18,783	81,770,617	2,297.04
65+	16,086	40,478,782	3,973.93

Sources: National Health Statistics Reports, No. 102, February 28, 2017, Table 2: Number and percent distribution of ambulatory surgery procedures, by age and sex: United States, 2010; Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States: April 1, 2010 to July 1, 2018

In summary, the planning area population is aging, with a greater proportion of its population expected to fall within the older age group of 65+. This aging, combined with the much higher surgical utilization rates for the older age cohorts, will drive up the overall surgical utilization rate.

Aside from knowing that the surgical use rate is likely to increase, because data on historical utilization is incomplete and inconsistent across ASC providers, it is difficult to precisely forecast changes in the OR use rate over time. However, it is possible to combine the forecasted demographic changes in the planning area population with the ASC use rates by age group. Given the forecasted shift in the age distribution of the planning area population, the age-specific ASC use rates imply about a 0.76% average annual increase in planning area use rates. Applying these growth rates to the numeric need methodology indicates an increase of the surgery use rate from 58.7 to about 60.94 surgeries per 1,000 residents between 2020 and 2025. Allowing for this growth would increase estimates of numeric need from an overall surplus of 2.12 operating rooms to an overall surplus of 1.51 operating rooms. As such, by itself, the aging planning area population is not sufficient to turn estimates of numeric need from surplus to need, however combined with the likely high rates of planning area outmigration and other qualitative arguments, there will be an overall need for additional outpatient services for East Pierce residents in the future.

3. *Significant shift to outpatient-based surgeries*

The Department's ASF numeric need methodology was adopted nearly thirty years ago. See WAC 246-310-270 (effective Jan. 23, 1992). Much has changed in healthcare during the past three decades. Among those changes is a large shift of outpatient surgery from hospitals to ASCs. This shift to outpatient settings is due to at least two reasons:

- Improved clinical practices/technologies that allow surgeries to be performed on an outpatient basis. Thus, even if the use rate were not increasing, there would be increased demand for outpatient surgeries relative to inpatient surgeries.*
- Patient Preference for Outpatient ORs.*

Expanded ASC options is preferred by patients since ASCs are typically more convenient and easier to access compared to hospital ORs. This includes scheduling and patient care, given hospitals must

also focus on inpatient surgeries, which are often much more complex. Outpatient surgery centers, on the other hand, can focus exclusively on outpatient care, increasing efficiency and care delivery.

4. *Greater efficiency and lower cost of care with outpatient, freestanding surgery centers*
Freestanding facilities are more cost-effective, i.e., lower cost in comparison to hospital outpatient surgery departments, leading to lower contractual rates for purchasers and cost savings for patients. As demand for outpatient surgeries increases over time, if hospital based ORs are expanded over freestanding ORs, then relatively higher cost care is being created. This is a less efficient option for patients and their insurers. In other words, without additional outpatient OR capacity at freestanding ASCs, more patients will be treated in higher cost, hospital-based operating rooms, which lowers planning area resource efficiency overall.”

In addition to the information above, South Sound Neurosurgery provided the footnotes to explain the calculations used for its comparison referenced above. [source: Application, p19, footnotes 6, 7, and 8]

Footnote #6: *Planning area use rates based on total cases of 94,402 cases and 352,378 residents in King Central and 19,224 cases and 327,507 residents in Pierce East.*

Footnote #7: *These planning areas include Clark, the 5 planning areas in King County, Kitsap, the 3 planning areas in Pierce County, the 4 planning areas in Snohomish County, Thurston (SWWA 10), Benton-Franklin, Spokane, Walla Walla, and Yakima counties.*

Footnote #8: *Multiplication of 106.3 (the average use rate across the surveyed WA planning areas) with 352,372 (2025 East Pierce population) results in 37,457 surgeries. Assuming all WA residents have the same baseline utilization of surgical services, this is then the number of surgeries for East Pierce residents. Based on the East Pierce use rate, the number of surgeries in East Pierce operating rooms is forecast to equal 20,684 in 2025. 37,457 minus 20,684 is equal to 16,773.*

Department Evaluation

As shown in the department’s calculations and recognized by the applicant, no numeric need is calculated in East Pierce. Therefore, the department must determine whether this project fits the exception in WAC 246-310-270(4).

South Sound Neurosurgery provided several rationales backed with research and analysis to make its case for approval despite the lack of calculated numeric need. The main points are summarized here.

- 1) Likelihood of East Pierce outpatient outmigration. The applicant compared use rates of several planning areas throughout the State and found East Pierce to be markedly lower at 58.7. Whereas Central King’s use rate for the same period was 267.9.
- 2) Growth in the portion of East Pierce population that is 65+ and the fact that older persons typically have higher utilization of surgical services. Suggesting that any planning area with an aging population should be seeing an increase to its surgical services use rate.
- 3) Advances in the industry and changes in patient preference for outpatient services.
- 4) Outpatient facilities’ greater efficiency and lower cost of care relative to that of inpatient surgeries.

Each of these arguments on their face make sense, although the department recognizes this is a one-sided view since there was no comment received on the project. The lack of comment suggests that other area providers don’t oppose the expansion of this surgical facility.

In summary, although numeric need is not deemed met, the applicant has provided rationale for this project's approval as a needed to meet the needs of the East Pierce community. Further, the South Sound Neurosurgery project meets the standard under WAC 246-310-270(6) that requires a minimum of two operating rooms. **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 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. 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 an applicant to provide services to individuals who do not have private insurance, do not qualify for Medicare or Medicaid, or are under insured.¹⁰

South Sound Neurosurgery, PLLC

As an existing, CN-approved surgical facility MSC has many of its policies and procedures in place. Below is an overview of the policies provided by South Sound Neurosurgery.

Consent for the Procedure Policy

This document includes the following purpose: *"It is required that patients and/or legal guardians, patient representative or surrogate be informed of the procedure that will be performed, the expected outcome, and possible complications and/or discomfort associated with the procedure and the physician performing the procedure. The patient and/or legal guardian, patient representative or surrogate should agree to the above and the document may be witnessed by an employee of the Center."* [source: Application, Exhibit 9]

The policy includes the process one would use to consent to a procedure and explains the process if the patient is unable to provide consent (such as a minor).

Nondiscrimination, Notice of Nondiscrimination, Taglines and Federal Non English Language Requirements

This policy provides the following clarification language: *"Under the final rule, 'Nondiscrimination in Health Programs and Activities', contained in Section 1557 of the Affordable Care Act, issued by the U.S. Department of Health and Human Services, the Center makes provisions to ensure individuals are able to receive services and benefits under any of its programs and activities free from discrimination. Individuals are protected from discrimination under local, state or federal law.*

¹⁰ Washington Administrative Code 246-453-010(4).

The Center does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of race, color, national origin, age, disability and sex, including discrimination based on pregnancy, gender identity and sex stereotyping.

Centers with 15 or more employees will have a compliance officer, known as a Civil Rights Coordinator, appointed by the Governing Body. The role is in conjunction with the duties of the risk manager or risk manager designee.

All employees, providers and associated personnel are responsible to conduct themselves in ways that ensure others are able to receive care in an atmosphere free from discrimination of any kind.

Staff will receive initial and routine training regarding nondiscrimination. This will entail various forms and methods designed to heighten awareness and education on the subject.” [source: Application, Exhibit 11]

The policy also includes the procedure to be used to ensure all patients and families are informed of the nondiscrimination policy.

Charity/Indigent Care Discounts/Financial Hardship Policy

This policy includes the following scope and purpose: “**Scope:** *All Company-affiliated facilities including, but not limited to, hospitals, ambulatory surgery centers, imaging and oncology centers, physician practices, and centralized business offices, etc.*

Purpose: *To ensure indigent care or financial hardship forms are appropriately completed and reviewed, and the discounts are recorded timely.”*

The policy identifies the process one would use to obtain financial assistance at the surgical facility and includes a *Financial Verification Form* to be completed by the person requesting financial assistance. The document also includes an *Answers to your Questions* section. [source: November 14, 2022, screening response, Revised Exhibit 7]

Admission Protocol Policy

This policy provides the process the surgical facility will use to admit a patient for services. [source: November 14, 2022, screening response, Revised Exhibit 8]

Patients Statement of Rights and Responsibilities

This document does not appear to be a policy, rather it includes statements and guidelines for both the patient and the surgical facility and outlines roles and responsibilities for both. The document includes language to ensure an understanding of the surgery to be performed and any subsequent care to be provided. The document also includes the process one would use to file a complaint. [source: November 14, 2022, screening response, Revised Exhibit 10]

The applicant submitted both its historical and proposed payer mixes and stated that “*The projected payer mix is based on Microsurgical Spine Center’s 2021 payer mix, adjusting for a relative shift towards more Medicaid patients and Medicaid revenue as a result of the expansion of specialties.*” [source: Application, p33] Following are both the historical and project payer mixes. [source: Application, pp32-33]

Applicant's Table – Projected

Projected Payer Mix	Percentage by Revenue WAC 246-310-220(1)	Percentage by Patient WAC 246-310-210(2)
Medicare	31.8%	40.4%
Medicaid	1.0%	5.8%
Commercial/HMO	53.4%	40.8%
Other Government	1.3%	3.5%
Other/Misc.	12.1%	9.0%
Self-Pay	0.5%	0.5%
Total	100.0%	100.0%

Applicant's Table – Historical

Microsurgical Spine Center Payer Mix, 2021	Percentage by Revenue WAC 246-310-220(1)	Percentage by Patient WAC 246-310-210(2)
Medicare	32.1%	42.9%
Medicaid	0.0%	0.0%
Commercial/HMO	53.9%	43.3%
Other Government	1.3%	3.7%
Other/Misc.	12.2%	9.6%
Self-Pay	0.5%	0.5%
Total	100.0%	100.0%

Focusing on the types of services and age range of patients that would be served at the surgical facility, South Sound Neurosurgery provided the following clarification. [source: September 30, 2022, screening response, p2]

“Microsurgical Spine Center has and will continue to serve patients of all ages for which the procedures able to be performed in its ASC are appropriate. Historically, this has included pain management and spinal surgery, which are generally not applicable to persons under 18 years of age.

*With approval of the proposed project, procedures among the additional specialties of orthopedics, interventional radiology, cardiology, and podiatry will be added. Some of these procedures, in particular within the specialty of orthopedics, will be applicable for persons under age 18, so our application stated that Microsurgical Spine Center would ‘expand to provide care to patients aged 16 and over.’ With further review, we believe the two operating rooms and procedure room at Microsurgical Spine Center will be suitable for procedures for persons aged three and over. **Thus, as part of this CN application, we request a revision to patient age ranges to include persons aged three years old and older.***

Pediatric services require specialized equipment and provider training, which Microsurgical Spine Center does not plan to provide.”

Patient Transfer Agreement

The Transfer Agreement is between MultiCare Health System and Microsurgical Spine Center. The policy is effective as of June 1, 2014, provides roles and responsibilities for both entities if a patient requires transfer to the hospital, and includes the following nondiscrimination language *“Neither Party may refuse to receive a patient by reason of such patient's race, religion, gender, age, national origin, sexual orientation, marital status, handicap, disability or medical diagnosis in providing services under this Agreement.”* [source: Application, Exhibit 17]

Department Evaluation

The facility has been CN-approved since 2005¹¹ and has been providing healthcare services to the residents of Pierce County for many years since. The applicant provided copies of policies related to access to be used at the surgical facility. All policies provided in the application cover the information necessary to ensure compliance with this sub-criterion.

If this project is approved, the department will attach a condition requiring South Sound Neurosurgery to maintain both Medicare and Medicare certification and its Washington State license for MSC. South Sound Neurosurgery provided its historical (year 2021) and projected percentages of revenue by payer for MSC. Then included these payers in its assumed revenues and “Charity care” as a deduction from revenue that it expects in projection years. Based on this information, the department concludes that approval of this project has the potential to increase the availability and accessibility of outpatient services to the residents of East Pierce. Based on the information reviewed and with South Sound Neurosurgery’s agreement to the condition referenced 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 ASF.

South Sound Neurosurgery, PLLC

In response to this sub-criterion, the applicant provided a table showing its historical charity care dollars and its projected charity care dollars. The applicant’s Table 2 below shows the historical charity care dollars granted at the surgery center. [source: September 30, 2022, screening response, p11]

Applicant’s Table

Table 2: Microsurgical Spine Center Charity Care, 2018 to 2021				
Microsurgical Spine Center Charity Care	2018	2019	2020	2021
Charity Care	45,481	20,642	60,045	40,633
Source: Applicant				

The South Sound Neurosurgery’s table below shows the projected charity care dollars. [source: November 14, 2022, screening response, Revised Exhibit 12]

Applicant’s Table

Microsurgical Spine Center Deductions from Revenue (Revised 11/10/2022)						
	2022	Jan to Mar 2023	Apr to Dec 2023	Year 1 2024	Year 2 2025	Year 3 2026
Total Contractual Allowances	\$ 15,440,124	\$ 3,860,031	\$ 15,737,431	\$ 22,281,035	\$ 23,595,858	\$ 23,939,287
Bad Debt	\$ 36,424	\$ 9,106	\$ 37,125	\$ 52,562	\$ 55,663	\$ 56,474
Charity Care	\$ 845,101	\$ 211,275	\$ 861,374	\$ 1,219,532	\$ 1,291,498	\$ 1,310,295
Total Deductions From Revenue	\$ 16,321,649	\$ 4,080,412	\$ 16,635,930	\$ 23,553,129	\$ 24,943,020	\$ 25,306,056

¹¹ CN #1317 was issued on August 22, 2005.

Department's Table 3
MSC's Projected Charity Care Dollars and Percentages

	Year 2022 current	Year 2023 projected	Year 2024 projected	Year 2025 projected	Year 2026 projected
Charity Care Amounts	\$845,101	\$1,072,649	\$1,219,532	\$1,291,498	\$1,310,295
% of Total Revenue	3.89%	3.89%	3.89%	3.89%	3.89%
% of Adjusted Revenue	5.79%	5.79%	5.79%	5.79%	5.79%

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. Pierce County, including the East Pierce Secondary Health Services Planning Area is included in the Puget Sound Region. For this review, the department focuses on years 2019, 2020, and 2021 of available charity care data reported by the hospitals in the region.

Currently, there are 25 hospitals operating within the Puget Sound Region. Of the 25 hospitals, two were established in year 2019¹² and did not have charity care data to report. Of the 25 hospitals, one hospital is located within East Pierce which may be affected by this proposed project. The hospital is MultiCare Good Samaritan.¹³

The following table compares the three-year historical average of charity care provided by the hospitals operating in the Puget Sound Region,¹⁴ the one hospital in East Pierce, and the applicant's projected charity care percentages.

Department's Table 4
Charity Care Comparison – Three-Year Average

	Period Averaged	% of Total Revenue	% of Adjusted Revenue
Puget Sound Region's Reporting Hospitals Historical Average	2019 – 2021	1.40%	4.11%
East Pierce Hospital Historical Average	2019 – 2021	2.02%	5.59%
South Sound Neurosurgery Projected Average	2024 – 2026	3.89%	5.79%

[sources: November 14, 2022, screening response, Revised Exhibit 12, and
Department of Health's hospital charity care reports for years 2019, 2020, and 2021]

As shown in the preceding table, the projected adjusted percentage of charity care proposed by the applicant is higher than both the East Pierce hospital's percent of total and adjusted revenue.

The 2020 Report of Charity Care in Washington Hospitals offers the following analysis of charity care costs across Washington State Hospitals as impacted by the Affordable Care Act (ACA):

“Following a decline in charity care after implementation of the Affordable Care Act in 2013, charity care has been rising again since 2016. The rate of increase has slowed since 2018. As a percent of total

¹² The two new hospitals are MultiCare's Wellfound Behavioral Health and CHI Franciscan's Rehabilitation Hospital

¹³ MultiCare Good Samaritan has a ZIP code of 98372.

¹⁴ With the exception of the hospitals previously identified that did not report.

hospital patient services revenue, charity care charges dropped from 2.9 percent to 1.5 percent from 2013 to 2020 (Figure 1 and Table 1).” [source: 2020 Washington State Charity Care in Washington Hospitals]

The Certificate of Need Program recognizes that charity care in Washington State may continue to increase in coming years. Approval of this project would require the applicant to acknowledge the requirement under WAC 246-310-270(7) to provide charity care. **With agreement to a charity care condition, this sub-criterion is met.**

- (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) above does not apply to this project.

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 South Sound Neurosurgery, PLLC 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.

Chapter 246-310 WAC 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.¹⁵

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 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.

South Sound Neurosurgery, PLLC

This project proposes to expand the number of ORs from two to three, expand the age range of its patients to those three years and older, and expand services available at MSC. The surgical facility would remain at its current site in Puyallup, within East Pierce and at project completion would have three ORs providing the following services: neurosurgery, pain management, orthopedics, interventional radiology, cardiology, and podiatry services. [source: Application, p4]

South Sound Neurosurgery provided extensive information and assumptions used to project the surgical volumes for current year 2022 and projection years 2023 through 2026. For brevity, the assumptions are not repeated in this evaluation, rather the factors used are summarized below. [source: Application, pp22 – 28 and November 14, 2022, screening response, Revised Exhibit 12]

- Historical volumes for services currently provided at MSC;
- Surgical rates using ICD-9 procedure codes derived from the National Center for Health Statistics survey study for new services to be provided at the surgical facility;
- East Pierce 2020 population and utilization rate of 1,560.3 of surgeries in 2020; and
- Market share assumptions using historical utilization of MSC for services currently provided and a range of 5% - 7% market share for the new services to be provided.
- Historical 2021 minutes per case used to estimate total minutes.
- Need for OR suites is estimated by dividing OR minutes by OR Capacity. The capacity of a single OR equals 68,850 minutes per WAC 246-310-270.

South Sound Neurosurgery estimated its projected number of surgeries by type by applying its calculated market share percentages to the total number of surgeries projected for East Pierce in years 2022 through 2026. The information is summarized in the following table. [source: Application, p23 and November 14, 2022, screening response, Revised Exhibit 12]

¹⁵ 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.

Department's Table 5
Microsurgical Spine Center Current and Projected
Utilization for Years 2022 through 2026

	Year 2022 Current	Year 2023 Projected	Year 2024 Projected	Year 2025 Projected	Year 2026 Projected
Interventional Radiology	0	166	246	271	275
Neurosurgery	435	456	470	477	484
Orthopedics	0	118	191	226	229
Pain Management	1,741	1,825	1,880	1,906	1,934
Podiatry	0	118	191	226	229
Vascular Cardiology	0	80	163	220	223
Total	2,176	2,762	3,140	3,326	3,374

South Sound Neurosurgery provided its historical and projected payer mix for the surgical facility and included an explanation of the expected changes in payer mix with the additional services. The table below shows the projected payer mix for MSC. [source: Application, pp32-33]

Department's Table 6
Microsurgical Spine Center Projected Payer Mix

Projected Payer Mix	Percentage by Revenue	Percentage by Patient
Medicare	31.8%	40.4%
Medicaid	1.0%	5.8%
Commercial/HMO	53.4%	40.8%
Other Government	1.3%	3.5%
Other Miscellaneous	12.1%	9.0%
Self-Pay	0.5%	0.5%
Total	100.0%	100.0%

“Those cases and charges part of the ‘Other/Misc.’ category include cases to persons with Workers’ Comp or Auto/Liability payers. The projected payer mix is based on Microsurgical Spine Center’s 2021 payer mix, adjusting for a relative shift towards more Medicaid patients and Medicaid revenue as a result of the expansion of specialties.” [source: Application, p33]

Within the application materials, South Sound Neurosurgery provided both historical and projected financial statements. Following are the assumptions South Sound Neurosurgery used to project revenue, expenses, and net income for MSC with three ORs, expanded services, and age range. [source: November 14, 2022, screening responses, Revised Exhibit 12]

Applicant's Table

Utilization		Assumptions (Forecasted Years 2022 - 2026)	
Cases and minutes		See utilization forecast	
Revenue Deductions			
Contractual adjustments		Assumed constant at 71.14% of gross revenues based on 2021 historical financials	
Bad debt		Assumed constant at 0.17% of gross revenues based on 2021 historical financials	
Charity care		Assumed constant at 5.79% of adjusted patient service revenues based on planning area hospitals	
Payer Mix and Contractual Adjustments		Payer Mix (% of Net Revenue)	
Medicare		31.8%	
Medicaid		1.0%	
Commercial/HMO		53.4%	
Other Government		1.3%	
Other/Misc.		12.1%	
Self-Pay		0.5%	
Total		100.0%	

Applicant's Table - Expense Assumptions

Category/Item		Assumptions (Forecasted Years 2022 - 2026)
Utilization		
Cases and Minutes	See utilization forecast	
Staffing Costs		
Salaries and Wages	Based on FTE schedule and historical compensation per FTE.	
Benefits	22.40% of Salaries and Wages, consistent with 2021 historical financials	
Other Expenses		
Medical Director Fee	\$75,000/year based on Medical Director Agreement	
Contract Labor	\$0.38/case based on 2021 historical financials	
Employee General & Admin	\$0.47/case based on 2021 historical financials	
Seminars & Education	\$0.13/case based on 2021 historical financials	
Dues, Fees, & Subscriptions	\$6.87/case based on 2021 historical financials	
Travel & Entertainment	\$9.38/case based on 2021 historical financials	
Office Supplies	\$10.60/case based on 2021 historical financials	
Medical Supplies	\$767.73/case based on 2021 historical financials	
Professional Fees	\$39.39/case based on 2021 historical financials	
Medical Related Fees	\$54.16/case based on 2021 historical financials	
Rent/Lease Building	Lease expenses equal to \$13,804.45 per month in 2022, \$14,112.74 per month in Jan to Mar 2023, \$14,253.87 per month in Apr to Dec 2023, \$13,874.21 per month in 2024, \$11,977.62 per month in 2025, and \$12,336.95 in 2026	
Repairs & Maintenance	\$49.40/case based on 2021 historical financials	
Utilities	\$12.94/case based on 2021 historical financials	
Insurance, Taxes, & Licenses	\$104.89/case based on 2021 historical financials	
Other Expenses	\$0.00/case based on 2021 historical financials	
Business and Operating Tax	1.50% of Net Revenue	
Management Fee	6.00% of Revenue Net Contractual Allowances	
Depreciation	\$178,655.14/year based on 2021 historical financials, plus additional annual depreciation consistent with Depreciation Sheet	
Gain/(Loss) on Disposal	\$0.00/case based on 2021 historical financials	
Interest & Other Income	\$2,564.96/year based on 2021 historical financials	
Interest & Other Expense	-\$16,032.52/year based on 2021 historical financials	

The applicant also provided the following statements clarifying specific line items in these statements. *“Depreciation within the Pro Forma income statements includes both ‘existing’ and ‘incremental’ depreciation. Depreciation from the 2021 Historical Financials is assumed forward as ‘existing’ depreciation, to which depreciation from the additional equipment expenditures is added. We have included two additional rows in the Depreciation Forecast for Annual Equipment Expenditures to assist in tying the numbers across the sheets.”* [source: September 30, 2022, screening response, p7]

“Microsurgical Spine Center has historically also been responsible for these costs, which are reflected in its historical financials and forecast forward in the Pro Forma. Real Estate taxes are included in the line-item ‘Insurance, Taxes, & Licenses’ while operating expenses such as utilities and repairs & maintenance are included in the associated line-items.” [source: September 30, 2022, screening response, p9]

South Sound Neurosurgery also provided a copy of the Management Agreement executed October 5, 2018, between South Sound Neurosurgery, PLLC and SP Practice Management, LLC. The agreement specifies services provided by the management company, obligations of both parties, compensation, and includes an initial term of 15 years with automatic renewals for successive five year terms. [source: September 30, 2022, screening response, Revised Exhibit 13a]

In addition, the applicant provided a copy of a draft *“First Amendment to Management Services Agreement”* that includes the expanded services to be provided at MSC. This is followed with a letter dated September 5, 2022, signed by both entities in the agreements, expressing commitment to execute the amendment if this CN application is approved. [source: September 30, 2022, screening response, Revised Exhibit 13b and 13c] The applicant also accounted for this expense in its projected income statement as *“Management Fee.”* [source: November 14, 2022, screening response, Revised Exhibit 12]

To demonstrate site control, South Sound Neurosurgery provided the following documents:

- *Medical Office Lease Agreement*, executed on January 23, 2002, which includes an Addendum A, *Landlord’s Acknowledgement and Consent to Tenant’s Collateral Assignment of Tenants’ Rights in Premises Lease*;
- *Lease Extension Agreement* for October 1, 2012, through September 30, 2017;
- *Lease Extension and Amendment Agreement* for August 1, 2015, through September 30, 2024;
- *Proposal to Lease Letter* for October 1, 2024, through September 30, 2034; and
- *Property Summary*.

[source: September 30, 2022, screening response, Revised Exhibit 15a – 15f]

These documents include all the elements necessary for CN review and the applicant included line items in its income statement to account for the costs associated with this agreement. [source: November 14, 2022, screening response, Revised Exhibit 12]

South Sound Neurosurgery also have an executed *Medical Director Agreement*. Effective July 1, 2013, it specifies the involved entities, obligations of both parties, compensation, and an initial term of three years with automatic one-year renewals until otherwise terminated. [source: Application, Exhibit 14] The applicant also accounted for this expense in its projected income statement as *“Medical Director Fee.”* [source: November 14, 2022, screening response, Revised Exhibit 12]

Based on the assumptions and agreements described above, the applicant provided both historical and projected income statements for MSC showing years 2018 through 2026. Years 2021 through 2026 are summarized in the following table. [source: Application, Exhibit 16 and November 14, 2022, screening response, Revised Exhibit 12]

Department's Table 7
Microsurgical Spine Center's Historical, Current, and Projected
Revenue and Expense Statement Summaries

	Year 2021 Historical	Year 2022 Current	Year 2023 Projected	Year 2024 Full Year 1	Year 2025 Full Year 2	Year 2026 Full Year 3
Net Patient Revenue	\$6,456,006	\$5,382,834	\$6,832,193	\$7,767,757	\$8,226,139	\$8,345,867
Minus Total Expenses	\$4,045,078	\$4,382,133	\$5,140,407	\$5,852,072	\$6,150,400	\$6,152,125
Net Profit / (Loss)	\$2,410,928	\$1,000,701	\$1,691,786	\$1,915,685	\$2,075,739	\$2,193,742

South Sound Neurosurgery also provided both historical and projected balance sheets for this project. Years 2021 through 2026 are summarized in the following tables. [sources: Application, Exhibit 16 and November 14, 2022, screening response, Revised Exhibit 12]

Department's Table 8
Microsurgical Spine Center's
Historical, Current, and Projected Balance Sheet Summaries

ASSETS	Year 2021 Historical	Year 2022 Current	Year 2023 Projected	Year 2024 Projected	Year 2025 Projected	Year 2026 Projected
Current Assets	\$9,296,543	\$10,528,635	\$12,377,382	\$14,513,848	\$16,937,995	\$17,630,336
Property & Equipment	\$735,126	\$582,186	\$459,218	\$294,649	\$128,067	\$126,342
Other Assets	\$348,557	\$261,544	\$117,913	\$0	\$0	\$0
Total Assets	\$10,380,226	\$11,372,364	\$12,954,514	\$14,808,497	\$17,066,062	\$17,756,678

LIABILITIES	Year 2021 Historical	Year 2022 Current	Year 2023 Projected	Year 2024 Projected	Year 2025 Projected	Year 2026 Projected
Current Liabilities	\$522,303	\$609,660	\$611,682	\$508,103	\$470,509	\$476,515
Long Term Debt	\$443,633	\$234,545	\$56,528	\$0	\$0	\$0
Equity	\$9,414,291	\$10,528,160	\$12,286,303	\$14,300,394	\$16,595,553	\$17,280,163
Total Liabilities and Equity	\$10,380,226	\$11,372,364	\$12,954,514	\$14,808,497	\$17,066,062	\$17,756,678

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by South Sound Neurosurgery to determine the projected number of procedures and utilization of the facility with a total of three ORs. For services currently provided at the CN-approved surgical facility, the applicant relied on historical data including market shares. For new services not previously provided by the applicant, the applicant relied on National Center for Health Statistics survey study information. Both approaches by South Sound Neurosurgery are well-explained and reasonable.

South Sound Neurosurgery based its revenue and expense assumptions on year 2021 historical figures or contracts currently in place. Some categories were held constant and other categories were estimated as a percent of anticipated revenue, this approach is reasonable.

The historical income statement shows South Sound Neurosurgery's revenues have historically covered expenses, and revenues continue to cover expenses in projection years 2022 through 2026, the third full year of operation. The pro forma Balance Sheet shows assets are also projected to increase for each of the projection years.

In the 'need' section of this evaluation, the department concluded that the applicant demonstrated need for the one additional, total of three ORs in the planning area. The department concludes the basis for the financial projections are considered reasonable and reliable. Based on the information submitted and lack of public comment opposing the project, the department concludes that the immediate and long-range operating costs of the project can be met. **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.*

Chapter 246-310 WAC 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 projects' costs with those previously considered by the department.

South Sound Neurosurgery, PLLC

MSC is currently operational as a CN-approved surgical facility. While this project proposes to expand the number of ORs, age range of patients, and the types of procedures to be offered at the surgical facility, the facility would remain at the same location. As a result, the capital expenditure associated with this project is solely related to equipment.

In response to this sub-criterion, South Sound Neurosurgery provided the following statements.

"The expanded patient age range and services available will require additional equipment, the majority of which has already been acquired and is currently in storage. Reassessing the available equipment with what will be required for the expansion of specialties and patient ages, we expect we will also require a modest number of orthopedic surgery sets and scopes for the endoscopy towers currently in storage. We include an equipment list with these items in Table 1." [source: September 30, 2022, screening response, p3]

"There are no construction or capital costs associated with the proposed project, thus it is not expected to increase any fixed operating expenses. Therefore, it would not be expected to affect costs and charges. Furthermore, Microsurgical Spine Center does not set its rates. Rather, they are based on fee schedules with CMS and principal payers." [source: Application, p32]

Department Evaluation

In the need section of this evaluation, South Sound Neurosurgery provided multiple rationales to demonstrate that if this project is approved, the surgical facility would be essential in meeting the needs of a changing population and evolving healthcare system in East Pierce. To assist in evaluating this sub-criterion, the department calculated the net revenue per case for historical year 2021, current year 2022, and projection years 2023 through 2026 shown in the table below.

Department's Table 9
Department Calculation of Revenue per Case

	Year 2021 Historical	Year 2022 Current	Year 2023 Projected	Year 2024 Full Year 1	Year 2025 Full Year 2	Year 2026 Full Year 3
Net Revenue	\$6,456,006	\$5,382,834	\$6,832,193	\$7,767,757	\$8,226,139	\$8,345,867
Number of Procedures	2,146	2,176	2,763	3,141	3,326	3,374
Net Revenue per Procedure	\$3,008	\$2,474	\$2,473	\$2,473	\$2,473	\$2,474

As shown above, the anticipated net revenue per procedure decreases through the projection period as the number of cases increases. Showing that as the surgical facility expands it becomes more efficient passing this savings on to its patients.

Although there is no construction planned for this project the applicant has already met with the Department of Health's Construction Review Services (CRS), which is a necessary step to ensure complete building code compliance prior to expanding the services to be provided at the surgical facility. To assist in this evaluation, the department checked the status of the CRS review¹⁶ and found it to be completed. [source: Application, Exhibit 1]

Based on this information, the department concludes that the addition of one OR, expansion of patients' age range, and the types of procedures to be offered at MSC located in East Pierce will not likely have an unreasonable impact on the costs and charges for healthcare services in the planning area. **This sub-criterion is met.**

(3) The project can be appropriately financed.

Chapter 246-310 WAC 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 projects' source of financing to those previously considered by the department.

South Sound Neurosurgery, PLLC

The estimated capital expenditure associated with this project is \$44,000 and includes needed equipment and associated sales tax to outfit the additional room for new services. There are no construction costs for this project. South Sound Neurosurgery provided the following statements and table associated with these costs. [source: September 30, 2022, screening response, p3]

"The equipment expenditures in Table 1 reflect new capital expenditures for the proposed project. We include a letter of financial commitment in New Exhibit 18.

The expanded patient age range and services available will require additional equipment, the majority of which has already been acquired and is currently in storage. However, we do anticipate needing orthopedic surgery sets and scopes for endoscopy towers. We include a list of this equipment in Table 1."

¹⁶ Construction Review Services Project #60274723.

Applicant's Capital Expenditure Table

Table 1: Equipment List			
Item	Quantity	Unit Cost	Total Cost
Orthopedic Surgery Sets	5	\$5,000	\$25,000
Scopes for Endo Towers	2	\$7,500	\$15,000
Subtotal			\$40,000
Sales Tax (@ 10%)			\$4,000
Total			\$44,000
Source: Applicant			

The capital costs identified above will be funded through cash reserves of the applicant, South Sound Neurosurgery. A letter of financial commitment from the Regional Vice President of Surgery Partners, an authorized representative of South Sound Neurosurgery was provided in the application. [source: September 30, 2022, screening response, Exhibit 18]

To demonstrate that the project can be financed, the applicant also provided its 2018 through 2021 historical balance sheet. [source: Application, Exhibit 16]

Department Evaluation

The applicant identified a total estimated capital cost of \$44,000 and provided a breakdown of the total by line item. South Sound Neurosurgery intends to use its cash reserves, and provided commitment of the organization to the project's minimal costs as well as evidence that the funds are available. With this documentation the department concludes this project can be appropriately financed. **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 South Sound Neurosurgery, PLLC 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.

Chapter 246-310 WAC 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 the planning that would allow for the required coverage.

South Sound Neurosurgery, PLLC

As an existing operational surgical facility, MSC already has the majority of its staff in place. South Sound Neurosurgery provided a table showing a slight expected increase in staff if this project is approved. [source: November 14, 2022, screening response, Revised Exhibit 12] Additionally, the applicant provided a listing of current (2022) and projected (2023 – 2026) FTEs for the facility. The department's following table summarizes this information.

Department's Table 10
Microsurgical Spine Center
Current and Projected FTEs for Years 2022 through 2026

FTE Type	Year 2022 Current	Year 2023 Projected	Year 2024 Full Year 1	Year 2025 Full Year 2	Year 2026 Full Year 3
Facility Administrator	0.56	0.56	0.56	0.56	0.56
Business Office Manager	1.12	1.12	1.12	1.12	1.12
Registered Nurses	4.48	4.48	5.04	5.60	5.60
Scrub Tech	2.24	2.24	2.80	2.80	2.80
X-Ray Tech	1.68	1.68	2.24	2.24	2.24
Sterile Processing Tech	1.12	1.12	1.68	1.68	1.68
Office/Front Desk	1.68	1.68	1.90	1.90	1.90
Total FTEs	12.88	12.88	15.34	15.90	15.90

South Sound Neurosurgery provided the following information related to the staffing ratios provided in the staff table summarized above. [source: Application, p36]

“Prior to the project start, in 2022 Microsurgical Spine Center expects to add 1 RN FTEs, 0.5 Scrub Tech FTEs, 0.5 X-Ray Tech FTEs, 0.5 Sterile Processing Tech FTEs, and 0.2 Office/Front Desk FTEs. Following approval of the proposed project, to project staffing increases commensurate with the projected increases in utilization, we added a 25% staffing increase for RNs between 2022 and 2026. Likewise, Scrub Tech, X-Ray Tech, and Sterile Processing Tech FTEs are assumed to increase by 25%, 33%, and 50%, respectively. We also anticipate adding 0.20 Office/Front Desk FTEs to handle the additional patient and scheduling load. Furthermore, all productive FTEs are adjusted by a 12% non-productive multiplier to account for expected vacation time and sick leave. We anticipate the other ASC administrative staff able to handle the increased utilization with their current FTE levels.”

Focusing on recruitment and retention of staff, South Sound Neurosurgery provided the following statements.

“Microsurgical Spine Center utilizes Ultipro and Indeed for recruitment as well as relying on local leads in the community. We have an attractive work routine with no weekends, holidays, or on-call, as well as competitive pay scale in the community.” [source: Application, p37]

“Cardiology surgeon recruitment will require no additional steps or funding by Microsurgical Spine Center not mentioned in response to question 9 of this section. We note that recruitment of additional providers is included within the Management Agreement.

Given the modest increase in staffing associated with the proposed project, (about 1 RN FTE, 1.5 Scrub/X-Ray/Sterile Processing Tech FTEs, and about 0.2 Office/Front Desk FTEs), we believe our methods for staff recruitment and retention are sufficient. With that said, if this facility faces any barriers to recruiting or retaining staff, we will use contracted services to fill necessary positions. Currently Emerald Staffing Services provides necessary staff when staffing shortages exist at our facility.” [source: September 30, 2022, screening response, p4]

South Sound Neurosurgery also clarified that the executed Management Agreement between South Sound Neurosurgery, PLLC (company) and SP Practice Management, LLC (management company) includes specific information regarding staffing levels and clearly identifies the company has the final decision with respect to staffing levels for the surgical facility.

South Sound Neurosurgery also clarified that the administrative staff is supplied and compensated by Surgery Partners (the management company) and are not included in the FTE table above. [source: September 30, 2022, screening response, p9]

Department Evaluation

Currently MSC services include pain management, neurosurgery, and spine services in its two operating rooms. While the surgical facility will remain at its current site, the number of ORs will increase from two to three and the age range of patients will be expanded to three years and older. In addition to the current services South Sound Neurosurgery proposes to add, orthopedics, interventional radiology, cardiology, and podiatry services. [source: Application, p4]

The applicant also provided its current year (2022) and projected FTEs for the surgical facility. With added services, age range, and OR space the addition of approximately three FTEs are needed from years 2023 to 2025. South Sound Neurosurgery believes this is achievable using its current recruitment and retention strategies, which have proven successful to date. Even with increased competition for qualified staff the applicant does not need to see an increase in recruitment costs because this task is an obligation of the management company under the Management Agreement, which has set costs.

As noted in the table above, the majority of the surgical facility staff are already in place; and the modest increase aligns with increases in projected utilization. The department concludes that the increase in staff are based on reasonable assumptions and achievable.

For recruitment and retention of necessary staff, South Sound Neurosurgery intends to rely on the strategies it has successfully used in the past. This approach is also reasonable.

South Sound Neurosurgery has a Medical Director in place and is under an effective contract with obligations of both entities, qualifications, compensation, and the agreement's term clearly outlined. This is further supported by inclusion of anticipated costs associated with this agreement in the applicant's projected expenses. [sources: Application, Exhibit 14 and November 14, 2022, screening response, Revised Exhibit 12]

Information provided in the application demonstrates the applicant has the ability to staff the surgical facility and that the projected staff counts are based reasonably on experience. Based on the information above, the department concludes that the South Sound Neurosurgery's 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.

Chapter 246-310 WAC 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 projects of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the applications.

South Sound Neurosurgery, PLLC

Given that MSC is an existing, operational surgical facility, ancillary and support services are already in place. South Sound Neurosurgery provided a table showing the current ancillary and support services

for MSC and confirmed that any in place agreements are not expected to change if this project is approved. [source: Application, pp37-38]

Applicant's Table

Table 17: Microsurgical Spine Center, Ancillary and Support Services	
Organization Name	Services Provided
AES	Anesthesia machine
Iron Mountain	archiving records
Omega medical	biomed testing; autoclave/ washer
Corwin	C-Arm physio
Prescotts inc	Microscope
GE_OEC	C-arm maintenance
Medx services	Coding
Audit and Adjustment	Collections
Pacific Office Automation	Copiers
Prognosis	EMR
Cummings Northwest	Generator
NW Family Affair	Janitorial
Alarm Center Inc	Fire/smoke protection
Seatac Fire Protection	Sprinkler system
Medgas Services	Medical gas system inspection
Comfort Systems NW	HVAC
NW neuromonitoring	Neuromonitoring
ImageFirst	Linen Services
Richard Wohns MD	Medical Director
Airgas	Medical Gases
Stericycle	Medical Waste
SPH Analytics	Patient Satisfaction
Good Samaritan Hospital	Patient Transfer
Lemay	Document shredding
Performance Systems	Fire Extinguisher
Source: Applicant	

As noted in the table above, MSC currently has a contract with MultiCare Health System, Good Samaritan Hospital. This agreement was executed on June 1, 2014, and identifies the process to be used to transfer a patient from the surgical facility to one of MultiCare Health System's hospitals in the planning area (Good Samaritan Hospital) or in an adjacent planning area (Auburn Medical Center or Tacoma General Hospital). Identification of the receiving hospital is based on the reason for the transfer. [source: Application, Exhibit 17]

South Sound Neurosurgery also provided a copy of a *Management Services Agreement* executed on October 5, 2018, between South Sound Neurosurgery, PLLC (company) and SP Practice Management (the management company). The agreement is valid until the 15th year anniversary of the agreement, approximately October 2029. The agreement also includes automatic renewals in five-year increments. The executed agreement identifies roles and responsibilities for both the company and the management company as well as compensation. [source: September 30, 2022, screening response, Revised Exhibit 13a]

South Sound Neurosurgery provided a draft *First Amendment to Management Services Agreement* between the same two entities. This amendment agreement identifies the additional services that would be provided at the surgical facility if this project is approved and ensures that all other sections of the

initial agreement remain unchanged. Consistent with the requirement for draft agreements, the applicant provided a copy of a *Letter of Intent to Execute the First Amendment to Management Services Agreement* signed on September 5, 2022, by representatives of both entities in the agreements. [source: September 30, 2022, screening response, Revised Exhibits 13b and 13c]

Department Evaluation

Since the surgical facility is currently operational, South Sound Neurosurgery provided a listing of current ancillary and support services and states that the services are not expected to change if this project is approved.

The applicant also provided an executed *Patient Transfer Agreement* and *Management Services Agreement*. Since the *Management Services Agreement* did not include the expanded services proposed by this application, South Sound Neurosurgery also provided a draft amendment to the agreement which both entities agree to execute the draft amendment if the CN is approved. If this project is approved the department would attach a condition requiring South Sound Neurosurgery to provide an executed version of this draft amendment that is consistent with the draft provided in the application.

Based on the information reviewed in the application and the applicant's agreement to the condition referenced above, the department concludes that there is reasonable assurance that South Sound Neurosurgery will maintain the necessary relationships with ancillary and support services for MSC 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.*

Chapter 246-310 WAC 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 each applicant's history in meeting these standards at other facilities owned or operated by each applicant.

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.¹⁷ For surgical facilities, 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 2020 through current.¹⁸ The department uses this report to identify surgical facilities 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.¹⁹

¹⁷ WAC 246-310-230(5)

¹⁸ In the context of this section of this evaluation "current" refers to data available on CMS' website, listed as "*The data in these reports, including provider and supplier counts and percentages, are valid for the subset of providers or suppliers for which there are survey records in CASPER. Source: CASPER (02/12/2023)*"

¹⁹ Definitions of standard and condition level surveys: <https://www.compass-clinical.com/deciphering-tjc-condition-level-findings/>

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.

South Sound Neurosurgery, PLLC

The applicant provided the following statements related to this sub-criterion and WAC 246-310-230(5). [source: Application, p40]

"Microsurgical Spine Center does not have a history of any of the actions listed above. Thus, this question is not applicable."

The applicant also clarified that the physician who owns South Sound Neurosurgery, Richard Wohns, M.D. does not own or operate any other healthcare facilities in Washington or any other state. [source: September 30, 2022, p4]

In addition, South Sound Neurosurgery provided a listing of its current staff that includes: eight physicians, including one osteopath; seven registered nurses; two registered surgical technologists' one registered x-ray technician; and one registered medical assistant. [source: Application, pp36-37]

Department Evaluation

As stated in the *Applicant Description* section of this evaluation, South Sound Neurosurgery currently operates a CN-approved surgical facility in Puyallup, Washington. The surgical facility is known as Microsurgical Spine Center²⁰ (MSC). [source: Application, p12 and ILRS database] The applicant does not own or operate any additional healthcare facilities.

Terminated Provider Counts Report

Focusing on years 2020 through February 12, 2023, MSC was not involuntarily terminated from participation in Medicare reimbursement.

Conformance with Medicare and Medicaid Standards

Focusing on years 2020 through February 12, 2023, MSC had one *Special Survey* on November 12, 2020, which resulted in one condition and four standard deficiencies. Three of the five deficiencies focused on infection control, the others were related to *organization and staffing* and *sanitary environment*. The survey was followed by a follow-up visit on January 5, 2021. MCS is currently in compliance with CMS standards. Although a majority of deficiencies from the 2020 survey were related to infection control there are no other surveys to suggest that CMS had concerns with the operation of the facility or that there is a pattern of noncompliance.

²⁰ Microsurgical Spine Center ASF license ASF.FS.60101867.

For its Medical Director, MSC has an executed *Medical Director Agreement* between itself and Richard Wohns, M.D.²¹ Using data from the Medical Quality Assurance Commission, the department confirmed that Dr. Wohns holds an active medical license with no enforcement actions.

South Sound Neurosurgery provided a listing of 19 current credentialed staff. Using data from the Medical Quality Assurance Commission, the Nursing Care Quality Assurance Commission, and the department's provider credential search, the department confirmed that all identified staff hold an active state license, have no current conditions or limits on the license, and have no current enforcement actions.

For this sub-criterion, the department considered the compliance history of the surgical facility and its current staff. Based on the information reviewed, the department concludes that MSC is in compliance with applicable state and federal licensing and certification requirements. As a result, the department concludes there is reasonable assurance that the approval of this project would not have a negative effect on the facility'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.*

Chapter 246-310 WAC 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 projects of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

South Sound Neurosurgery, PLLC

South Sound Neurosurgery provided the following statements in response to this sub-criterion. [source: Application, p39]

"Microsurgical Spine Center cooperates with the only East Pierce inpatient provider, MultiCare Good Samaritan Hospital. Please see Exhibit 18 for a copy of the transfer agreement with between Microsurgical Spine Center and MultiCare Health System.

Microsurgical Spine Center promotes continuity of care now, since it offers all elements of outpatient spinal surgery and pain management care, including diagnoses, treatment, and outpatient surgery, if needed. Expansion of the set of specialties to also include cardiology, interventional radiology, orthopedics, and podiatry will allow affiliated and non-organizational physicians across all these specialties to perform surgical procedures at the ASC. CN approval of the proposed project will allow Microsurgical Spine Center to help meet the increased Planning Area demand for surgical procedures and continue to support continuity of care in its local market. Without further increases in supply, patients in search of surgical procedures must continue to commute outside the East Pierce planning area, perpetuating and amplifying unwarranted fragmentation of services in the future."

Department Evaluation

The surgical facility has been operating as CN-approved for many years,²² therefore MSC has an operational history to review for much of this sub-criterion. If this project is approved, South Sound

²¹ Physician and Surgeon License # MD00018307.

²² CN #1317 issued on September 9, 2005.

Neurosurgery proposes to expand the number of ORs from two to three, expand the age range of its patients to those three years and older, and expand services.

The applicant also provided information within the application materials to demonstrate it intends to continue existing relationships, and that these relationships are adequate to support the increase in ORs, volumes, and services to be provided. This includes an executed transfer agreement between Microsurgical Spine Center and the area hospital's parent.

South Sound Neurosurgery asserts that approval of this project will ensure continuity in the provision of healthcare services historically provided by MSC, and that the expansion of services MSC will promote continuity in services for East Pierce residents and decrease the need for surgery patients to travel for services. For this assertion, the department also takes into consideration the lack of public comment received in opposition to the project by existing providers. The department concurs with the applicant's reasoning.

The department also considers the conclusions reached in the financial feasibility and structure and process of care reviews of the project. South Sound Neurosurgery'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 East Pierce. **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.*

South Sound Neurosurgery, PLLC

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 South Sound Neurosurgery, PLLC 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 through 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 Chapter 246-310 WAC related to the specific project type in

step three. There was no competing application submitted for the East Pierce planning area. Therefore, the department will not apply superiority criteria to this project.

South Sound Neurosurgery, PLLC

South Sound Neurosurgery met the applicable review criteria under WAC 246-310-210 through 230. The applicant provided the following information related to this sub-criterion. [source: Application, pp41-43]

“In deciding to submit this application, Microsurgical Spine Center explored the following options: (1) no project—continuing as a CN-Approved, two OR facility, and (2) request CN approval for one additional Procedure Room and an expansion of specialties including Orthopedics, Podiatry, Interventional Radiology, and Cardiology.

We evaluate the options above using the following decision criteria: improving access; improving quality of care; capital and operating costs (efficiency); and legal restrictions:

Applicant’s Tables 18 - 21

Table 18: Alternatives Analysis: Promoting Access to Healthcare Services	
Option:	Advantages/Disadvantages:
No project - remain CN-Approved with 2 ORs	<ul style="list-style-type: none"> • There is no advantage to continuing as is in terms of improving access. (Disadvantage (“D”)) • Capacity constraints at Microsurgical Spine Center prevent the potential for further growth in surgical procedures, leading to reduced access to outpatient surgery services for planning area residents. Without the project, these constraints may cause patients to continue to out-migrate to non-Planning Area facilities, which harms access. (D)
CN Approval for 1 additional Procedure Room and expansion of specialties (Requested project)	<ul style="list-style-type: none"> • Allows an expansion of specialties at Microsurgical Spine Center, open to all physicians in the community who are credentialed, leading to improved access to planning area residents in need of procedures across the additional specialties (Advantage (“A”)) • Allows an additional procedure room, alleviating capacity constraints and preventing “crowding out” of surgical procedures. (A)

Table 19: Alternatives Analysis: Promoting Quality of Care	
Option:	Advantages/Disadvantages:
No project - remain CN-Approved with 2 ORs	<ul style="list-style-type: none"> • There are no current quality of care issues, so there are no advantages or disadvantages from a quality-of-care perspective. (Neutral (“N”))
CN Approval for 1 additional Procedure Room and expansion of specialties (Requested project)	<ul style="list-style-type: none"> • The requested project allows expansion of both the array of specialties and capacity. This improves access, and thus quality of care. (A) • From a quality-of-care perspective, there are only advantages. (A)

Table 20: Alternatives Analysis: Promoting Cost and Operating Efficiency	
Option:	Advantages/Disadvantages:
No project - remain CN-Approved with 2 ORs	<ul style="list-style-type: none"> Under this option, there would be no impacts on costs or efficiency of Microsurgical Spine Center—the surgery center would continue as present. (N) However, as stated above, without the project, some residents in need of outpatient surgical procedures would likely need to out-migrate or visit inpatient providers due to planning area capacity constraints. This requires otherwise unnecessary travel or usage of relatively expensive inpatient care. (D)
CN Approval for 1 additional Procedure Room and expansion of specialties (Requested project)	<ul style="list-style-type: none"> An expansion of services and ability of outside physicians to use the facility would increase access within the planning area for persons needing Orthopedics, Interventional Radiology, Cardiology, and Podiatry procedures, and reduce the need for outmigration across these specialties. (A) An additional procedure room will provide greater accessibility to planning area residents for outpatient surgical services. Adding capacity to a local ASF reduces travel time and costs, patient inconvenience and anxiety, and is a cost-effective alternative to increased utilization of hospital outpatient surgery departments. (A)

Table 21: Alternatives Analysis: Legal Restrictions.	
Option:	Advantages/Disadvantages:
No project - remain CN-Approved with 2 ORs	<ul style="list-style-type: none"> There are no legal restrictions to continuing operations as presently. (A)
CN Approval for 1 additional Procedure Room and expansion of specialties (Requested project)	<ul style="list-style-type: none"> Requires certificate of need approval. This requires time and expense. (D)

Department Evaluation

The applicant provided sound rationale for foregoing the “*no project*” option as there are substantially more disadvantages to this alternative when compared to the “*requested project*.” 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 South Sound Neurosurgery. Based on the information provided in the application and restated above, the department concludes that the option selected by the applicant is reasonable and prudent for MSC.

This project met the review criteria under need, financial feasibility, and structure and process of care. Based on the above information, the department concludes that **this sub-criterion is met.**

(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 project includes a capital expenditure for equipment, but does not involve construction. This sub-criterion does not apply.

(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.

South Sound Neurosurgery, PLLC

The applicant provided the following statements in response to this sub-criterion. [source: Application, pdf 43]

“The ASC physical design allows for efficient pattern of patient movement within a single floor. Operating rooms, imaging instruments, sterile processing, instruments, implants, and central supply are all located within the ASC space. Please see Exhibit 3 for a floorplan of the ASC.”

Department Evaluation

This project proposes adding ORs and expanding services to an existing, CN-approved surgical facility. The cost of the project is minimal for the substantial access that will be gained and efficiencies realized. Additionally, the transfer of appropriate services from an inpatient setting to an outpatient one is shown to be cost effective. Based on information provided within the application, and evaluated under WAC 246-310-210 and 230, the department is satisfied that this project is appropriate and needed. Further, this project has the potential to improve the delivery of health services in the East Pierce Secondary Health Services Planning Area. **This sub-criterion is met.**

APPENDIX A

Ambulatory Surgery Need Methodology Source Data
WAC 246-310-270
East Pierce

Facility	License Number	CN Approved or Exempt	ZIP Code	Special Procedure Rooms	Dedicated Inpatient ORs	Dedicated Outpatient ORs	Mixed Use ORs	Inpatient min/case	Cases in Mixed Use ORs	Minutes In Mixed Use ORs	Outpatient Min/Case	Outpatient Cases	Minutes in Outpatient ORs	Data Source
Multicare Good Samaritan	HAC.FS.60221541	Approved	98372-3715	0	0	0	10	93.91	8,864	832,400	0.00	0	0	DOH 2021 Utilization Survey
Cascade Eye and Skin Centers	ASF.FS.60102509	Exempt	98371-7590			2					20.38	3,229	65,804	DOH 2021 Utilization Survey & DOR issued 06/19/1996
Hillside Medical Surgery Center	ASF.FS.60614436	Exempt	98374-1145			1					27.69	1,098	30,404	DOH 2021 Utilization Survey & DOR16-11 issued 12/01/2015
Meridian Surgery Center	ASF.FS.60100910	Approved	98372-4515			2					53.33	450	24,000	DOH 2021 Utilization Survey & CN1813R issued 10/16/2019
Microsurgical Spine Center	ASF.FS.60101867	Approved	98372-3742			2					108.32	2,029	219,778	DOH 2021 Utilization Survey & CN1317 issued 09/09/2005
Philip C. Kierney MD	ASF.FS.60101646	Exempt	98374-1150			1					118.43	308	36,475	DOH 2021 Utilization Survey & DOR15-28 issued 02/13/2015
Puyallup Ambulatory Surgery Center	ASF.FS.60534460	Approved	98372-3742			3					58.19	1,355	78,842	DOH 2021 Utilization Survey & CN1897 issued 07/02/2021
Puyallup Endoscopy Center	ASF.FS.60100990	Approved	98371-7590	Exclude - endoscopy only WAC 246-310-270(9)(a)(iv)										
Sunrise Endoscopy Center	ASF.FS.60100163	Approved	98374-8848	Exclude - endoscopy only WAC 246-310-270(9)(a)(iv)										
The Surgery Center at Rainier	ASF.FS.60101080	Approved	98374-2106			4					56.90	1,941	110,444	DOH 2021 Utilization Survey & CN1846 issued 07/28/2020
Totals				0	0	11	10		8,864	832,400		10,410	565,747	
								Avg min/case inpatient		93.91	Avg min/case outpatient		54.35	

Outpatient ORs Counted in Methodology	11
Total Surgeries	19,274
Total Planning Area Population, 2020 (Claritas 2021)	338,519
Use Rate	56.94
Total Planning Area Population, 2025 (Claritas 2021)	362,194
% Outpatient of total surgeries	54.01%
% Inpatient of total surgeries	45.99%

Ambulatory Surgery Need Methodology
WAC 246-310-270
East Pierce

Service Area Population, 2025 **362,194**
 Use Rate **56.94**
 Projected Surgeries in Projection Year **20,622**

a.i.	94,250 minutes/year/mixed-use OR			
a.ii.	68,850 minutes/year/dedicated outpatient OR			
a.iii.	11 dedicated outpatient ORs x 68,850 minutes =		757,350 minutes dedicated OR capacity	13,936 Outpatient surgeries
a.iv.	10 mixed-use ORs x 94,250 minutes =		942,500 minutes mixed-use OR capacity	10,036 Mixed-use surgeries
b.i.	projected inpatient surgeries =	9,484	=	890,616 minutes inpatient surgeries
	projected outpatient surgeries =	11,138	=	605,314 minutes outpatient surgeries
b.ii.	Forecast # of outpatient surgeries - capacity of dedicated outpatient ORs			
	11,138	-	13,936	= -2,798 outpatient surgeries
b.iii.	average time of inpatient surgeries		=	93.91 minutes
	average time of outpatient surgeries		=	54.35 minutes
b.iv.	inpatient surgeries*average time		=	890,616 minutes
	remaining outpatient surgeries(b.ii.)*avg time		=	-152,036 minutes
				738,579 minutes

c.i.	if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use ORs			
	USE THIS VALUE			
	942,500			
	- 738,579			
	203,921	/	94,250	= 2.16

c.ii. if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94,250 to determine shortage of inpatient ORs
Not Applicable - Ignore the following values and use results of c.i.

$$\begin{array}{rclcl}
 & 890,616 & & & \\
 - & 942,500 & & & \\
 & (51,884) & / & 94,250 & = \quad \mathbf{-0.55}
 \end{array}$$

divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient ORs

$$\begin{array}{rclcl}
 & -152,036 & / & 68,850 & = \quad \mathbf{-2.21}
 \end{array}$$