



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

April 10, 2012

CERTIFIED MAIL # 7011 1570 0002 7802 5992

Barry Tanner, President & CEO
Physicians Endoscopy
1456 Ferry Road, Suite 305
Doylestown, Pennsylvania 18901

RE: CN11-15

Dear Mr. Tanner:

We have completed review of the Certificate of Need application submitted on behalf of Eastside Endoscopy Center, LLC proposing to establish a new endoscopy ASC in Bellevue. For the reasons stated in this evaluation, the application submitted is consistent with applicable criteria of the Certificate of Need Program, provided Eastside Endoscopy, LLC agrees to the following in its entirety.

Project Description

This application approves the establishment of a three-operating room endoscopy ambulatory surgery center at 1135—116th Avenue NE in the City of Bellevue within the east King County planning area. Eastside Endoscopy Center (EEC) currently provides endoscopic and related gastroenterology (GI) services at its existing ASC in Bellevue known as (EEC-Bellevue). Approval of this application is not changing any of its ownership or existing services or practices.

Conditions

1. Eastside Endoscopy Center LLC agrees with the project description as described above.
2. Prior to commencement of the project, Eastside Endoscopy Center, LLC—EEC-Bellevue must provide for the Department's review and approval an adopted Scope of Care policy. The adopted policy must be consistent with the draft provided in the application.
3. Prior to commencement of the project, Eastside Endoscopy Center, LLC—EEC-Bellevue must provide for the Department's review and approval a revised, adopted Charity Care Policy that includes a process for patients to qualify for charity care prior to the services being received.
4. Eastside Endoscopy Center, LLC—EEC-Bellevue will provide charity care in compliance with the revised charity care policy as approved from #3 above. Eastside Endoscopy Center, LLC—EEC-Bellevue will use reasonable efforts to provide charity care in an amount comparable to the average amount of charity



care provided by the hospitals located in King County during the three most recent years. For historical years 2007-2009, this amount is 1.42% of gross revenue. Eastside Endoscopy Center, LLC—EEC Issaquah will maintain records documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies.

5. Eastside Endoscopy Center, LLC—EEC-Bellevue is limited to providing endoscopic and gastroenterology services as described within the application and relied upon by the department in this evaluation.

Approved Costs

There is no capital expenditure associated with this project.

You have two options, either accept or reject the above in its entirety. If you accept the above in its entirety, your application will be approved and a Certificate of Need sent to you. If you reject any provision of the above, you must identify that provision, and your application will be denied because approval would not be consistent with applicable Certificate of Need review criteria. Please notify the Department of Health within 20 days of the date of this letter whether you accept the above in its entirety. Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

Mailing Address:

Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Other Than By Mail:

Department of Health
Certificate of Need Program
111 Israel Road SE
Tumwater, WA 98501

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

Sincerely,



Steven M. Saxe, FACHE
Director, Health Professions and Facilities

Enclosure

cc: Jody Carona, Health Facilities Planning and Development

**EVALUATION DATED APRIL 10, 2012 OF THE CERTIFICATE OF NEED
APPLICATION SUBMITTED BY EASTSIDE ENDOSCOPY CENTER, LLC
PROPOSING TO AN ESTABLISH AMBULATORY SURGICAL FACILITY LOCATED
IN BELLEVUE WITHIN THE EAST KING COUNTY SECONDARY HEALTH
SERVICE PLANNING AREA**

APPLICANT DESCRIPTION

Eastside Endoscopy Center, LLC (EEC) is owned by select physician members of Overlake Internal Medicine Associates (OIMA) and Northwest Gastroenterology Associates (NWGA). In addition to the physician members, Physicians Endoscopy, LLC¹ has 30% ownership in EEC. EEC has been operating a CN-exempt ambulatory surgery center (ASC) located at 1135—116th Avenue NE in the city of Bellevue within east King County². [Source: Application, pg. 2]

PROJECT DESCRIPTION

EEC currently provides endoscopic and related gastroenterology (GI) services at its existing ASC in Bellevue known as (EEC-Bellevue). The use of the existing EEC-Bellevue ASC is limited to the eleven physician owners and physician's employed by the professional practices. EEC's application is not proposing any changes to its ownership or existing services or practices.

There is no capital expenditure associated with this project. EEC-Bellevue would have three dedicated operating rooms (ORs) used solely for endoscopic and related GI procedures. EEC-Bellevue anticipates it would be operational by September 2011 as a CN approved ASC. Under this timeline, year 2012 would be the facility first year of operation and year 2014 would be the third year of operation. [Source: Application, Pgs. 7 and 10]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the establishment of a new health care facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

CRITERIA EVALUATION

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. It states:

“Criteria contained in this section and in WAC [246-310-210](#), [246-310-220](#), [246-310-230](#), and [246-310-240](#) shall be used by the department in making the required determinations.

¹ Physicians Endoscopy, LLC is a Delaware corporation.

² On October 21, 1994, Eastside Endoscopy Center, LLC (EEC) received a Certificate of Need (CN) exemption to establish an endoscopy ASC within the city of Bellevue. At the time the exemption was granted to EEC, it was owned by five physicians from Overlake Internal Medicine Associates (OIMA) and six physicians from Northwest Gastroenterology Associates (NWGA). The use of the ASC was limited to the physician owners and physicians employed by the respective professional practices. In 1998, Physician Endoscopy, LLC, became a 30% owner of EEC. If reviewed today, this ownership configuration would not qualify for a CN exemption. A review of the program's historical files shows physicians listed in this current application were also identified for the 1994 initial exemption. Nothing in the 1994 materials or the 2000 materials suggested there were two separate physician group practices and a non-physician group practice involved with EEC.

- (a) *In the use of criteria for making the required determinations, the department shall consider:*
- (i) *The consistency of the proposed project with service or facility standards contained in this chapter;*
 - (ii) *In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2) (b) of this section; and*
 - (ii) *The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

In the event WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

- “The department may consider any of the following in its use of criteria for making the required determinations:*
- (i) *Nationally recognized standards from professional organizations;*
 - (ii) *Standards developed by professional organizations in Washington State;*
 - (iii) *Federal Medicare and Medicaid certification requirements;*
 - (iv) *State licensing requirements;*
 - (v) *Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
 - (vi) *The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.”*

To obtain Certificate of Need approval, the 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); and 246-310-240 (cost containment)³. Additionally, WAC 246-310-270 (ambulatory surgery) contains service or facility specific criteria for ASC projects and must be used to make the required determinations.

APPLICATION CHRONOLOGY

| Action | EEC-Bellevue | EEC-Issaquah |
|---|--------------------------------------|------------------|
| Letter of Intent Submitted | December 9, 2010 | December 9, 2010 |
| Application Submitted | February 1, 2011 | February 1, 2011 |
| Department’s Pre-Review Activities including Screenings and Responses | February 2, 2011 through May 3, 2011 | |
| Beginning of Review | May 4, 2011 | |
| End of Public Comment | June 8, 2011 | |
| Rebuttal Comments | June 22, 2011 | |

³ Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-220(2) and (3); WAC 246-310-240(2) and (3).

| Action | EEC-Bellevue | EEC-Issaquah |
|--|-------------------|-------------------|
| Department's Anticipated Decision Date | August 8, 2011 | |
| Department separates the concurrent review of EEC-Bellevue and EEC-Issaquah applications | December 7, 2011 | |
| Department Declares Pivotal Unresolved Issue (PUI) | December 22, 2011 | N/A |
| Receipt of EEC-Responses to PUI and last day for public to request to comment | January 3, 2012 | N/A |
| Last day for the public to submit comments on new documents | January 18, 2012 | N/A |
| Rebuttal Comments | N/A | N/A |
| Department's Anticipated Decision Date | March 1, 2012 | N/A |
| Department's Actual Decision Date | April 10, 2012 | December 21, 2011 |

AFFECTED AND INTERESTED PERSONS

Washington Administrative Code 246-310-010(2) defines “affected person as:

“...an “interested person” who:

- (a) *Is located or resides in the applicant's health service area;*
- (b) *Testified at a public hearing or submitted written evidence; and*
- (c) *Requested in writing to be informed of the department's decision.”*

Swedish Health Services (Swedish) a health care provider with multiple locations in the planning area sought affected person status under WAC 246-310-010(2). During this review, Swedish provided public comment prior to the department separating the two EEC⁴ applications and declaring the PUI; December 7, 2011 and December 22, 2011 respectively. Swedish did not request to comment on the PUI documents by the January 3, 2012, published deadline.

SOURCE INFORMATION REVIEWED

- Eastside Endoscopy Center, LLC Certificate of Need Application received December 9, 2010
- Eastside Endoscopy Center, LLC supplemental information received March 23, 2011, and April 26, 2011
- Public comments/utilization survey responses received from East King County secondary health services planning area providers
- Public comments and supplemental comments provided by Swedish Health Services
- Eastside Endoscopy Center, LLC rebuttal comments received June 22, 2011
- Claritas population data for East King County secondary health services planning areas
- Survey data provided by the Department of Health's Office of Investigations and Inspections

⁴ EEC submitted two separate ASC applications and the department initially was reviewing them together. One for the establishment of this ASC in Bellevue and the other was for an ASC in Issaquah. During the review, a PUI was declared on the Bellevue application. The department proceeded with its decision on December 21, 2010 for the Issaquah project.

- Accreditation Association for Ambulatory Health Care online accredited organizations search.
- Licensing data obtained from the Department of Health's Integrated Licensing & Regulatory System (ILRS)
- Eastside Endoscopy Center, LLC response to Pivotal Unresolved Issue received January 3, 2012.

CONCLUSION

For the reasons stated in this evaluation and with agreement to the following conditions, Eastside Endoscopy Center LLC's Certificate of Need application proposing to establish an endoscopy ambulatory surgery center in the Bellevue, Washington within the east King County planning area is consistent with the applicable review criteria, provided Eastside Endoscopy Center, LLC agrees to the following in its entirety.

Project Description

This application approves the establishment of a three-operating room endoscopy ambulatory surgery center at 1135—116th Avenue NE in the City of Bellevue within the east King County planning area. Eastside Endoscopy Center (EEC) currently provides endoscopic and related gastroenterology (GI) services at its existing ASC in Bellevue known as (EEC-Bellevue). Approval of this application is not changing any of its ownership or existing services or practices.

Conditions

1. Eastside Endoscopy Center LLC agrees with the project description as described above.
2. Prior to commencement of the project, Eastside Endoscopy Center, LLC—EEC-Bellevue must provide for the Department's review and approval an adopted Scope of Care policy. The adopted policy must be consistent with the draft provided in the application.
3. Prior to commencement of the project, Eastside Endoscopy Center, LLC—EEC-Bellevue must provide for the Department's review and approval a revised, adopted Charity Care Policy that includes a process for patients to qualify for charity care prior to the services being received.
4. Eastside Endoscopy Center, LLC—EEC-Bellevue will provide charity care in compliance with the revised charity care policy as approved from #3 above. Eastside Endoscopy Center, LLC—EEC-Bellevue will use reasonable efforts to provide charity care in an amount comparable to the average amount of charity care provided by the hospitals located in King County during the three most recent years. For historical years 2007-2009, this amount is 1.42% of gross revenue. Eastside Endoscopy Center, LLC—EEC Issaquah will maintain records documenting the amount of charity care it provides and demonstrating it compliance with its charity care policies.
5. Eastside Endoscopy Center, LLC—EEC-Bellevue is limited to providing endoscopic and gastroenterology services as described within the application and relied upon by the department in this evaluation.

There is no capital expenditure associated with this project.

A. Need (WAC 246-310-210)

Based on the source information reviewed and the EEC-Bellevue's agreement to the conditions identified in the "conclusion section" of this evaluation, the department determines that Eastside Endoscopy Center-Bellevue has met the need criteria in WAC 246-310-210 and 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

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

The Department of Health's Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270 for determining the need for additional ASCs in Washington State. The numeric methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient OR's in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 secondary health services planning areas. The proposed ASC would be located in the in east King County planning area.

The methodology estimates OR need in a planning area using multi-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 to be expected in the planning area in the target year, and examines the difference to determine:

- a) whether a surplus or shortage of OR's is predicted to exist in the target year, and
- b) if a shortage of OR's is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.
- c) Data used to make these projections specifically exclude specialty purpose rooms, such as open heart surgery rooms, delivery rooms, cystoscopic rooms, and endoscopic rooms.⁵

EEC's Numeric Methodology

EEC-Bellevue stated the ASC numeric need methodology excludes endoscopic rooms. Therefore, it did not run a need methodology for its project. They did submit a copy of a 2008 numeric need methodology developed by the department for the review of an unrelated project in east King County. EEC states, "*The Department typically "runs" the ASC methodology using data it collects after the CN application is submitted. Since EEC does not have access to current outpatient and inpatient utilization data, we relied on information contained in the most recent relevant CN evaluation in the East King planning area; Swedish Health Services (Swedish) proposal to establish an ASC in Bellevue (remand analysis-2008)*". [Source: Application, EEC-Bellevue Pg. 14]

⁵ WAC 246-310-270(9)(a)(iv).

EEC-Bellevue further states, “*This project proposes to simply convert the existing EEC-Bellevue CN exempt ASC to a CN approved ASC.*” “*No change in ownership or use of EEC-Bellevue is anticipated as a result of this CN application.*” [Source: Application, pg. 7] To demonstrate need for a new endoscopy center in the planning area, EEC-Bellevue provided its historical and projected patient utilization data to support its application. [Source: Application, Page 19] EEC relied on the assumptions listed below to project total future cases for the EEC-Bellevue and EEC-Issaquah.

- an average growth rate of 9% between 2011 and 2012
- 1.65% increase in annual utilization

Table 1 below is EEC-Bellevue historic and projected number of cases for years 2011-2014.

Table 1
EEC-Bellevue Historical and Projected Number of Cases

| Year | Number of Cases |
|------|---------------------|
| 2010 | 11,736 |
| 2011 | 11,300 ⁶ |
| 2012 | 10,114 |
| 2013 | 9,102 |
| 2014 | 9,171 |
| 2015 | 9,322 |

The following comments were submitted by EEC-Bellevue to further support the need for this project.

“EEC is projecting a shift in volume from EEC-Bellevue to the new facility, EEC-Issaquah.” [Source: Application, pg. 20]

“If this facility were not available planning area residents would have reduced access to diagnostic and therapeutic endoscopy procedures. The proposed project does not constitute an unnecessary duplication of services as there is no change in service delivery with this project.” [Source: Application, pg. 19]

Department’s Methodology

The numeric methodology estimates OR need in a planning area using multi-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 to be expected in the planning area in the target year, and examines the difference to determine:

- a) Whether a surplus or shortage of OR’s is predicted to exist in the target year, and
- b) If a shortage of OR’s is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated. Preference is given to dedicated outpatient operating rooms.

⁶ 2010 cases were prepared in year 2010 which EEC-Bellevue believes is capacity. In 2010, /EEC-Bellevue extended its operating hours and performed 11,736.

- c) Data used to make these projections specifically exclude specialty purpose rooms, such as open-heart surgery rooms, delivery rooms, cystoscopic rooms, and endoscopic rooms.⁷

In the East King planning area there are four hospitals and thirty-four ASCs. Table 2 below lists those hospitals and ASCs.

**Table 2
East King County Planning Area Hospitals and ASCs**

| Hospital's/City | |
|---|--|
| Evergreen Hospital Medical Center, Kirkland | Snoqualmie Valley Hospital, Snoqualmie |
| Overlake Hospital Medical Center, Bellevue | Swedish Issaquah Hospital, Issaquah ⁸ |
| ASC's | |
| Allure Laser Center | Overlake Surgery Center |
| Anderson Cosmetic Surgery | Pacific Cataract & Laser Institute |
| Ambulatory Surgery Center at the GH Bellevue MC | Plastic Surgery North West Surgery Center |
| Aysel Sanderson MD | Pratt Plastic Surgery Center |
| Bellevue Spine Specialist | Proliance Highlands Surgery Center |
| Bel Red | Remington Plastic Surgery |
| Bellevue Urology Associates | Retina Surgery Center, The |
| Cosmetic Surgery & Dermatology of Issaquah | Seattle Children's-Bellevue ASC ⁹ |
| Eastside Endoscopy-Bellevue | Sammamish Center for Facial Plastic Surgery |
| Evergreen Orthopedic Surgery Center | Sephehr Egrari MD FACS Plastic Surgery Center |
| Evergreen Surgical Center | Skin Surgery Center |
| Evergreen Surgical Clinic Ambulatory Surgery Center | Swedish Health Services -Issaquah ASC |
| La Provence Esthetic Surgery | Swedish Lakeside Surgery Center ¹⁰ |
| Naficy Plastic Surgery & Rejuvenation Center | Stern Center for Aesthetic Surgery, The |
| North Pacific Dermatology | Virginia Mason-Bellevue Ambulatory Surgical Center |
| Northwest Center for Aesthetic Plastic Surgery | Washington Institute Orthopedic Center |
| Northwest Nasal Sinus Center | Eastside Endoscopy-Issaquah |

For the hospitals located in the planning area, their mixed use ORs and dedicated outpatient ORs are counted in the planning area's supply of ORs, if known. Of the thirty-four ASCs

⁷ WAC 246-310-270(9)(a)(iv). "...Exclude cystoscopic and other special purpose rooms (e.g., open heart surgery) and delivery rooms.

⁸ Swedish Issaquah is a new hospital that recently opened in Issaquah. On July 1, 2011, the department issued CN1264R2A for a change in site for the Swedish-Bellevue ASC. That CN approved moving the ASC's 5 ORs to the outpatient surgery space of the new Issaquah hospital. In this way, the ORs could be used to provide outpatient surgery before the rest of the hospital was operational. Once the hospital became operational, these 5 ORs became the hospital's outpatient surgery within the hospital's license. Since the hospital is now open, these 5 ORs are included in the hospital's count of OR capacity and are not counted as a separate ASC.

⁹ Seattle Children's Bellevue ASC is limited to providing services to pediatric patients.

¹⁰ This facility was previously known as Issaquah Surgery Center. On October 10, 2006, CN1338 was issued to Proliance Surgeons, Inc. The Issaquah Surgery Center began offering services in November 2006. In approximately January 2010, Issaquah Surgery Center, LLC was formed to operate the ASC. Swedish Health Services and two physicians were the sole members of the LLC. Under the terms of the LLC agreement, Swedish was required to buy out the interest of the two physicians. This occurred sometime in 2010. [Source: DoR11-16]

facilities located within the planning area, eight have Certificates of Need.¹¹ Their OR capacity is also counted in the supply of ORs available in the planning area. The remaining 26 ASCs are within solo or group practices. The use of these ASCs is restricted to physician owners or employees of the respective clinical practices. These ASCs are exempt from CN¹². The OR capacity of these exempt ASCs was not counted as part of the OR capacity within the planning area.

On February 10, 2011, the department requested utilization information from hospitals and ASCs in the planning area. Seven providers responded. Those were Overlake Hospital Medical Center, Overlake Surgery Center, LLC, Swedish-Issaquah Hospital, Swedish Lakeside ASC, Swedish Health Services -Issaquah ASC, Swedish-Bellevue ASC, Remington Plastic Surgery Center, and Bellevue Urology Associates. The utilization information obtained from these responses and information obtained from the department's Integrated Licensing and Regulatory System (ILRS) was used to determine the planning area's use rate.

The Department used the following assumptions in applying its numeric methodology.

| Assumption | Data Used |
|--------------------------|--|
| Planning Area | East King County |
| Target Year | 2013 |
| Population-Target Year | 553,278 |
| Use Rate | 141.726/1,000 |
| Average minutes per case | Outpatient cases = 48.95 minutes; Inpatient cases= 149.08 minutes |
| OR capacity counted: | Mixed Use: 20 Dedicated outpatient: 32 |

The East King County planning area's 2013 projected need for dedicated outpatient ORs is 18.88 ORs. The department's complete numeric methodology is Attachment A¹³ attached to this evaluation. Even though the numeric methodology shows a need for additional dedicated outpatient capacity in the planning area, the department has previously determined the numeric methodology is not suitable for projecting need for the ORs specific to this type project. Therefore, the department considered additional information within the application to evaluate the need for this project.

¹¹ Evergreen Orthopedic Surgery Center, Evergreen Surgery Center, Northwest Nasal Sinus, Overlake Surgery Center, Seattle Children's Bellevue ASC, Swedish Health Services -Issaquah ASC, Swedish Lakeside Surgery Center, and Eastside Endoscopy-Issaquah-CN1460 issued 12.21.2011 are CN approved.

¹² WAC 246-310-010(5)

¹³ The department updated the projection in Attachment A to include the two rooms at the recently approved EEC-Issaquah ASC and to correct an error in the percent of surgeries performed on an inpatient basis. The correct percentage is 8.73%. The original projection used in the methodology for EEC-Issaquah was 27.75%. The correction in this current methodology would not change the overall need for the EEC-Issaquah ASC. The department did not include the ORs from the recently approved Eastside ASC project because the record for this application had closed.

During the review of these applications, the department received comments from Swedish regarding both EEC's proposed projects. Excerpts from Swedish's comments relevant to this EEC-Bellevue project are stated below.

"The Department's regulations require a demonstration of numeric need before a new ASF may be approved. ...EEC has not provided a current numeric need calculation as part of its application. EEC instead provided the calculation used by Department in connection with the 2005 applications of Swedish and Proliance to establish ASFs in the planning area"

"WAC 246-310-270 does not appear to exclude endoscopy rooms."

"Any CN should include a condition limiting the facility to endoscopic procedures." [Source: Swedish Public Comments, Received June 8, 2011]

"Upon further reflection, however, Swedish is not so sure that EEC's existing facility is exempt from CN-review. Among other reasons, EEC is owned by three different physician practices. Based on the Department's determinations of reviewability (DORs) regarding other facilities, this fact would appear to disqualify EEC's facility from the exemption set forth in WAC 246-310-010(5). However, EEC states in its application that the Department informed EEC that this facility is exempt from CN review." [Source: Supplemental comments received June 8, 2011]

EEC-Bellevue provided the following statements in response:

"EEC reviewed every endoscopy ASC decision issued during the period of January 1, 2006 – June 2011...In four of the five applications there was no need identified per the ASC methodology contained in WAC 246-310- 270. In each of these four cases, the CN Program's analysis states either that: 1) the numeric methodology outlined in WAC 246-310-270(9) is not a predictor of need for dedicated outpatient endoscopic ASCs, or 2) that the addition of dedicated ORs for endoscopic procedures are not to be counted in the OR supply, and therefore have no impact on the need calculations or the future need for additional ORs in the planning area."

"The DNR was based on the fact that, at the time, the CN Program's position was that endoscopy procedures were medical diagnostic procedures, and not surgical procedures and that endoscopy centers did not meet the definition of an "ambulatory surgical center" set forth in WAC 246-310-010. Accordingly, the organizational structure of EEC (owned by physicians from Overlake Internal Medicine Associates (OIMA) and Northwest Gastroenterology Associates (NWGA) was not reviewed." [Source: EEC-Bellevue Rebuttal, Received June 22, 2011]

Department's Evaluation

The department agrees that EEC did not provide a current numeric need calculation using the methodology contained in WAC 246-310-270 as part of its application. However, as shown

earlier in this analysis, the department's application of the numeric need methodology did show a need for additional ASC ORs. EEC-Bellevue is correct in its statements about the department's past decisions. The department's ASC need methodology excludes cystoscopic and other special purpose rooms such as heart surgery and delivery rooms from the calculation of need. Endoscopic procedures are performed in special purpose rooms and it has been the policy interpretation of the department that these types of procedure rooms are excluded from the department's ASC need methodology. The types of procedures proposed are limited to endoscopic and GI type services. EEC-Bellevue is currently providing. Therefore, the department would disagree with Swedish that it should run a traditional ASC need methodology to determine need for EEC's proposed project. However, because the traditional ASC need methodology is not used, if this project is approved, a condition would limit the proposed ASC to those types of procedures to endoscopic and GI types of services currently being performed at EEC-Bellevue.

Regarding Swedish's other comments about EEC-Bellevue's October 1994 DNR by the department, records show the decision was based on the applicant's project description. EEC-Bellevue's submissions in 1994, shows that the applicant's project description stated it would provide only endoscopic services at the facility. The department did not base its 1994 decision on EEC's ownership structure as asserted by Swedish.

Based on the source information reviewed and EEC-Bellevue's agreement to the conditions in the conclusions section of this evaluation, the department concludes **this sub-criterion is met.**

WAC 246-310-270(6)

WAC 246-310-270(6) requires a minimum of two ORs in an ASC. The exempt EEC-Bellevue is currently operating three ORs. **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 determine whether all residents of the service area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. 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 any assurances regarding access to treatment.

EEC-Bellevue currently provides endoscopy and GI services to residents of Washington State, including low-income, racial and ethnic minorities, handicapped and other underserved groups. EEC-Bellevue is currently Medicare certified and has a Medicaid contract.

To demonstrate compliance with this sub-criterion, EEC-Bellevue provided a copy of the following policies:

- Scope of Care in the Center

- Uncompensated & Charity Care Policy
- Non Discrimination Policy

Each is stated to be EEC-Bellevue’s current policies. The Scope of Care in the Center policy identifies the criteria and guidelines used for patients needing services at EEC-Bellevue. [Source: Application, Exhibit 8] The department notes that the policy’s start date, last revision date, and who reviewed the policy are blank. Therefore, the department considers the policy a draft. If its project is approved, a condition would be necessary for EEC-Bellevue to provide a finalized or adopted Scope of Care in the Center policy.

The Non-Discrimination Policy provided states that no person on the grounds of race, color, national origin, ancestry, age, sex, religious creed, or disability is excluded from any care or service while a patient at the applicant center. [Source: EEC-Issaquah Application, Screening Responses, Attachment 1] A review of the Non-Discrimination Policy reveals that it was first implemented in 1996. Its most recent revision was February 4, 2010, by the Board of Managers. The policy is comparable to others the department has reviewed.

To determine whether low-income residents would have access to the proposed services, the department uses the facility’s Medicaid eligibility or contracting with Medicaid as the measure to make that determination. EEC-Bellevue currently provides services to Medicaid eligible patients. Information provided within the application shows that EEC-Bellevue intends to maintain this status. [Source: Application, Page 3]

To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination. EEC-Bellevue currently provides services to Medicare patients. Information provided in the application demonstrates that it intends to maintain this status if this project is approved. [Source: Application, Page 3]

A facility’s charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility. To demonstrate compliance with this sub-criterion, EEC-Bellevue provided a copy of its current charity care policy. EEC-Bellevue’s Charity Care policy states “*EEC is committed to providing uncompensated or charity care to those individuals who have already received services and who can substantiate their inability to pay.*” [Source: Application, Exhibit 8]

During the review of the projects, the department received comments from Swedish related to EEC-Bellevue’s charity care provision. Excerpts from Swedish’s comments are stated below:

“EEC has not demonstrated that all residents of the planning area including low income persons would have adequate access to EEC’s proposed facility. ...EEC provides no actual charity statistics for its existing, CN-exempt. However, the financials submitted with EEC’s

application show that EEC has not provided any charity care [care] during the past three years at its existing facility.”

“The Department should not issue a CN to EEC until EEC has prepared and received approval of an appropriate charity care policy. Chapter 246-453 defines standards and criteria applicable to charity care provided by Washington hospitals.....If the Department is inclined to grant EEC’s application notwithstanding this omission, the Department should at minimum require EEC to submit to the Washington Department of Health, Center for Health Statistics, Hospital and Patient Data Systems (“HPDS”) a charity care policy that conforms to the requirements of Chapter 246-453 WAC, and obtain approval of that policy from HPDS, before the Department issues a CN to EEC.” [Source: Swedish Public Comments, received June 8, 2011]

In response to the comment provided by Swedish, EEC-Bellevue provided the following rebuttal comments.

“EEC is proud of our historic commitment of charity care. In fact, we have been an active member of King County’s Project Access for more than three years....A letter from the Executive Director of Project Access in support of EEC is included as Attachment 1.”

“Swedish may have been confused about EEC’s charity care because our unaudited historical financials (Exhibit 10) only showed net revenue (the amount of money actually collected). While EEC’s internal reports reflect gross charges, contractual allowances and adjustments for charity care, they do not itemize these on their financial statements.”

“Swedish suggests that we should be required to have a charity care policy that meets hospital requirements and it cites WAC 246-453. WAC 246-310-270(7) (not WAC 246-453) provides the guidance for our application.” [Source: Rebuttal Responses, received June 22, 2011]

Department’s Evaluation

WAC 246-310-270(7) states “Ambulatory surgical facilities shall document and provide assurances of implementation of policies to provide access to individuals unable to pay consistent with charity care levels provided by hospitals affected by the proposed ambulatory surgical facility. The amount of an ambulatory surgical facility's annual revenue utilized to finance charity care shall be at least equal to or greater than the average percentage of total patient revenue, other than Medicare or Medicaid, that affected hospitals in the planning area utilized to provide charity care in the last available reporting year.”

For charity care reporting purposes, the Department of Health’s Hospital and Patient Data Systems program (HPDS), divides Washington State into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. EEC-Bellevue is located in

King County. There are 21 hospitals located within the region.¹⁴ According to 2007-2009¹⁵ charity care data obtained from HPDS, the three-year average for the King County Region was 1.42% for total revenue and 2.51% of adjusted revenue. The applicant’s revenue and expense statement shows the EEC-Bellevue is projecting a three-year average level of 1.35% of total revenue. [Source: PUI responses, Attachment 1] The department’s applications do not request the ASC applicants to breakout revenue by payer source. Therefore, an appropriate comparison of charity care as a percent of Adjusted Revenue cannot be made.

Table 3 below shows the comparison of EEC-Bellevue proposed level of charity care to the King County Region for total revenue. [Source: HPDS 2007-2009 charity care summaries and EEC-Bellevue, PUI responses, Attachment 1]

**Table 3
EEC-Bellevue Charity Care Comparison**

| | 3-Year Average for King County Region¹⁶ | 3-Year Average for Projected EEC-Bellevue |
|---------------------------|---|--|
| % of Total Revenue | 1.42 % | 1.35% |

As shown in Table 3, EEC-Bellevue is projecting its charity care below the regional average.

The Department notes the Scope of Care in the Center policy’s start date, last revision date, and who reviewed the policy are blank start date, last revision date, and by sections of the policy are blank. Therefore, the department considers the policy a draft. EEC-Bellevue’s draft Uncompensated & Charity Care policy states: “...to those individuals who have already received services and who can substantiate their inability to pay.” [Emphasis added] There is no identified process contained in the submitted charity care policy for those who have not already received services from EEC to qualify for charity care. Therefore, if this project is approved, a condition would be necessary for the policy to be revised to include a process for patients to qualify for charity care prior to the services having been received.

EEC-Bellevue is correct in stating that the charity care policy standards of WAC 246-453 are not applicable to their proposed ASC. Swedish is also correct that it’s Issaquah ASC and Seattle Children’s Bellevue ASC’s charity care policies had to meet the standards of WAC 246-453. This is because these two ASCs were to be licensed under the hospital’s license and therefore they were required to meet the applicable hospital licensing standard. Based on the source information reviewed and EEC-Bellevue’s agreement to the conditions in the conclusions section of this evaluation, the department concludes that all residents, including low income, racial and ethnic minorities, handicapped, and other under-served groups would have access to the services provided by the applicant. **This sub-criterion is met.**

¹⁴ This number includes Swedish-Issaquah Hospital which recently opened.

¹⁵ Year 2010 charity care data is not available as of the writing of this evaluation.

¹⁶ Harborview Medical Center is subsidized by the state legislature to provide charity care services. Charity care percentages for Harborview make up almost 50% of the total percentages provided in the King County Region. Therefore, for comparison purposes, the department excluded Harborview Medical Center's percentages.

B. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed and the applicant’s agreement to the conditions identified in the “conclusion section” of this evaluation the department determines that EEC-Bellevue and EEC-Issaquah have each met the applicable financial feasibility criteria in WAC 246-310-220.

(1) The immediate and long-range capital and operating costs of the project can be met.

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size.

Therefore, using its experience and expertise the department evaluates if the applicant’s pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

EEC-Bellevue is currently operating. If this project is approved, EEC-Bellevue anticipates it would be operational by September 2011 as a CN approved ASC. Under this timeline, year 2012 would be the first year of operation and year 2014 would be the third year of operation. [Source: Application, Page 10] There is no capital expenditure associated with this project.

To determine whether EEC-Bellevue would meet its immediate and long range operating costs, the department reviewed its projected revenue and expense statement for years 2011 through 2014 using the projected financial statements provided by the applicant. [Source: EEC-Bellevue PUI responses, Attachment 1] Table 4 below summarizes EEC-Bellevue’s projected revenues and expenses.

**Table 4
EEC-Bellevue Revenue and Expense Summary**

| | Projected FY 2011 | Projected FY 2012 | Projected FY 2013 | Projected FY 2014 |
|---|------------------------------|------------------------------|------------------------------|------------------------------|
| # of Procedures | 11,300 | 10,114 | 9,102 | 9,375 |
| Net Patient Revenue ¹⁷ | \$5,672,843 | \$5,046,914 | \$4,505,884 | \$4,641,011 |
| Total Operating Expense | \$3,607,658 | \$3,396,894 | \$3,180,509 | \$3,299,300 |
| Net Operating Income | \$2,065,184 | \$1,650,020 | \$1,325,375 | \$1,341,711 |
| Net interest (expense) | (\$17,605) | (\$9,507) | (\$3,473) | \$598 |
| Net Income (Loss) | \$2,047,579 | \$1,640,513 | \$1,321,902 | \$1,342,309 |
| Net Patient Revenue per Procedure | \$502.02 | \$499.00 | \$495.04 | \$495.04 |
| Total Operating Expenses per Procedure | \$319.26 | \$335.86 | \$349.43 | \$351.93 |
| Net Operating Income (Loss) per Procedure | \$182.76 | \$163.14 | \$145.61 | \$143.12 |
| Net Income per procedure | \$181.20 | \$162.20 | \$145.23 | \$143.18 |

¹⁷ This figure excludes interest income and expenses.

As shown in Table 4 above, at the projected volumes identified, EEC-Bellevue would be operating at a profit beginning in year 2011 through year 2014. These figures are comparable with other endoscopy ASCs reviewed by the department.

Included in the expenses above, are lease costs for EEC-Bellevue. EEC-Bellevue provided a copy of its current executed lease agreement between Overlake Medical Tower LLC (Landlord) and Eastside Endoscopy Center, PLLC, Northwest Gastroenterology Associates, Kalle Kang, MD and Georgia Rees-Lui, MD (Tenant). [Source: EEC-Bellevue Application, Exhibit 6] The agreement outlines the roles and responsibilities for both landlord and tenant. The lease costs are consistent with the financial projections evaluated in Table 4 above.

In addition to the projected financial revenue and expense statement, EEC-Bellevue provided its projected balance sheet for years 2011 through 2014. Table 5 shows years 2011 and 2014. [Source: EEC-Bellevue PUI responses, January 3, 2012, Attachment 1]

**Table 5
EEC-Bellevue Projected Balance Sheet Year 2011**

| Assets | | Liabilities | |
|--------------------------------------|---------------------|--|---------------------|
| Current Assets | \$ 1,005,862 | Current Liabilities | \$ 352,202 |
| Property, Plant & Equipment (P,P &E) | \$1,403,389 | Long Term Debt | \$ 136,943 |
| Accumulated Depreciation | (\$1,204,189) | Total Liability | \$489,145 |
| Net P,P &E | \$199,200 | Total Member's Equity | \$715,917 |
| Total Assets | \$ 1,205,062 | Total Liabilities & Member's Equity | \$ 1,205,062 |

EEC-Bellevue Projected Balance Sheet for Year 2014

| Assets | | Liabilities | |
|--------------------------------------|--------------------|--|--------------------|
| Current Assets | \$744,609 | Current Liabilities | \$222,484 |
| Property, Plant & Equipment (P,P &E) | \$1,953,389 | Long Term Debt | \$0.00 |
| Accumulated Depreciation | (\$1,694,874) | Total Liability | \$222,484 |
| Net P,P &E | \$258,516 | Total Member's Equity | \$780,641 |
| Total Assets | \$1,003,125 | Total Liabilities & Member's Equity | \$1,003,125 |

The balance sheet as shown above is comparable to other endoscopy ASCs reviewed by the department. Based on the source information reviewed the department concludes **this sub-criterion is met.**

C. Structure and Process (Quality) of Care (WAC 246-310-230)

Based on the source information reviewed and the applicant's agreement to the conditions identified in the "conclusion section" of this evaluation the department determines that EEC-Bellevue has met the applicable structure and process of care criteria in WAC 246-310-230.

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

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC

246-310-200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

EEC-Bellevue is currently operating and staff is already in place. Once EEC-Issaquah project was approved, EEC-Bellevue anticipates that it would reduce staffing at its Bellevue facility. This anticipated reduction is because some of the Bellevue volume is expected shift to the new Issaquah ASC. Table 6 below summarizes the current staffing and projected staffing through 2013 at EEC-Bellevue. [Source: EEC-Bellevue Application, Page 24]

Table 6
EEC-Bellevue FTE's years 2011 –2013

| Type of Staff | Current 2011 | Projected 2012 | Projected 2013 |
|------------------------|---------------------|-----------------------|-----------------------|
| Clinical Director | 1.0 | 1.0 | 1.0 |
| RNs | 20.0 | 18.8 | 17.7 |
| LPN's/Tech's | 7.0 | 6.2 | 5.5 |
| Registration/Reception | 3.0 | 2.6 | 2.3 |
| Total FTEs | 31.0 | 28.6 | 26.5 |

As shown in Table 6 above, EEC-Bellevue anticipates that it would have 4.5 fewer FTE's in year 2013. If the EEC-Issaquah project is not completed, the department expects EEC-Bellevue to maintain its current staffing level. Since EEC-Bellevue is currently operating, it has the staff necessary for the project. The department also concludes that if the FTE reduction is implemented, EEC-Bellevue would continue to have the staff necessary for this proposed project. Based on the source information reviewed, the department concludes **this sub-criterion is met.**

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

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

EEC-Bellevue is currently operating and this project would not change the operations of this facility. Existing ancillary and support services are established and in place. [Source: Application, Page 25] Approval of this project is not anticipated to change these relationships. **This sub-criterion is met.**

- (3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or

Medicare program, with the applicable conditions of participation related to those programs.

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2) (a) (i). There are known recognized standards as identified in WAC 246-310-200(2) (a) (ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

EEC-Bellevue has been operating at its current location since 1994. The Bellevue site is currently accredited by AAACH.¹⁸ It is Medicare certified and Medicaid eligible. The department does not expect any changes in this certification status if this project is approved.

As part of its review, the department must also conclude there is reasonable assurance the proposed services would be provided in a manner that ensures safe and adequate care to the public.¹⁹ To assist in this determination, the department obtains information on the organization(s) current and past licensing/certification surveys for information on how well the applicant is meeting these quality of care standards. The Department of Health's Investigations and Inspections Office (IIO), which surveys ASCs within Washington State, has completed at least one compliance survey for EEC-Bellevue.²⁰ The survey revealed no substantial non-compliance issues for EEC-Bellevue [Source: IIO compliance data]

Physicians Endoscopy, LLC, identified in the application as one of the applicant's joint owners stated it owns or operates other health care facilities in nine states²¹. EEC-Bellevue provided a listing of these facilities from these other states. [Source: EEC-Bellevue Supplemental information received March 23, 2011, Attachment 4]. In March 2011, the department requested quality of care compliance history from these state licensing and/or surveying entities for those facilities. The department received responses from Arizona, California, Michigan, Ohio, Pennsylvania, Texas and New York²². Responses from these states revealed no substantial non-compliance issues.

EEC-Bellevue identified Robert Wohlman, MD and Georgia Rees-Lui MD as the Medical Directors for EEC-Bellevue. There are no recorded sanctions for Dr. Wohlman or Dr. Georgia Rees-Lui [Source: Licensing and compliance history data provided by DOH-Medical Quality Assurance Commission] Based on the source information reviewed, the department concludes there is reasonable assurance EEC-Bellevue would be operated in conformance with applicable Medicare and Medicaid conditions of participation regulation. **This sub-criterion is met.**

¹⁸AAAHC is the Accreditation Association for Ambulatory Health Care. AAAHC is a private non-profit organization formed in 1979 and is a leader in developing standards to advance and promote patient safety, quality, and values for ambulatory health care. AAAHC currently accredits over 4,600 organizations in a wide variety of ambulatory health care setting, which include ASCs and managed care organizations. [Source: AAAHC website]

¹⁹ WAC 246-310-230(5).

²⁰ Compliance survey completed in May 2008.

²¹ Physician Endoscopy, PC owns or operates the facilities in Arizona, California, Florida, Michigan, Ohio, Pennsylvania, Texas, New Jersey and New York.

²² The department did not receive responses from Florida and New Jersey.

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

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

From a Certificate of Need perspective, continuity of care is ensuring the applicant has the procedures and policies in place so that patients have access to needed services even if not offered or available through the applicant's facility. Patient and physician convenience, absent need, would not be a basis for approving additional capacity. In the need section of this analysis, the department determined there was a need for an additional endoscopy ASC in the East King planning area. Therefore, approval of this proposed project would not result in unwarranted fragmentation of services.

EEC-Bellevue states *"this project simply proposes to convert an existing high volume, high quality exempt ASC to a CN approved ASC. No change in the location, service delivery, or working relationships is anticipated as a result of this project. ...EEC will continue to provide endoscopy and GI related services to the community and will continue established working relationships with other existing providers. A copy of the existing transfer agreement with Overlake Hospital Medical Center is included as Exhibit 11."* [Source: EEC-Bellevue Application pg. 25]

As an existing endoscopy ASC, appropriate relationships already exist with other service providers in the planning area. The department confirmed the transfer agreement that is currently in place with Overlake Hospital Medical Center. Approval of this project is not expected to change these relationships. Based on the source information reviewed, the department concludes **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.

In 1994 EEC-Bellevue received an exemption from CN based on the department's understanding that only diagnostic, non-surgical procedures were performed in endoscopy facilities. Since 1994, changes have occurred in the procedures performed in endoscopy ASCs that have resulted in these types of facilities qualifying as ASCs that need a CN. In 1998, when Physician Endoscopy, LLC, became a 30% owner of EEC, the EEC-Bellevue facility no longer qualified for a CN exemption. Information relied on by the department for EEC-Bellevue's 2000 determination was prepared by third parties for EEC-Bellevue. Based on the current application and its representations that it has not changed its operation since 2000, it would appear that the information prepared by the third parties for EEC-Bellevue was not completely correct. As a result EEC-Bellevue has not been operating in conformance with the Certificate of Need law since that time. The current application proposes to fix this

problem. The department does not expect EEC-Bellevue or its ownership to repeat this behavior. Therefore, the department concludes EEC-Bellevue has **met this sub-criterion**.

D. Cost Containment (WAC 246-310-240)

Based on the source information reviewed and the applicant's agreement to the conditions identified in the "conclusion section" of this evaluation the department determines that EEC-Bellevue has met the applicable cost containment criteria in WAC 246-310-240.

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

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

If the project meets WAC 246-310-210 thru 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review.

If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

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

Step One

The EEC-Bellevue project met the review criteria under WAC 246-310-210, 220, and 230, and applicable ambulatory surgery specific review criteria identified in WAC 246-310-270. Therefore, the department moves to step two below.

Step Two

Before submitting the proposed project, EEC-Bellevue considered three options summarized below. [Source: EEC-Bellevue Application, page 27]

- Maintain one facility and secure CN approval to convert from an exempt endoscopy unit to CN approved facility.

- Maintain one facility, and secure CN approval to convert from an exempt endoscopy unit to a full service CN approved ASC.
- Relocate and expand the facility to allow it to continue to grow, while simultaneously converting from an exempt facility to a CN approved facility.

The reasons EEC-Bellevue stated for rejecting these three options include:

- There is no plan, at the present time, to open the facility to non-member physicians.
- The existing facility has procedure rooms (and not full ORs).
- To convert the existing procedure rooms to full ORs would require a significant capital expenditure and would likely not be able to be undertaken in the current space.
- The existing facility is at capacity. Establishing a new facility would provide capacity for future growth and provide an option that would be closer to home for a portion of EEC's patient population. [Source: EEC-Bellevue application, pg. 27]

This application's stated purpose is to convert a CN exempt endoscopy ASC to a CN approved endoscopy ASC. There is to be no change in ownership, no change in physicians using the ASC, and no change in the procedures performed at the ASC. The EEC-Bellevue facility has been operating since 1994. Since 1994, changes have occurred in the procedures performed in endoscopy ASCs that have resulted in these types of facilities qualifying as ASCs that need a CN. In 1998, when Physician Endoscopy, LLC, became a 30% owner of EEC, the EEC-Bellevue facility no longer qualified for a CN exemption. The remedy for a facility that is out of compliance with the CN statute is 1) cease operation; or 2) apply for a CN. In this case, EEC-Bellevue chose to apply for a CN. Approval of this project would maintain the status quo. Approval of this project would not add ORs to the planning area and it has met the other review criteria. While the department does not condone the operation of the ASC out of compliance with the CN statute, if the department were to disapprove this project, the current ASC would have to cease operations. The residents of the east King County planning area would lose access to a well-established endoscopy ASC. The department concludes this is not in the best interests of the community. Therefore, based on source documents reviewed, the department concludes the project proposed by EEC-Bellevue is the best available alternative. **This sub-criterion is met.**

Step Three

As stated earlier, step three of this assessment is to apply any service or facility specific criteria (tie-breaker) contained in WAC 246-310. The tiebreaker criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects that is the best alternative. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved. In the case of ASCs there are no tiebreaker criteria contained in WAC 246-310 nor are there any known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b). **Step 3 is not applicable to this project.**

ATTACHMENT A

**ATTACHMENT A -Corrected and Updated
ASC Need Methodology
East King County**

Service Area Population: 2013 553,278.00 Per CN program files
Surgeries @ 141.726/1,000: 78,414

- a.i. 94,250 minutes/year/mixed-use OR
- a.ii. 68,850 minutes/year/dedicated outpatient OR
- a.iii. 32 dedicated outpatient OR's x 68,850 minutes = 2,203,200 minutes dedicated OR capacity 45,010 Outpatient surgeries
- a.iv. 20 mixed-use OR's x 94,250 minutes = 1,885,000 minutes mixed-use OR capacity 12,644 Mixed-use surgeries
- b.i. projected inpatient surgeries = 6,846 = 1,020,673 minutes inpatient surgeries
projected outpatient surgeries = 71,567 = 3,503,166 minutes outpatient surgeries
- b.ii. Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's
71,567 - 45,010 = 26,557 outpatient surgeries
- b.iii. average time of inpatient surgeries = 149.08 minutes
average time of outpatient surgeries = 48.95 minutes
- b.iv. inpatient surgeries*average time = 1,020,673 minutes
remaining outpatient surgeries(b.ii.)*ave time = 1,299,966 minutes
2,320,640 minutes
- c.i. if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use OR's
Not Applicable - Go to c.11. and ignore any value here.

$$\begin{array}{r} 1,885,000 \\ - 2,320,640 \\ \hline -435,640 \end{array} \quad / \quad 94,250 = -4.62$$
- c.ii. if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94250 to determine shortage of inpatient OR's
USE THESE VALUES

$$\begin{array}{r} 1,020,673 \\ - 1,885,000 \\ \hline (864,327) \end{array} \quad / \quad 94,250 = -9.17$$

 divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's

$$1,299,966 \quad / \quad 68,850 = 18.88$$

**ATTACHMENT A - Corrected and Updated
ASC Need Methodology
East King County**

| Facility | Special rms | Ded. Inpat | Ded. Outpat | Mixed use | closed /not used | op hrs | op wks | ip hrs | ip wks | mixed hrs | mixed wks | ip min/case | ip clean | 2009 ip cases | 2003 ip min | op min/case | op clean | 2009 op case | 2009 op min | Comments | | | |
|--|-------------|------------|-------------|-----------|------------------|--------|--------|--------|--------|-----------|-----------|-------------|----------|---------------|-------------|-------------|----------|--------------|-------------|---|--|-------|---|
| Evergreen Hospital Medical Center | | | | 8 | | | | | | | | | | | | | | | | Used Applicant reported ORs | | | |
| Overlake Hospital Medical Center | | 15 | 4 | | | 47 | 52 | 143 | 52 | | | 142 | 38 | 6614 | 986025 | 66 | 27 | 7329 | 495328 | | | | |
| Snoqualmie Valley Hospital | | | | 2 | | | | | | | | | | | | | | | | No surgeries reported to CHARS in 2009. Surgeries reported in 2006 and 2007. Used Applicant Reported ORs | | | |
| Swedish Issaquah Hospital | 4.00 | | | 10 | | | | | | | | | | | | | | | | 14 ORs reported (including 2 endoscopy and 2 cath) Used 10 these other 4 are special purposes & not counted | | | |
| Allure Laser Center | | | | | | | | | | | | | | | | | | 815 | 40750 | Reported 2 ILRS | | | |
| Aysel Sanderson MD | | | | | | | | | | | | | | | | | | 175 | 8750 | Reported 2 ILRS | | | |
| Ambulatory Surgery Center at the GH Bellevue MC | | | | | | | | | | | | | | | | | | 5070 | 253500 | Reported 2 ILRS | | | |
| Anderson Cosmetic Surgery | | | | | | | | | | | | | | | | | | 160 | 8000 | Reported 2 ILRS | | | |
| Bellevue Spine Specialist | | | | | | | | | | | | | | | | | | 2500 | 125000 | Reported 2 ILRS | | | |
| Bellevue Urology Associates | | | | | | 16 | 26 | | | | | | | | | | 60 | 30 | 1700 | 85000 | Survey did not ID No. of cases. Number of Cases obtained from ILRS. Minutes calculated using default outpatient #. | | |
| Bel Red | | | | | | | | | | | | | | | | | | 200 | 10000 | Reported 2 ILRS | | | |
| Cosmetic Surgery & Dermatology of Issaquah | | | | | | | | | | | | | | | | | | 511 | 25550 | Reported 2 ILRS | | | |
| Eastside Endoscopy-Bellevue Applicant 11-15 | | | | | | 50 | 52 | | | | | | | | | | 60 | 30 | 12079 | 603950 | | | |
| *Evergreen Orthopedic Surgery Center | | | 3 | | | | | | | | | | | | | | | 2600 | 130000 | Reported 2 ILRS | | | |
| *Evergreen Surgical Center | | | 8 | | | | | | | | | | | | | | | 9000 | 450000 | Reported 2 ILRS | | | |
| Evergreen Surgical Clinic Ambulatory Surgery Center | | | | | | | | | | | | | | | | | | 1550 | 77500 | Reported 2 ILRS | | | |
| La Provence Esthetic Surgery | | | | | | | | | | | | | | | | | | 105 | 5250 | Reported 2 ILRS | | | |
| Naficy Plastic Surgery & Rejuvenation Center | | | | | | | | | | | | | | | | | | 410 | 20500 | Reported 2 ILRS | | | |
| North Pacific Dermatology | | | | | | | | | | | | | | | | | | 625 | 31250 | Reported 2 ILRS | | | |
| Northwest Center for Aesthetic Plastic Surgery | | | | | | | | | | | | | | | | | | 200 | 10000 | Reported 2 ILRS | | | |
| *Northwest Nasal Sinus Center | | | 2 | | | | | | | | | | | | | | 92.9 | 15 | 4009 | 85746 | Number of ORs obtained from ILRS | | |
| *Overlake Surgrey Center | | | 6 | | 1 | 50 | 52 | | | | | | | | | | | 35 | 15 | 7272 | 253762 | | |
| Pacific Cataract & Laser Institute | | | | | | | | | | | | | | | | | | | 3749 | 187450 | Reported 2 ILRS | | |
| Plastic Surgery North West Surgery Center | | | | | | | | | | | | | | | | | | | 520 | 26000 | Reported 2 ILRS | | |
| Pratt Plastic Surgery Ctr | | | | | | | | | | | | | | | | | | | 100 | 5000 | Reported 2 ILRS | | |
| Prolance Highlands Surgery Center | | | | | | | | | | | | | | | | | | | 3000 | 150000 | Reported 2 ILRS | | |
| Remington Plastic Surgery | | | | | | 24 | 48 | | | | | | | | | | | | 180 | 30 | 177 | 31860 | Used survey responses op min/case times # of cases reported in survey to calculate surgery minutes. |
| Retina Surgery Center, The | | | | | | | | | | | | | | | | | | | 1500 | 75000 | Reported 2 ILRS | | |
| *Seattle Children's-Bellevue ASC | | | 2 | | | | | | | | | | | | | | | | | | Specialized - limited to pediatric patients | | |
| Sammamish Center for Facial Plastic Surgery | | | | | | | | | | | | | | | | | | | 100 | 5000 | Reported 2 ILRS | | |
| Sephehr Egrari MD FACS Plastic Surgery Center | | | | | | | | | | | | | | | | | | | 326 | 16300 | Reported 2 ILRS | | |
| Skin Surgery Center | | | | | | | | | | | | | | | | | | | 1256 | 62800 | Reported 2 ILRS | | |
| Swedish Health Services -Bellevue ASC | | | | | | | | | | | | | | | | | | | | | On July 1, 2011, the department issued CN1264R2A for a change in site for the Swedish-Bellevue ASC. That CN approved moving the ASC's 5 ORs to the outpatient surgery space of the new Issaquah hospital. In this way, the ORs could be used to provide outpatient surgery before the rest of the hospital was operational. Once the hospital became operational, these 5 ORs became the hospital's outpatient surgery within the hospital's license. Since the hospital is now open, these 5 ORs are included in the hospital's count of OR capacity and are not counted as a separate ASC. | | |
| *Swedish Health Services-Issaquah ASC | | | 3 | | | | | | | | | | | | | | | | | | CN1330R Expires 10.1.12 Est. commencement stated Ukwn-June Progress Report | | |
| *Swedish Lakeside Surgery Center | | | 2 | | | 40 | 52 | | | | | | | | | | | | 90 | 45 | This facility was previously known as Issaquah Surgery Center. On October 10, 2006, CN1338 was issued to Prolance Surgeons, Inc. The Issaquah Surgery Center began offering services in November 2006. In approximately January 2010, Issaquah Surgery Center, LLC was formed to operate the ASC. Swedish Health Services and two physicians were the sole members of the LLC. Under the terms of the LLC agreement, Swedish was required to buy out the interest of the two physicians. This occurred sometime in 2010. [Source: DoR11-16] | | |
| Stern Center for Aesthetic Surgery, The | | | | | | | | | | | | | | | | | | | 250 | 12500 | Reported 2 ILRS | | |
| Virginia Mason-Bellevue Ambulatory Surgical Center | | | | | | | | | | | | | | | | | | | 1350 | 67500 | Reported 2 ILRS | | |
| *Eastside Endoscopy-Issaquah Issued CN1460 Isseue 12/21/2011 | | | 2 | | | | | | | | | | | | | | | | | | | | |
| Washington Institute Orthopedic Center | | | | | | | | | | | | | | | | | | | 500 | 25000 | Reported 2 ILRS | | |
| Totals | 4.00 | 15 | 32 | 20 | 1 | 227 | 282 | 143 | 52 | 0 | 0 | 142 | 38 | 6614 | 986025 | 583.9 | 192 | 69138 | 3384246 | | | | |
| | | | | | | | | | | | | | | | | | | | | | Average min/case | | |
| | | | | | | | | | | | | | | | | | | | | | 149.081 Ave min/case | | |
| | | | | | | | | | | | | | | | | | | | | | 48.94915 | | |

*ASCs that have CoNs and are counted in supply for methodology

Outpatient minutes calculated at default 50 minutes/case for those ASCs not responding to survey.
ILRS: Integrated Licensing & Regulatory System
Population data source: Claritas

| | |
|--|---------|
| Total Surgeries 2009 | 75,752 |
| Area population 2010 | 534,496 |
| Use Rate 2009 per survey or ILRS | 141.726 |
| Planning Area projected population for 2013 | 553,278 |
| *ASCs that have CoNs and are counted in supply for methodology | |
| % Outpatient of total surgeries | 91.27% |
| % Inpatient of total surgeries | 8.73% |