



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

August 14, 2012

CERTIFIED MAIL # 7011 1570 0002 7808 8096

Jan Zemplenyi, MD  
Bel-Red Ambulatory Surgical  
1260 116<sup>th</sup> Avenue Northeast, #110  
Bellevue, Washington 98004

Re: CN #12-15

Dear Dr. Zemplenyi:

We have completed our reconsideration review of the Certificate of Need application submitted by Bel-Red Center for Aesthetic Surgery, PS proposing to establish an ambulatory surgery center in Bellevue. Enclosed is a written evaluation of the application. For the reasons stated in this evaluation, the application submitted is consistent with applicable criteria of the Certificate of Need Program, provided Bel-Red Center for Aesthetic Surgery, PS agrees to the following in its entirety.

**Project Description:**

This certificate approves the establishment of an ambulatory surgery center in the city of Bellevue, within King County. The ASC will have two operating rooms/suites/procedure rooms. Services to be provided are limited to otolaryngologic procedures and various forms of cosmetic plastic surgery as identified in the application. Both Medicare and Medicaid patients will be served at the ambulatory surgery center.

**Conditions:**

1. Bel-Red Center for Aesthetic Surgery, PS agrees with the project description above. Bel-Red Center for Aesthetic Surgery, PS further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Bel-Red Center for Aesthetic Surgery, PS will provide charity care at the ambulatory surgery center in compliance with the charity care policies reviewed and approved by the Department of Health. Bel-Red Center for Aesthetic Surgery, PS will use reasonable efforts to provide charity care at the ambulatory surgery center in an amount comparable to or exceeding the regional average amount of charity care provided by the two hospitals that would be affected by the ambulatory surgery center. Currently, this amount is 1.08% for total revenue and 1.80% of adjusted



Jan Zemplyni, MD  
Bel-Red Center for Aesthetic Surgery, PS  
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revenue. Bel-Red Center for Aesthetic Surgery, PS will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

**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:**

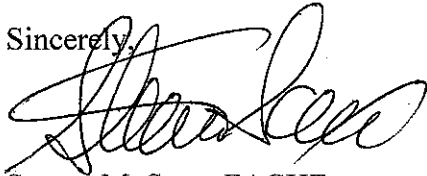
Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

**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: Department of Health, Investigations and Inspections Office

**RECONSIDERATION EVALUATION DATED AUGUST 14, 2012, OF THE  
CERTIFICATE OF NEED APPLICATION SUBMITTED BY BEL-RED CENTER FOR  
AESTHETIC SURGERY, PS PROPOSING TO ESTABLISH AN AMBULATORY  
SURGERY CENTER IN BELLEVUE, WITHIN KING COUNTY**

**APPLICANT DESCRIPTION**

Bel-Red Center for Aesthetic Surgery, PS is a privately held corporation established in 2006. The corporation is governed by its two members, Dr's Jan and Eva Zemplenyi, and operates the Bel-Red Ambulatory Surgical Facility (BRASF). The facility is located at 1260 116<sup>th</sup> Avenue Northeast, Suite 110 in the city of Bellevue and is operated under an exemption awarded in 2006. [source: Application, p1; Washington Secretary of State web search]

**PROJECT DESCRIPTION**

This project proposes the establishment of a new surgery center with two operating rooms. The ASC will allow physicians not employed by BRASF the opportunity to perform surgeries and procedures in Bellevue. This action requires prior Certificate of Need review and approval.

If the project is approved, the location of the ASC would not change. Services offered at the ASC would include otolaryngologic procedures and various forms of cosmetic plastic surgery. [source: Application, p5 & 23]

There is no capital expenditure associated with this project. The ASC is expected to be available to outside physicians upon CN approval. Based upon the expected release of this evaluation, an approval would result in 2013 being the ASC's first full calendar year of operation. [source: Application, p8]

**BACKGROUND INFORMATION ON THE PROJECT**

On May 29, 2012, the department denied BRASF's application. On June 15, 2012, BRASF submitted a request for reconsideration. Ordinarily the department does not allow an applicant to correct its application during reconsideration. However, in this case, the department failed to ask any questions related to the facility's lack of a Medicaid contract. On July 2, 2012, the department granted BRASF's reconsideration request. A reconsideration hearing was conducted on July 19, 2012, and the department received additional documentation from BRASF. This document is the evaluation of the reconsideration information.

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

This project requires review as the establishment of a new healthcare 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).

## **INITIAL APPLICATION 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.*

*(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*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project."*

In the event the 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, Bel-Red Center for Aesthetic Surgery, PS must demonstrate compliance with the applicable 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).<sup>1</sup> Additionally, WAC 246-310-270 contains service or facility specific criteria for ASC projects and must be used to make the required determinations.

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<sup>1</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), & (6), WAC 246-310-220(3), and WAC 246-310-240(2) & (3).

## **RECONSIDERATION CRITERIA EVALUATION**

WAC 246-310-570 outlines the grounds that the department may deem to show good cause for reconsideration. For this project, BRASF identified its grounds for reconsideration under subsection (2)(b)(ii), which states:

*Information on significant changes in factors or circumstances relied upon by the department in making its findings and decision;*

The reconsideration issue raised by BRASF focuses on the criteria of need under WAC 246-310-210. The review for a reconsideration project is limited to only those criteria that were identified in the reconsideration request, however, the result of the department's reconsideration review may impact other review criteria within the application.

## **INITIAL APPLICATION CHRONOLOGY**

<b>Action</b>	<b>Date</b>
Letter of Intent Submitted	September 21, 2011
Application Submitted	November 28, 2011
Department's Pre-Review Activities <ul style="list-style-type: none"><li>• screening activities and responses</li></ul>	November 29, 2011 through February 16, 2012
Department Begins Review of the Application <ul style="list-style-type: none"><li>• No public hearing conducted</li><li>• public comments accepted throughout the review</li></ul>	February 17, 2012
End of Public Comment/Public Hearing	March 23, 2012
Rebuttal Documents Received <sup>2</sup>	April 9, 2012
Department's Anticipated Decision Date	May 10, 2012
Department's Updated Decision Date	June 11, 2012
Department's Actual Decision Date	May 29, 2012

## **RECONSIDERATION REVIEW CHRONOLOGY**

<b>Action</b>	<b>Date</b>
Request for Reconsideration	June 15, 2012
Department Grants Reconsideration	July 2, 2012
Reconsideration Public Hearing Conducted in Tumwater	July 19, 2012
Reconsideration Rebuttal Comments Due	August 1, 2012
Department's Anticipated Reconsideration Decision Date <sup>3</sup>	September 17, 2012
Department's Actual Reconsideration Decision Date	August 14, 2012

<sup>2</sup> No rebuttal comments were submitted in the initial review.

<sup>3</sup> No rebuttal comments were submitted during the reconsideration review.

### **AFFECTED 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."*

During the initial and reconsideration reviews of this project, no entities sought or received affected person status.

### **INITIAL APPLICATION SOURCE INFORMATION REVIEWED**

- Bel-Red Center for Aesthetic Surgery, PS Certificate of Need Application received November 28, 2011
- Bel-Red Center for Aesthetic Surgery, PS supplemental information received February 14, 2012
- East King County ASC operating room utilization survey responses
- Data reported to the Integrated Licensing and Regulatory System (ILRS)
- Claritas population data for East King County secondary health services planning areas
- Historical charity care data obtained from the Department of Health's Hospital and Patient Data Systems (2008, 2009, and 2010 summaries)
- Washington Secretary of State web site
- Department of Health / Health Systems Quality Assurance Provider Credential Information
- Medicaid/Health Care Authority ASC Procedure Groupings Effective July 1, 2011
- Certificate of Need historical files

### **RECONSIDERATION SOURCE INFORMATION REVIEWED**

- Bel-Red Center for Aesthetic Surgery, PS reconsideration request received June 15, 2012
- Bel-Red Center for Aesthetic Surgery, PS reconsideration information submitted at the July 19, 2012 reconsideration public hearing

### **RECONSIDERATION CONCLUSION**

For the reasons stated in this evaluation, the application submitted by Bel-Red Center for Aesthetic Surgery, PS proposing to establish an ambulatory surgery center in the east King County ASC planning area, is consistent with applicable criteria of the Certificate of Need Program, provided Bel-Red Center for Aesthetic Surgery, PS agrees to the following in its entirety.

#### **Project Description:**

This certificate approves the establishment of an ambulatory surgery center in the city of Bellevue, within King County. The ASC will have two operating rooms/suites/procedure rooms. Services to be provided are limited to otolaryngologic procedures and various forms of cosmetic plastic surgery as identified in the application. Both Medicare and Medicaid patients will be served at the ambulatory surgery center.

**Conditions:**

1. Bel-Red Center for Aesthetic Surgery, PS agrees with the project description above. Bel-Red Center for Aesthetic Surgery, PS further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Bel-Red Center for Aesthetic Surgery, PS will provide charity care at the ambulatory surgery center in compliance with the charity care policies reviewed and approved by the Department of Health. Bel-Red Center for Aesthetic Surgery, PS will use reasonable efforts to provide charity care at the ambulatory surgery center in an amount comparable to or exceeding the regional average amount of charity care provided by the two hospitals that would be affected by the ambulatory surgery center. Currently, this amount is 1.08% for total revenue and 1.80% of adjusted revenue. Bel-Red Center for Aesthetic Surgery, PS will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

**Approved Costs:**

There is no capital expenditure associated with this project.

**A. Need (WAC 246-310-210) and Ambulatory Surgery (WAC 246-310-270)**

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 Bel-Red Ambulatory Surgical Facility 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

**Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF met this sub-criterion. This conclusion was reached based on the numeric need methodology outlined in WAC 246-310-270(9) and the applicants demonstration that need for additional operating room capacity was needed in the east King County planning area. Additionally, BRASF met the ASC requirement under WAC 246-310-270(6) by demonstrating that the ASC would have a minimum of two operating rooms. [source: May 29, 2012, initial evaluation, pp4-7]

**Reconsideration Review**

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **The sub-criterion remains 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.

**Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF did not meet this sub-criterion because BRASF did not intend to participate in the Medicaid program. As a result, the department could not conclude that BRASF would be available to all residents of the service area. [source: May 29, 2012, evaluation, pp7-9]

**Reconsideration Review**

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.

To demonstrate compliance with this sub-criterion, BRASF provided a copy of the non-discrimination policy. The policy states that services will be provided regardless of race, creed, color, ethnic origin, nationality, sex, handicap, age, or affiliation with fraternal or religious organizations. The policy is comparable to others the department has reviewed. [source: Application, Exhibit L]

To determine whether low-income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicare as the measure to make that determination.



Within its reconsideration documents, BRASF provided a copy of the completed Medicaid Provider Enrollment Application that was mailed on June 7, 2012. On June 11, 2012, BRASF received approval from the Washington State Department of Social and Health Services (DSHS) to be a Medicaid provider. BRASF also received its Medicaid Rendering Provider number used for all Medicaid claims and provided confirmation of the DSHS approval. The Medicare contract ensures that BRASF would be available to provide services for elderly patients, which include women, handicapped, and racial and ethnic minorities. BRASF expects approximately 3% of its revenue would be from Medicaid patients. [source: July 19, 2012, Reconsideration documents received at the public hearing]

To determine whether the elderly would have access to the proposed services, the department uses Medicare certification as the measure to make that determination. To demonstrate compliance with this sub-criterion, BRASF demonstrated its intent to continue to be Medicare certified and approximately 2% of BRASF's revenue is expected to be from Medicare patients. [source: Application, p7]

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, BRASF provided a copy of the charity care policy. [source: BRASF Application, Exhibit M]

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. BRASF is located in King County region, which has 21 hospitals, including the recently opened Swedish-Issaquah Hospital in Issaquah, within east King County.

There are two hospitals that would be affected by this ASC: Evergreen Hospital and Medical Center in Kirkland and Overlake Hospital Medical Center in Bellevue. According to 2008-2010 charity care data obtained from HPDS, the combined three-year average for these two hospitals was 1.08% for total revenue and 1.80% of adjusted revenue.

The applicant's revenue and expense statement shows the BRASF is projecting a three-year average level of 1.30% of total revenue. The department calculated BRASF's adjusted revenue using the percentages of revenue expected to be received from Medicare and Medicaid and subtracted from gross revenue. [source: June 15, 2012, reconsideration documents]

The table below shows the comparison of BRASF proposed level of charity care to the applicable East King County hospitals.

**Table 1**  
**Bel-Red Aesthetic Surgery Facility**  
**Charity Care Comparison**

	<b>3-Year Average for East King County Hospitals</b>	<b>3-Year Average for Projected BRASF</b>
<b>% of Total Gross Revenue</b>	1.08%	1.30%
<b>% of Adjusted Net Revenue</b>	1.80%	1.37%

As shown in the table above, BRASF is projecting its charity care below the regional average in the adjusted revenue category. The similarity of the applicant's gross and adjusted calculations is a result of the Medicare and Medicaid reimbursements accounting for only 5% of the facilities total revenues.

Since BRASF is an exempt ASC, it did not undergo any review of its charity care policies, procedures, or percentages. To ensure that appropriate charity care percentages would be provided by BRASF, if this project is approved, the department would attach a condition requiring BRASF to provide charity care at certain percentages.

Provided the applicant would agree to the charity care condition identified in the 'conclusion' section of this evaluation, the department concludes that all residents of the service area would have access to the proposed ASC. **This sub-criterion is met.**

**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 concludes Bel-Red Ambulatory Surgical Facility has met the financial feasibility criteria in WAC 246-310-220.

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

**Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF met this sub-criterion. This conclusion was reached based on the assumptions used by BRASF to determine its projected number of cases and procedures at the ASC. Additionally, BRASF demonstrated that the ASC would be financially viable based on the projected revenues and expenses in the first three years of operation (2013 -2015). BRASF also provided its three-year projected balance sheet for the ASC. These documents demonstrated that the immediate and long range operating costs of the project could be met. [source: May 29, 2012, initial evaluation, pp10-12]

**Reconsideration Review**

There was no additional information reviewed in this reconsideration that would change the department’s initial conclusion. **The sub-criterion remains met.**

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

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

**Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF did not meet this sub-criterion because BRASF did not intend to participate in the Medicaid program. As a result, any Medicaid patient in the planning area would have to be served by the planning area hospitals. The result is an unreasonable impact on the costs and charges for health services within the planning area for these facilities. [source: May 29, 2012, evaluation, p12]

**Reconsideration Review**

As stated in the ‘need’ portion of this reconsideration evaluation, BRASF completed and mailed its Medicaid Provider Enrollment Application on June 7, 2012. On June 11, 2012, BRASF received approval from the Washington DSHS to be a Medicaid provider. BRASF provided a copy of its approval that identifies its assigned Medicaid Rendering Provider number to be used for all Medicaid claims. [source: July 19, 2012, Reconsideration documents received at the public hearing]

To demonstrate compliance with this sub-criterion, BRASF provided its revised projected sources of patient revenue for its ASC. The table below compares the projected sources and percentages of revenue identified in the initial review and the revised information provided under reconsideration. [source: May 29, 2012, evaluation, p12 and reconsideration information, p1]

**Table 2**  
**Bel-Red Aesthetic Surgery Facility**  
**Projected Sources and Percentages of Revenue**

<b>Initial Review</b>		<b>Reconsideration Review</b>	
<b>Source of Revenue</b>	<b>Percentage</b>	<b>Source of Revenue</b>	<b>Percentage</b>
Medicare	2.0%	Medicare	2.0%
Medicaid	0.0%	Medicaid	3.0%
Commercial	20.0%	Commercial	20.0%
Private Pay	78.0%	Private Pay	75.0%
<b>Total</b>	<b>100.0%</b>	<b>Total</b>	<b>100.0%</b>

As shown above, even with a Medicaid contract, the majority of BRASF's revenues are expected to be from private and commercial payers due to the types of procedures to be offered at the ASC. These payer sources are not expected to raise fees or reimbursements based on this project.

Based on the reconsideration information provided, the department concludes that **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 concludes Bel-Red Ambulatory Surgical Facility has met the 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.
- (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.
- (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.

**Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF met these sub-criteria. This conclusion was reached based on:

- a review of the applicant's current and projected staffing for the ASC;
- a demonstration that additional staff of 1.15 FTES could be recruited;
- the projected number of staffing;
- a review of the documentation related to the medical director for the ASC<sup>4</sup>;
- a review of the listing of current and proposed vendors for ancillary and support services;
- a review of BRASF's quality of care history as a CN exempt ASC;
- a review of the medical director's quality of care history; and
- a review of the quality of care history for the eight local physicians that have expressed interest in performing surgeries at the ASC.

[source: May 29, 2012, initial evaluation, pp12-14]

**Reconsideration Review**

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **The sub-criterion remains met.**

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<sup>4</sup> The medical director for the ASC is the one of the owning physicians, Jan Zempenyi, MD. There is no medical director agreement or specific compensation for this position, rather, the applicant provided documents to demonstrate roles and responsibilities for the medical director.

- (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.

#### **Initial Evaluation Summary**

In its May 29, 2012, initial evaluation the department concluded that BRASF did not meet this sub-criterion. This conclusion was reached based on BRASF's denial under the need section of this evaluation [WAC 246-310-210(2)]. Once an applicant is denied under a sub-criterion, the department must also conclude that the application would not promote continuity in the provision of health care services under this sub-criterion. [source: May 29, 2012, evaluation, p15]

#### **Reconsideration Review**

BRASF currently operates as an exempt ASC and its ancillary and support services agreements are not expected to change if this project is approved. To further demonstrate compliance with this sub-criterion, BRASF provided the following statements. [source: Application, p17 and February 14, 2012, supplemental information, p8]

*"Continuity of service will be maintained with more specialized services being made available in one location with the availability of specialized cosmetic surgery equipment and sub-specialty staff at one site."*

Under reconsideration, BRASF demonstrated that it would participate in the Medicaid program. As a result, the department concluded that approval of this project would not have an unreasonable impact on the existing hospitals in the planning area. Based on the reconsideration information, the department concludes that approval of this project would not result in unwarranted fragmentation of services, including Medicaid patients. **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.

#### **Initial Evaluation Summary**

In its May 29, 2012 initial evaluation the department concluded that BRASF met this sub-criterion based on its ability to meet the sub-criterion under WAC 246-310-230(3) above. [source: May 29, 2012, initial evaluation, p15]

#### **Reconsideration Review**

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **The sub-criterion remains met.**

#### **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 concludes Bel-Red Ambulatory Surgical Facility has met the 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 met WAC 246-310-210 through 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 which 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 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**

##### **Initial Evaluation Summary**

In its May 29, 2012 initial evaluation the department concluded that BRASF did not meet this sub-criterion based on its inability to meet the sub-criterion under WAC 246-310-210(2), WAC 246-310-220(2); and WAC 246-310-230(4) above. As a result, the department stopped at step one in its initial evaluation. [source: May 29, 2012, initial evaluation, pp15-16]

##### **Reconsideration Review**

The additional information reviewed in this reconsideration review changes the department's initial conclusions for these review criteria. As a result, the department moves to step 2 below.

#### **Step Two**

Within the application, BRASF identified three options before submitting this application. These are described below. [source: February 14, 2012, supplemental information, p8]

Option 1 – Status Quo by remaining an exempt solo practice ASC

This option was rejected because it would not fulfill the need for additional capacity. Also, local surgeons have requested use of the existing OR space, but under the CN exemption cannot use the ASC.

Option 2 – Integrating other surgeons into the BRASF practice

This option was rejected because the interested physicians wanted to maintain independent offices, rather than becoming partners of BRASF.

Option 3 – Establish a condominium arrangement with separate ownerships

This option was rejected due to BRASF's concern that the process would be more restrictive and onerous in their efforts to more completely utilize the existing facility and its equipment.

**Department's Review of Options**

BRASF currently operates a CN exempt ASC associated with the solo-practice. All three options identified above result in continued operations as an exempt ASC. Once BRASF determined that its CN exemption was no longer reasonable for its future operations, the only other option available is to submit this application.

**Step Three**

For this project, only BRASF submitted an application to establish an ASC in the East King County planning area. As a result, step three is not evaluated under this sub-criterion.

**Department's Evaluation**

Taking into account the results of the numeric need methodology and the information provided by BRASF within its application, the department concludes that this project is the best alternative for the community. Based on the source information reviewed and the applicant's agreement to the conditions identified in the 'conclusion' section of this evaluation, **this sub-criterion is met.**