



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

December 27, 2012

CERTIFIED MAIL # 7011 1570 0002 7809 5445

Richard Chang
Yakima Urology Associates, PLLC
2500 Racquet Lane, #150
Yakima, Washington 98902

Re: CN #12-31

Dear Mr. Chang:

We have completed review of the Certificate of Need application submitted by Yakima Urology Associates PLLC proposing to establish a Certificate of Need approved ambulatory surgery center in Yakima. For the reasons stated in this evaluation, the application submitted is consistent with applicable criteria of the Certificate of Need Program, provided Yakima Urology Associates, PLLC agrees to the following in its entirety.

Project Description:

This certificate approves the establishment of a two operating room center with two cystoscopy rooms and one cystoscopy/ultrasound room in Yakima, within Yakima County. Services provided at the ambulatory surgery center are limited to urology, orthopedics, podiatry, ophthalmology, gynecology, brachytherapy, pain management, and general surgery.

Conditions:

1. Approval of the project description as stated above. Yakima Urology Associates, PLLC 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. Prior to commencement of the project, Yakima Urology Associates, PLLC must provide to the department for review and approval a board approved version of its admission policy.
3. Prior to commencement of the project, Yakima Urology Associates, PLLC must provide a letter signed by Dr. Uhlman accepting the terms and responsibilities outlined in the medical staff bylaws.
4. Yakima Urology Associates, PLLC will provide charity care in compliance with the charity care policies reviewed and approved by the Department of Health. Yakima Urology Associates, PLLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the average amount of charity care provided by

hospitals in the Yakima hospital sub planning area. Currently, this amount is 1.57% gross revenue and 3.61% of adjusted revenue. Yakima Urology Associates, PLLC will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

Approved Cost

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

**EVALUATION DATED DECEMBER 27, 2012 OF THE CERTIFICATE OF NEED
APPLICATION SUBMITTED BY YAKIMA UROLOGY ASSOCIATES, PLLC PROPOSING
TO ESTABLISH AN AMBULATORY SURGERY CENTER
IN YAKIMA, YAKIMA COUNTY**

APPLICANT DESCRIPTION

Yakima Urology Associates, PLLC (YUA) is a privately held limited liability corporation established in 1997 and owned by 5 physicians who specialize in urology. The five owning physicians and percentage of ownership is shown below. [source: Application, pp1-2]

Name	Role	Percentage Ownership
W. Jack Lovern, MD	Shareholder	20%
Raymond W. Merrell, MD	Shareholder	20%
Mark S. Uhlman, MD	Shareholder/Medical Director	20%
Norman P. Shively, MD	Shareholder	20%
Dennis M. Gaskill, MD	Shareholder	20%

YUA's practice is located at 2500 Racquet Lane, #150 in the city of Yakima, within Yakima County. YUA also operates an ambulatory surgery center at the practice site known as Yakima Urology Surgery Center (YUSC). YUSC operates under a Certificate of Need (CN) exemption granted June 1, 1998 based, in part, on the operation and use of the ASC by only the physicians associated with the practice. [Source: CN Historical Files, Washington Secretary of State web search] YUSC has two operating rooms that are used exclusively for outpatient urology surgeries performed by YUSC's 5 urologists. The ASC also has two cystoscopy rooms and one cystoscopy/ultrasound room.

PROJECT DESCRIPTION

YUA is proposing to establish a new healthcare facility by converting YUSC from an exempt ASC to a CN approved ASC. This action would allow physicians not employed by YUSC to use its facility. Additionally, YUA proposes to expand the types of surgeries performed at the ASC to include orthopedics, podiatry, ophthalmology, gynecology, brachytherapy, pain management, and general surgery. YUA does not propose to increase or decrease the number of operating rooms at YUSC.

There is no capital expenditure associated with this project even though additional equipment may be purchased to accommodate the additional procedures. [Source: Application, p19 & p53]. If approved, YUA expects begin offering additional surgeries by non-owning physicians immediately. Under this timeline and based upon the expected release of this evaluation, 2013 would be the first year of operation as a CN approved facility and 2015 would be year three. [Source: Application, p9]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project requires 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).

EVALUATION CRITERIA

WAC 246-310-200(1)(a)-(d) identifies the four determinations 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 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 CN approval, YUA 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).² Additionally, WAC 246-310-270 contains service or facility specific criteria for ASC projects and must be used to make the required determinations.

TYPE OF REVIEW

This application was submitted under the regular review process and was reviewed under the timeline described in WAC 246-310-160.

² 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) and (3).

APPLICATION CHRONOLOGY

Action	Yakima Urology Associates, PLLC
Letter of Intent Submitted	October 19, 2011
Application Submitted	April 24, 2012
Department's Pre-Review Activities <ul style="list-style-type: none">• screening activities and responses	April 25, 2012, through June 27, 2012
Department Begins Review of the Application	June 28, 2012
End of Public Comment <ul style="list-style-type: none">• No public hearing conducted• public comments accepted through end of public comment	August 2, 2012
Rebuttal Comments Submitted	August 17, 2012
Department's Anticipated Decision Date	October 1, 2012
Department's Actual Decision Date	December 27, 2012

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."*

No entities sought or received affected person status for this project.

SOURCE INFORMATION REVIEWED

- Yakima Urology Associates, PLLC Certificate of Need Application received April 24, 2012
- Yakima Urology Associates, PLLC supplemental information received June 19, 2012
- Yakima County ASC operating room utilization survey responses
- Data reported to the Integrated Licensing and Regulatory System (ILRS)
- Office of Financial Management population data released May 2012
- 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

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Yakima Urology Associates, PLLC proposing to establish a Certificate of Need approved ambulatory surgery center by converting its Certificate of Need exempt ambulatory surgery center is consistent with the applicable review criteria provided Yakima Urology Associates, PLLC agrees to the following in its entirety.

Project Description

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Condition

1. Approval of the project description as stated above. Yakima Urology Associates, PLLC 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.
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Approved Cost

There is no capital expenditure associated with this project.

CRITERIA DETERMINATIONS

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 concludes that Yakima Urology Associates, PLLC 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(9) for determining need for additional ASCs in Washington State. The numeric methodology provides a basis for comparing existing operating room (OR) capacity for both outpatient and mixed use³ ORs in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 secondary health services planning areas. YUSC is located in the Yakima County planning area.

Applicant’s Numeric Methodology

The numeric methodology requires a calculation of annual capacity of existing ORs, both outpatient and mixed use. To support its application, YUA applied the methodology for the Yakima County service area, but excluded 4 ORs located in Sunnyside Community Hospital and 3 ORs located in Toppenish Community Hospital, even though both hospitals are located in Yakima County. YUA stated that these 7 ORs should be excluded from the methodology because they are not located in the county’s population center of Yakima, and the hospitals do not have the medical staff to perform the types of surgeries proposed by YUA. Assumptions used by YUA are shown below [Source: Application, pp12-13 and pp72-73]

**Table 1
YUA’s Methodology Assumptions**

Assumption	Data Used
Planning Area	Yakima County
Target Year	2015
Population-Target Year	257,867
Use Rate	136.61/1,000
Average minutes per case	Inpatient cases= 100 minutes Outpatient cases = 50 minutes
OR capacity counted:	Mixed Use: 14 Dedicated outpatient: 9

Based on the assumptions above, YUA’s methodology projected a shortage of 10 outpatient ORs in year 2015.

³ Mixed use operating rooms located in a hospital are used for both inpatient and outpatient surgeries.

Department's Numeric 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 ORs is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated. Preference is given to dedicated outpatient operating rooms.⁶

In the Yakima planning area there are four hospitals and seven ASCs. The table below lists these hospitals and ASCs.

**Table 2
Yakima County Planning Area Hospitals and ASCs**

Hospitals/City	
Yakima Regional Medical and Cardiac Center	Yakima
Yakima Valley Memorial Hospital	Yakima
Toppenish Community Hospital	Toppenish
Sunnyside Community Hospital	Sunnyside
ASCs	
CN approved ASC	
Yakima Ambulatory Surgery Center	Yakima
Exempt ASCs	
Central Washington Podiatry Services	Yakima
Creekside Surgery Center/Cascade Foot & Ankle	Yakima
The Eye Surgery Center	Yakima
Pacific Cataract & Laser Institute	Yakima
Yakima Gastroenterology Association	Yakima
Yakima Urology Surgery Center, PLLC [applicant]	Yakima

On May 8, 2012, the department sent a utilization survey to all four hospitals and six ASCs in the county.⁷ None of the four hospitals responded to the survey. When a hospital does not return a utilization survey, the department concludes the hospital determined the proposed project will either not impact it or any impact will not be significant. Additionally, without a survey response the department does not know how many OR's there are at a given hospital. Therefore, the mixed-use ORs and dedicated outpatient ORs at Sunnyside Community Hospital, Toppenish Community Hospital, Yakima Regional Medical Center, and Yakima Memorial Hospital are not counted in the

⁶ WAC 246-310-270(9)(a)(iv). "...Exclude cystoscopic and other special purpose rooms (e.g., open heart surgery) and delivery rooms.

⁷ A utilization survey was not sent to the applicant.

planning area's supply of ORs. The utilization, or number of surgical cases, but not the OR capacity of the hospital is counted in the numeric methodology.

Of the six ASCs, three provided utilization and OR count data. Of the three, two are Certificate of Need exempt ASCs and the utilization, but not the ORs are counted in the methodology.⁸ The CN approved facility known as Yakima Ambulatory Surgery Center responded to the survey and all three ORs and utilization are counted in methodology. The remaining four ASCs, including the applicant's ASC, are CN-exempt and use of their ORs is restricted to their physicians.⁹ The utilization, but not the OR capacity, of these exempt ASCs is counted in the numeric methodology.

Based on the data obtained in the utilization surveys and the department's internal data base, the following assumptions were used in applying the numeric methodology.

**Table 3
DOH Methodology Assumptions**

Assumption	Data Used
Planning Area	Yakima County
Target Year	2015
Population-Target Year	256,341
Use Rate	118/1,000
Average minutes per case	Inpatient cases = 100 minutes Outpatient cases = 48.8 minutes
OR capacity counted:	Mixed Use: 0 Dedicated outpatient: 3

Based on these assumptions, the department's application of the numeric methodology indicates a numeric need for 10 mixed-use inpatient ORs and 18 dedicated outpatient ORs. The department's methodology is included in Attachment A of this evaluation. The department recognizes that the result of its need method may over state the need for mixed use and dedicated outpatient OR's. However, when existing providers do not respond to the department's request for data, the department must look at other application information as permitted by rules.¹⁰

Public Comment

The department received public comment from Yakima Ambulatory Surgery Center (YASC) in response to the ambulatory surgery survey sent to providers in the Yakima County planning area. YASC is currently the only CN-approved ASC in the area. YASC states that it opened in 2008 as a CN approved ASC and provides the following types of surgeries: orthopedics, ENT, general surgery, ophthalmology, plastics and neurosurgery, including pain management. YASC also reported its case volume has decreased annually since 2009 as a result of the economic downturn. Physicians associated with YASC also report a decrease in patient visits to the clinics because surgical candidates are delaying surgery for reasons, such as loss of work, income stresses, and

⁸ The two CN exempt ASCs are: The Eye Surgery Center and Pacific Cataract and Laser Institute.

⁹ See WAC 246-310-010(5).

¹⁰ WAC 246-310-270(4)

health insurance changes. YASC asserts approval of this project will negatively impact its utilization as it provides some of the same surgeries as proposed by YUA.

Yakima Urology Associates, PLLC Rebuttal

In response to YASC’s comments, YUA stated that based on the survey results, YASC’s volumes between 2009 and 2011 declined by only 17%. During the same time frame YUSC’s volume increased by only 1.6 % and Yakima Regional Medical Center’s volume increased by 34.8%. The planning area volumes increased by 3.3%. These volumes are shown in the table below.

**Table 4
Historical Utilization of
Yakima Area Hospitals and Certificate of Need Approved
And Applicant Historical Utilization**

Facility	Surgical Procedures			
	2009	2010	2011	% Change
Yakima Valley Memorial Hospital	10,563	10,773	10,348	(2.0%)
Yakima Regional Medical Center	4,256	5,519	5,736	34.8%
Yakima Urology Surgery Center	3,502	3,338	3,559	1.6%
Yakima ASC	3,515	3,437	2,908	(17.3%)
Total	21,836	23,117	22,551	3.3%

Department’s Conclusion

It appears from the data that the number of total number surgeries performed by the four providers is relatively stable. Yakima Regional Medical Center has had a very substantial growth over the three years. With the addition of a new surgeon and new services, the department would expect that the applicant would experience some growth in the number of surgeries. The department would also expect with the limited number of ORs at YUSC that the increase in the number of surgeries performed at this facility would not be substantial. Based on review of information submitted by the applicant, need methodology calculated by the department, public comment, and rebuttal by the applicant, the department concludes the numeric need for additional outpatient ORs in the Yakima County planning area has been established. **This sub-criterion is met.**

WAC246-310-270(4) Outpatient operating rooms should ordinarily not be approved in planning areas where the total number of operating rooms available for both inpatient and outpatient surgery exceeds the area need.

The applicant provided a discussion of why this project should be approved even if the department determines the Yakima County planning area has a projected surplus of operating rooms. Under WAC 246-310-270(4) the department would allow for additional operating room capacity to be approved under extraordinary circumstances. [Source: Application: p17]. A summary of the rationale provided by the applicant is shown below:

- The Sunnyside and Toppenish hospitals offer limited surgical services and therefore are not available or accessible to many residents of Yakima County.
- Both hospitals are located away from the population center of Yakima County. Sunnyside Community is 35 miles and over 40 minutes and Toppenish Community Hospital is 21 miles and 24 minutes from the city of Yakima.

- Neither of these hospitals offers ortho-hand, ophthalmology, pain management, or urology services. These are surgeries proposed to be offered at YUSC.
- The gynecology and general surgery procedures that YUSC proposes to include are procedures typically performed in conjunction with urology procedures.
- The general orthopedic procedures to be provided will include specialty joint cases that are not offered by each of these hospitals.
- Three of the four hospitals in the Yakima County planning area have provided letters of support for this project.¹¹

Department Conclusion

After reviewing the letters submitted in support of this application, it appears that this proposal would not affect the Sunnyside or Toppenish hospitals. It is not clear from the support letter from Yakima Regional Medical Center if they were aware of the additional procedures that would be performed at YUSC. It appears that most of the gynecological and general surgery procedures should be performed at YUSC. YUSC may be competing with the two Yakima hospitals if they start performing some of the other procedures such as ophthalmology or pain management. Their data does indicate a substantial increase in urology procedures due to adding an additional urologist.

Based on the data provided by the applicant, the department would conclude that this proposal would have a minimal impact on the existing service providers in the Yakima hospital planning area.

WAC 246-310-270(6) An ambulatory surgical facility shall have a minimum of two operating rooms

The applicant provided a single line drawing showing that the existing ASC currently has the 2 required operating rooms. [Source: Application, Exhibit 5] **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 the applicant 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 who are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the service area would have access to services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

To demonstrate compliance with this sub-criterion, YUA provided a copy of its charity care policy and mission statement. The mission statement states that services will be provided regardless of race, color, creed, sex, national origin, or disability. [Source: Application, p18, Exhibit 8] YUA did not provide a copy of its admissions policy nor did the department request one. In screening under

¹¹ Yakima Regional Medical Center, Toppenish Community Hospital, and Sunnyside Community Hospital

normal circumstances; this would require the department to declare a pivotal unresolved issue to obtain the information. However, this application changed analysts during the course of review which may have resulted in this document being missed. In this particular instance the department believes this is an extraordinary circumstance and it is appropriate to permit YUA to submit the admission policy for review and approval as part of a condition. If this project is approved, a condition would be added requiring YUA to provide to the department for review and approval a board approved version of its admissions policy.

The department uses Medicare certification to determine whether the elderly would have access or continue to have access to the proposed services. YUA currently provides services to Medicare eligible patients through YUSC and indicates that current sources of revenue include 53% Medicare revenue. YUSC's financial pro forma includes Medicare revenues. [Source: Application, p8]

The department uses the facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access to the proposed services. YUSC currently provides services to Medicaid eligible patients and indicates that current sources of revenue include 6% Medicaid revenue. YUSC's financial pro forma includes Medicaid revenues. [Source: Application, p8]

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. YUSC is located in the Central Region. There are 21 hospitals located within the region. For this project, the department reviewed the most recent three years of charity care data for the 21 existing hospitals currently operating within the Central Region and the four hospitals operating in Yakima County. The three years reviewed are 2008, 2009, and 2010.¹² Below is a comparison of the average charity care for the Central Region, the 4 hospitals in Yakima County combined, and YUSC projected. [Source: 2008, 2009, and 2010 HPDS charity care summaries]

Table 5
Charity Care Percentage Comparison

	% of Total Revenue	% of Adjusted Revenue
Central Region	2.01%	4.52%
Four Hospitals Combined	1.57%	3.61%
Yakima Urology Surgery Center	2.00%	4.88%

¹² 2011 charity care data was not available as of the writing of this evaluation

As shown in Table 5 above, the region average is higher than the combination of the four hospitals.

YUA proposes to provide charity care at the same percentage as the Central region average for total revenue and higher than the regional average for adjusted revenue. However, since this is a new ASC, if this project is approved the department would attach a charity care condition.

Based on the information provided in the application and YUA's agreement to the conditions related to the admission policy and charity care percentages, the department concludes **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 Yakima Urology Associates, PLLC 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.

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 direct 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.

YUSC is currently operating as a CN-exempt ASC. Since it is owned by a group of urologists, urology surgeries are the only surgeries being provided. The table below shows YUSC's historical utilization.

**Table 6
Yakima Urology Surgery Center
Historical Surgical Utilization**

Year	# Of Procedures
2007	3,265
2008	3,524
2009	3,502
2010	3,388
2011	3,559

YUA projected its financial viability of YUSC based on its experience and letters from local surgeons expressing a need for access to its ORs. In addition to urology services, YUA proposes to expand its services to include orthopedic, podiatry, ophthalmology, gynecology, brachytherapy, pain management, and general surgery. YUA is also proposing to add another urologist to the group in 2014 who will increase the total number of urology surgeries. The table below is YUA's projected surgeries from 2013 through 2015. [Source: June 15, 2012 Supplemental Information p3]

**Table 7
Yakima Urology Surgery Center
Estimated Surgical Utilization**

Current Services	2013	2014	2015
Urology	3,579	3,842	4,412
New Services			
Ortho/Hand	208	214	221
Ortho/general	52	54	55
Podiatry	104	107	110
Ophthalmology	312	321	331
GYN	156	161	166
Pain Management	260	268	276
General Surgery	104	107	110
Total	4,775	5,074	5,681

Using the projections above, YUA also provided its projected revenue and expense statement for years 2013 to 2015 for YUSC. The table below is a summary of YUSC's projected financials. [Source: June 15, 2012 Supplemental Information, p15]

**Table 8
Yakima Urology Surgery Center
Revenue and Expense Summary**

	Projected FY 2013	Projected FY 2014	Projected FY 2015
Number of Procedures	4,775	5,074	5,681
Net Revenue	\$4,444,974	\$4,863,434	\$5,604,406
Total Expenses	\$2,681,266	\$2,827,102	\$3,086,473
Net Profit or (Loss)	\$1,763,708	\$2,036,332	\$2,517,933
Average Revenue per Procedure	\$930.88	\$958.50	\$986.52
Average Expenses per Procedure	\$561.52	\$557.17	\$543.30
Net Profit or (Loss) per Average Procedure	\$369.36	\$401.33	\$443.22

The 'net revenue' line item above is the result of gross revenue minus any deductions for contractual allowances, bad debt, and charity care. The 'total expenses' line item includes staff salaries/wages and overhead costs based on the assumptions and forecasts outlined above. As shown, YUA anticipates the ASC would operate at a profit from the beginning in year 2013.

YUA also provided the projected balance sheets for YUSC. Below is a summary of years 2013 and 2015, which are the first and third full years of operation as a CN-approved ASC. [Source: June 15, 2012 Supplemental Information, p16]

Tables 9
Yakima Urology Surgery Center Balance Sheets
Year 2013

Assets		Liabilities	
Cash	\$1,158,298	Current Liabilities	\$119,048
Accounts Receivable	\$1,077,052	Long Term Debt	\$29,560
Fixed Assets	\$967,121	Other Liabilities	0
Accumulated Depreciation	(\$946,858)	Equity	\$2,107,005
Total Assets	\$2,255,613	Total Liabilities and Equity	\$2,255,613

Year 2015

Assets		Liabilities	
Cash	\$5,440,290	Current Liabilities	\$137,039
Accounts Receivable	\$1,357,981	Long Term Debt	\$0
Fixed Assets (Equipment)	\$967,121	Other Liabilities	(\$1)
Accumulated Depreciation	(\$967,121)	Equity	\$6,661,233
Total Assets	\$6,798,271	Total Liabilities and Equity	\$6,798,271

Based on the financial information above, the department concludes the immediate and long range capital and operating costs of the project can be met. **This sub-criterion is met.**

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

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 direct 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.

Because YUSC's two operating rooms already exist, there is no capital costs associated with this project.

To demonstrate compliance with this sub-criterion, YUA provided the projected sources of patient revenue at YUSC which is shown in the table on the following page. [Source: Application, p8]

Table 10
Yakima Urology Surgery Center
Projected Sources and Percentages of Revenue

Source of Revenue	Projected
Medicare	53%
State (Medicaid)	6%
Commercial	32%
Workers Comp.	1%
Private Pay	2%
Other	6%
Total	100%

The majority of revenues are expected to be paid by Medicare/Medicaid and commercial payers. These payer sources are not expected to raise fees or reimbursements based on this project. Based on this information, 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 concludes Yakima Urology Associates, PLLC 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.

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 direct what specific staffing patterns or numbers of Full Time Equivalents (FTEs) should be employed for projects of this type or size. Therefore, using its experience and expertise the department reviews whether the proposed staffing would allow for the required coverage.

YUA anticipates expanding part-time staff hours and recruiting new staff to meet its staffing requirements. Additional staff would be recruited in year one, with no expected increase in years two and three. The table on the following page shows YUSC's current and projected staffing. [Source: Application, p26]

Table 11
Yakima Urology Surgery Center
Staffing Totals for Years 2013 through 2015

Type of Staff	Current	2013 FTE	Total
Clinical Director	1.00	0.0	1.00
RN – Admit	1.00	0.50	1.50
RN - Circulating	1.40	1.00	2.40
RN – PACU	1.90	0.50	2.40
Scrub Tech	1.80	1.00	2.80
Scope Washers	1.00	0.0	1.00
X-Ray/Ultrasound Tech	0.30	0.50	0.80
Reception	1.00	0.25	1.25
Records Clerk	1.10	0.25	1.35
Billing/Coding	1.00	0.50	1.50
Administrator	1.00	0.0	1.00
Information Tech	0.20	0.0	0.20
Total FTEs	12.70	4.50	17.20

As shown above, YUA anticipates adding 4.5 FTEs in year 2013. To demonstrate that staff would be available and accessible for this project, YUA notes that current part time staff hours can be increased in addition to recruiting new staff. YUA does not anticipate any difficulties in recruiting new staff since it offers a competitive wage and benefits package. YUA is also able to offer part-time and flexible positions. In addition, staff is not required to work nights or weekends, which is an attractive recruitment tool. [Source: Application, p23]

YUA identified Mark S. Uhlman, MD, one of the owning physicians, as its medical director. The application includes the medical staff bylaws describing the medical director’s duties and the rules and regulations the medical director will enforce. If approved, the department would include a condition that, prior to commencement of the project, YUA must provide a letter signed by Dr. Uhlman accepting the terms and responsibilities outlined in the medical staff bylaws. [Source: Application, Exhibit 2]

Based on the information provided above, and acceptance of the medical director condition, the department concludes there is a sufficient supply of staff available or staff can be recruited. **This sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(2) 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 regarding appropriate relationships with ancillary and support services. Therefore, using its experience and expertise the department assesses this sub-criterion.

To comply with this sub-criterion, YUA provided a list of existing ancillary and support services. YUA has developed specific service contracts for biomedical waste, equipment maintenance, and laundry services for YUSC that are listed on its historical and projected revenue and expense statements. It also indicates its ancillary and support services will include laboratory, medical gas, and janitorial services. If this project is approved, YUA does not expect any changes to the existing ancillary and support agreements. [Source: Application, p23 and June 15, 2012 Supplemental Information, p6, & 14-20]

Based on the source information reviewed, the department concludes that there is reasonable assurance YUA will continue its relationships with ancillary and support services and approval of this project would not affect those 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 YUSC's history in meeting these standards.

YUA does not own or operate any other health care facilities in Washington State or out of state. YUSC has been licensed by the department as an ASC at its current location since 2009. The department's Investigations and Inspections Office (IIO) has completed both compliance and licensing surveys for YUSC related to its ASC licensure. The most recent survey in July 2010 revealed no substantial non-compliance issues. [Source: IIO compliance data]

The application identifies the five urologists who own YUSC as those who will continue to be the primary users of the ORs if YUSC this project is approved.

Table 12
YUSC Physician Owners

Name	Licensing Status
W. Jack Lovern, MD	Active
Raymond W. Merrell, MD	Active
Mark S. Uhlman, MD	Active
Norman P. Shively, MD	Active
Dennis M. Gaskill, MD	Active

All of these physicians are licensed in the state of Washington and none of them have been disciplined by the department. [Source: Licensing and compliance history data provided by DOH-Medical Quality Assurance Commission]

After reviewing YUSC's survey history and the physicians' licensing histories, the department concludes YUA would likely continue to operate YUSC in conformance with applicable state and federal licensing and certification requirements. **This sub-criterion is met.**

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

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

YUA currently operates YUSC as a CN-exempt ASC in Yakima County. Ancillary and support services agreements, including existing patient transfer agreements, are not expected to change if this project is approved. [Source: June 19, 2012 Supplemental Information, p6]

Based on the information provided in the application, the department concludes that approval of this project would not result in unwarranted fragmentation of services within the planning area. **This sub-criterion is met.**

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

This sub-criterion is evaluated in sub-section (3) above. Based on that evaluation, the department concludes that **this sub-criterion is 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 Yakima Urology Associates, PLLC 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. For applications such as this one under regular review, there are three steps. Step one determines if the application has met the other criteria of WAC 246-310-210 through 230. If it has failed to meet one or more of these criteria, then the project is determined not to be the best alternative, and would fail this sub-criterion. If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process.

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

For this project, YUA's project met the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

Step two

For this project, YUA identified one option before submitting this application. [Source: Application, p25] That option was to remain a CN-exempt ASC. However, YUA analyzed the market and found that the ORs in Sunnyside and Toppenish are not available to the specialists serving the city of Yakima and surrounding area. Additionally, YUA determined there is limited choice among ASCs and YUSC has outside surgeons interested in using its operating rooms. Becoming a CN-approved ASC would allow patients needing multiple surgeries from different specialists to receive those surgeries on one day and at one location. As a result, YUA concluded there was no other viable option than to submit this application.

Step Three

There were no competing applications for this project; therefore step three was not evaluated.

The department concluded that the need for additional CN-approved operating rooms was appropriate under WAC 246-310-270(9). As a result, **this sub-criterion is met.**

APPENDIX A



ATTACHMENT A
ASC Need Methodology
Yakima County

CN APP NO.12-31

Service Area Population: 2015 256,341 OFM Medium Series
 Surgeries @152.064/1,000: 39,119

- a.i. 94,250 minutes/year/mixed-use OR
- a.ii. 68,850 minutes/year/dedicated outpatient OR
- a.iii. 3 dedicated outpatient OR's x 68,850 minutes = 206,550 minutes dedicated OR capacity 4,321 Outpatient surgeries
- a.iv. 0 mixed-use OR's x 94,250 minutes = 0 minutes mixed-use OR capacity 0 Mixed-use surgeries
- b.i. projected inpatient surgeries = 9,126 = 912,571 minutes inpatient surgeries
 projected outpatient surgeries = 29,993 = 1,433,793 minutes outpatient surgeries
- b.ii. Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's
 29,993 - 4,321 = 25,672 outpatient surgeries
- b.iii. average time of inpatient surgeries = 100.00 minutes
 average time of outpatient surgeries = 47.80 minutes
- b.iv. inpatient surgeries*average time = 912,571 minutes
 remaining outpatient surgeries(b.ii.)*ave time = $\frac{1,227,243 \text{ minutes}}{2,139,815 \text{ minutes}}$
- 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.

$$\frac{0}{-2,139,815} / 94,250 = -22.70$$
- c.ii. if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94,250 to determine shortage of inpatient OR's
USE THESE VALUES

$$\frac{912,571}{912,571} / 94,250 = 9.68$$

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

$$\frac{1,227,243}{68,850} = 17.82$$



ATTACHMENT A
ASC Need Methodology
Yakima County

Facility	Special rms	Ded. Inpt	Ded. Outpt	Mixed use	Closed / not used	op hrs	op wks	ip hrs	ip wks	mixed hrs	mixed wks	ip min	ip cases	2010 ip min	op clean	2010 op case	2010 op min	Comments
Yakima Regional Medical Center				0								2,788	2,788	275,600	50	2,733	136,650	NO Survey Response. Used CHARS quarterly data for number of inpatient and outpatient cases, and used default minutes.
Yakima Valley Memorial			0	0								3,996	3,996	395,600	50	6,777	338,950	NO Survey Response. Used CHARS quarterly data for number of inpatient and outpatient cases, and used default minutes.
Toppenish Community Hospital				0								273	273	27,300	50	541	27,650	NO Survey Response. Used CHARS quarterly data for number of inpatient and outpatient cases, and used default minutes.
Sunnyside Community Hospital				0								1,604	1,604	160,400	50	1,748	82,400	NO Survey Response. Used CHARS quarterly data for number of inpatient and outpatient cases, and used default minutes.
Yakima Ambulatory Surgery Center (CON Approved)			3															Used survey response.
Central Washington Podiatry Services (Exempt)																		Used survey response.
Crestside Surgery Center (Exempt)																		Used survey response.
Eye Surgery Center (Exempt)																		Used survey response.
Pacific Eye Center (Exempt)																		Used survey response.
Yakima Gastroenterology (Exempt)																		Used survey response.
Yakima Urology Surgery Center (Applicant)																		Used survey response.
																		Used Application Information.
Totals	0	0	3	0	0	0	0	0	0	0	0	8,659	8,659	865,900	496	28,459	1,360,465	
													Average min/case		100		47,804.39	

*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.
Inpatient minutes calculated at default 100 minutes/case for those hospitals not reporting minutes.
LRS: Integrated Licensing & Regulatory System
Population data source: OFM Medium Series

Total Surgeries Survey Year: 2010 37,118
Area population Survey Year: 2010 243,231
Use Rate Survey Year: 2010 152,604
Operating Area population for third year of operation: 2015 256,841
*ASCs with CoNs and are counted in supply for methodology 76.67%
% Outpatient of total surgeries 23.33%