



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

January 30, 2014

CERTIFIED MAIL # 7011 2000 0000 5081 8821

Constance Kanter, CFO
Seattle University
901 – 12th Avenue
Seattle, Washington 98122

RE: CN 14-02

Dear Ms. Kanter:

We have completed review of the Certificate of Need (CN) application submitted by Seattle University proposing to establish a 46-bed community based nursing home in King County. The facility would use beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115913)(b). For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Seattle University agrees to the following in its entirety.

Project Description:

Seattle University is approved to establish a 46-bed Medicare and Medicaid certified nursing home in King County by converting 46 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 46 beds would become licensed in two phases. Phase one is the establishment of a 22-bed nursing home. Phase two is the addition of 24 nursing home beds to the facility.

Conditions:

1. Seattle University agrees with the project description as stated above. Seattle University 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. Seattle University must remain the licensee of Seattle U-Mirabella at least through completion of phase two.
3. Seattle University will obtain its Medicare and Medicaid provider numbers for the nursing home within 60 days of the issuance of a Certificate of Need.
4. The nursing home must maintain its Medicare and Medicaid certification throughout the operation of the facility, regardless of ownership.
5. Seattle University will provide the following information related to patient days: total patient days, Medicare patient days, and Medicaid patient days. This information will be reported quarterly in the progress reports developed by the department.



6. Seattle University and any subsequent owners of the nursing home must not develop any policies or practices that discriminate against admission of patients based on payer source.
7. Seattle University will provide to the department an executed Medical Director Agreement for review and approval. The executed agreement must reference Seattle University and be consistent with the draft agreement provided in the application.
8. Seattle University will provide to the department an executed Lease Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.
9. Seattle University will provide to the department an executed Management Services Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

Approved Costs:

The approved capital expenditure for this project is \$1,568,547, and is solely related to phase two of the 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, Community Health Systems

Enclosure

**EVALUATION DATED JANUARY 30, 2014, OF THE CERTIFICATE OF NEED
APPLICATION SUBMITTED BY SEATTLE UNIVERSITY PROPOSING TO
ESTABLISH A NEW NURSING HOME IN KING COUNTY**

APPLICANT DESCRIPTION

Seattle University is a private, non-profit corporation, incorporated in the state of Washington and is also a registered Washington State charity. Seattle University was founded in 1891 and is dedicated to education. With more than 7,800 undergraduate and graduate students in 8 schools and colleges, Seattle University is the largest independent university in the Northwest. Seattle University is governed by a five member board, which includes a president, vice president, treasurer, secretary, and officer. [source: Application, p1 and Washington Secretary of State website]

BACKGROUND INFORMATION

On July 22, 1988, Careage of Seattle was issued Certificate of Need (CN) #918-B approving the establishment of a 139-bed nursing home on the Seattle University campus at 1020 East Jefferson in Seattle [98122]. According to Department of Social and Health Services historical files, the nursing home opened in November 1990 and was licensed under Seattle University.¹ The nursing home was named Bessie Burton Sullivan and remained in continuous operation at the same site until closure in 2007. [source: CN and Department of Social and Health Services historical files]

In 2006, Seattle University Administration recommended closure of Bessie Burton Sullivan to the Board of Trustees. The recommendation was based on the conclusion that the facility/space that housed the nursing home could be used for student housing, academic classrooms, science laboratories, faculty offices, and other purposes that were considered more central to the Seattle University educational mission. Ultimately, on March 15, 2007, Seattle University discharged its last resident from the 139-bed nursing home and received Certificate of Need approval to bank all 139 nursing home beds under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). Under Certificate of Need regulations, full facility closure nursing home beds can be banked for up to eight years. The eight year bed banking on the 139 beds at Seattle University expires on March 15, 2015. [source: October 11, 2013, supplemental information, p7 and CN historical files]

PROJECT DESCRIPTION

With this project, Seattle University proposes to establish a 46-bed nursing home in King County by converting 46 of the 139 beds banked under full facility closure at Bessie Burton Sullivan. The nursing home would be located at 116 Fairview Avenue North in Seattle [98109]. The new 46-bed nursing home would be established in the two phases described on the following page. [source: Application, p5]

¹ Historical files do not provide the date for change of ownership from Careage of Seattle to Seattle University. According to Department of Social and Health Services records, the nursing home license was issued to Seattle University upon opening.

Phase 1:

Seattle University would begin operating 22 of the 46 beds immediately upon CN approval. There is no capital expenditure associated with phase 1. Phase 1 is expected to be completed by the end of March 2014.

Phase 2:

This phase requires some construction. Seattle University expects to begin construction to accommodate the remaining 24 beds as soon as possible after CN approval. All 46 beds are expected to be licensed and operational by the end of June 2014. The capital expenditure associated with the 24 beds in phase 2 is \$1,568,547.

There are two main entities of this project: Seattle University and Pacific Retirement Services, Inc-Mirabella. Below is a description of each entity, including roles and responsibilities for this project.

Seattle University-Applicant

A description of Seattle University was provided in the applicant description section of this evaluation. For this project, Seattle University submitted this application and provided copies of the following three agreements between itself and Pacific Retirement Services, Inc's sole member--Mirabella.²

- Draft Lease Agreement;
- Draft Management Services Agreement; and
- Draft Purchase and Sales Agreement.

If the project is approved, Seattle University would obtain the nursing home license for the 22 beds immediately, and then obtain licensure for the additional 24 beds at the end of phase 2. As the licensee, Seattle University would be responsible for ensuring that the nursing home operates in compliance with all state and federal laws.

Pacific Retirement Services, Inc.-Mirabella

Pacific Retirement Services, Inc. (PRS) is a non-profit corporation, incorporated in the state of Oregon. PRS is governed by a five-member board, which includes president, vice president, treasurer, secretary, and director. [source: Washington Secretary of State website] PRS is headquartered in Medford, Oregon and incorporated in 1991. PRS develops, operates, manages, and markets a total of ten retirement communities in the following five states: California (3); Oregon (4); Texas (1); Washington (1); and Wisconsin (1). [source: Pacific Retirement Services website]

PRS is the sole member of the Washington State corporation known as Mirabella. Incorporated in January 2005, Mirabella was established to develop and operate housing specially designed for the elderly. [source: October 11, 2013, supplemental information, p8 and Secretary of State website]

² All three of these draft agreements are pertinent to this project and discussed further in this evaluation.

On November 14, 2006, CN #1341 was issued to PRS approving the establishment of a 22-bed nursing home associated with the Type A CCRC.³ The nursing home, known as Mirabella, obtained its nursing home license on March 10, 2009. [source: CN historical files]

For this project, PRS-Mirabella entered into a draft lease agreement that allows Seattle University to locate the proposed 46-bed community-based nursing home within the current space at the Mirabella site. Once the Seattle University nursing home is licensed at the site, the Type A CCRC of Mirabella would close and PRS-Mirabella would relinquish its Type A CCRC nursing home license.⁴ [source: Application, p5]

PRS-Mirabella would be responsible for day-to-day operations of the new nursing home under a Management Agreement with Seattle University. Under the agreement, PRS-Mirabella is responsible for the following:

- hire a specific director to manage day to day operations;
- enter into a contract with a physician for medical director services; and
- maintain control of billing, payroll, and required reporting.

[source: Application, Appendix C-Draft Management Agreement]

For ease of reference, the management entity, Pacific Retirement Services-Mirabella will be referred to as "PRS-Mirabella." The current Type A CCRC nursing home and the proposed community-based nursing home to be licensed by Seattle University will both be named "Mirabella." To avoid confusion, in this evaluation, the currently operating, Type A CCRC Mirabella will be referred to as "Type A-Mirabella." The proposed community based nursing home to be licensed by Seattle University, will be referred to as "Seattle U-Mirabella."

³ Washington Administrative Code (WAC) 246-310-010(16) defines CCRC as follows:

"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW [70.38.025](#)(6), which provides shelter and services based on continuing care contracts with its residents which:

Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:

- (a) Independent living units;*
- (b) Nursing home care with no limit on the number of medically needed days;*
- (c) Assistance with activities of daily living;*
- (d) Services equivalent in scope to either state chore services or medicaid home health services;*
- (e) Continues a contract, if a resident is no longer able to pay for services;*
- (f) Offers services only to contractual residents with limited exception during a transition period;*
and
- (g) Holds the medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources."*

⁴ Type A-Mirabella will not technically close; rather, Type A-Mirabella would be operated as a Type A CCRC nursing home until the change of ownership is approved by DSHS and then the facility will be a community-based nursing home. No cease of operations would occur at the nursing home. For DSHS purposes, this action is considered to be a 'change of ownership' because the licensee of the nursing home changes from PRS-Mirabella to Seattle University. For those reasons, PRS-Mirabella must provide residents change of ownership notification as required by DSHS.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to review under Revised Code of Washington 70.38.105(4)(a) and Washington Administrative Code 246-310-020(1) as the establishment of a new healthcare facility.

EVALUATION CRITERIA

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. 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.”*

The review for the establishment of a nursing home typically includes a demonstration need for the new nursing home beds within the county. However, RCW 70.38.115(13)(b) states:

“When an entire nursing home ceases operation, the licensee or any other party who has secured an interest in the beds may reserve his or her interest in the beds for eight years or until a certificate of need to replace them is issued, whichever occurs first. Certificate of need review shall be required for any party who has reserved the nursing home beds except that the need criteria shall be deemed met when the applicant is the licensee who had operated the beds for at least one year immediately preceding the reservation of the beds, and who is replacing the beds in the same planning area.”

Since Seattle University was the licensee of the nursing home for the 12 months preceding the bed banking and is the applicant for this project, the need criteria under WAC 246-310-210(1) and (6) are deemed met. As a result, the department’s review will focus on applicable portions of need (WAC 246-310-210); financial feasibility (WAC 246-310-220), structure and process of care (WAC 246-310-230), and cost containment (WAC 246-310-240).⁵

TYPE OF REVIEW

Generally, nursing home applications are reviewed under a concurrent review cycle. For King County, the relevant current review cycle is outlined in WAC 246-310-130(5)(b). However, since the need criteria under WAC 246-310-210(1) and (6) are deemed met, the department has accepted this type of project under the regular review timeline as outlined in WAC 246-310-160, which is summarized below.

APPLICATION CHRONOLOGY

Action	Seattle University
Letter of Intent Submitted	May 6, 2013
Application Submitted ⁶	August 8, 2013
Department’s pre-review activities including screening and responses	August 9, 2013 through October 17, 2013
Beginning of Review <ul style="list-style-type: none"> • public comments accepted throughout review 	October 18, 2013
Public Hearing Conducted/End of Public Comment	December 5, 2013
Rebuttal Comments Submitted	December 20, 2013
Department's Anticipated Decision Date	February 3, 2014
Department's Actual Decision Date	January 30, 2014

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.”*

Throughout the review of this project, two persons sought and received affected person status under WAC 246-310-010(2). The affected persons are listed on the following page.

⁵ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this amendment project: WAC 246-310-210(1), (3), (4), (5), and (6).

⁶ The application was submitted on July 9, 2013; however, the capital costs identified in the application equated to a more than 240% increase from the letter of intent costs. As required under WAC 246-310-080(3), when an application is significantly different than the letter of intent, the department considers the application the letter of intent and no action occurs on the application until the end of the 30-day letter of intent period.

Elizabeth Tidyman

A community member residing in King County. At the December 5 public hearing, Ms. Tidyman clarified that she neither supports nor opposes the project, rather, she wanted to ensure that the residents of the CCRC were well informed on this project.

Thomas Ryan, MD

A retired physician and resident of the Pacific Retirement Communities Type A CCRC. Dr. Ryan submitted information in opposition to the project.

SOURCE INFORMATION REVIEWED

- Seattle University's Certificate of Need application received on July 9, 2013, and considered submitted on August 8, 2013
- Seattle University's supplemental information received October 11, 2013, October 21, 2013, and October 28, 2013
- Public comments submitted during the review and at the December 5, 2013, public hearing
- Rebuttal comments from Seattle University received December 16, 2013
- Rebuttal comments from Thomas Ryan, MD received December 18, 2013
- Rebuttal comments from Elizabeth Tidyman received December 20, 2013
- Department of Social and Health Services, Office of Rates Management Medicaid rate projections for 22 beds received January 22, 2014
- Department of Social and Health Services, Office of Rates Management Medicaid rate projections for 46 beds received January 22, 2014
- Year 2012 Department of Social and Health Services cost report data
- Quality of Care data obtained from Department of Social and Health Services Field Manager for District #2, Unit E [King County]
- Centers for Medicare and Medicaid website for quality of care comparison of nursing homes www.medicare.gov/NursingHomeCompare/compare.search.html#
- Licensing data provided by the Medical Quality Assurance Commission
- Washington State Secretary of State website at <http://www.sos.wa.gov>
- Pacific Retirement Services website at <http://www.pacificretirement.com>

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Seattle University proposing to establish a 46-bed nursing home in King County is consistent with applicable criteria of the Certificate of Need Program, provided Seattle University agrees to the following in its entirety.

Project Description:

Seattle University is approved to establish a 46-bed Medicare and Medicaid certified nursing home in King County by converting 46 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 46 beds would become licensed in two phases. Phase one is the establishment of a 22-bed nursing home. Phase two is the addition of 24 nursing home beds to the facility.

Conditions:

1. Seattle University agrees with the project description as stated above. Seattle University 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. Seattle University must remain the licensee of Seattle U-Mirabella at least through completion of phase two.
3. Seattle University will obtain its Medicare and Medicaid provider numbers for the nursing home within 60 days of the issuance of a Certificate of Need.
4. The nursing home must maintain its Medicare and Medicaid certification throughout the operation of the facility, regardless of ownership.
5. Seattle University will provide the following information related to patient days: total patient days, Medicare patient days, and Medicaid patient days. This information will be reported quarterly in the progress reports developed by the department.
6. Seattle University and any subsequent owners of the nursing home must not develop any policies or practices that discriminate against admission of patients based on payer source.
7. Seattle University will provide to the department an executed Medical Director Agreement for review and approval. The executed agreement must reference Seattle University and be consistent with the draft agreement provided in the application.
8. Seattle University will provide to the department an executed Lease Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.
9. Seattle University will provide to the department an executed Management Services Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

Approved Costs:

The approved capital expenditure for this project is \$1,568,547, and is solely related to phase two of the project.

CRITERIA DETERMINATIONS

A. Need (WAC 246-310-210)

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 Seattle University has met the applicable need criteria in WAC 246-310-210(2).

- (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.

The proposed licensee of Seattle U-Mirabella is Seattle University. From November 1990 through March 2007, Seattle University operated the 139-bed nursing home known as Bessie Burton Sullivan in Washington State. The nursing home beds have not been operational for almost eight years. [source: CN historical files] As the proposed licensee, Seattle University must demonstrate that this nursing home would be available to all residents of the services area, including low-income, racial and ethnic minorities, handicapped and other underserved groups. As a community based nursing home, Seattle U-Mirabella must also participate in the Medicare and Medicaid programs.

PRS-Mirabella is to be responsible for management of Seattle U-Mirabella and day-to-day operations. PRS-Mirabella currently operates Type A-Mirabella, a Type A CCRC nursing home in Seattle. Because of the nature of a Type A CCRC nursing home, Type A-Mirabella:

- 1) does not admit or accept any Medicaid patients; and
- 2) offers priority access to the nursing home by residents of the Type A community.

To evaluate this sub-criterion, the department reviewed information from both the applicant and the management entity.

Admission Policy and Admission Agreement

To determine whether all residents of the planning 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. 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, Seattle University provided a copy of the Admission Agreement and the Admission Policy to be used at Seattle U-Mirabella. The Admission Policy was created specifically for this project and includes the required language to ensure all residents of the planning area would have access to the services at the nursing home. The policy also includes a patient 'notice of rights and services' section that outlines roles and responsibilities for both Seattle U-Mirabella and the patient. The policy includes specific language to ensure that Seattle U-Mirabella will not 'hold' beds to ensure priority admission for residents of the retirement community. The Admission Policy also acknowledges that Seattle U-Mirabella will accept both Medicare and Medicaid patients. [source: October 11, 2013, supplemental information, Admission Policy revised September 25, 2013]

The Admission Agreement provided in the application is the agreement signed by both a representative of the nursing home and the patient before admission to the nursing home. The agreement appears to have been created specifically for this application and outlines the process for admission and roles/responsibilities for both Seattle U-Mirabella and the patient. The Admission Agreement includes the required language to ensure that all residents of the planning area would have access to the services at the nursing home. The agreement references private pay, Medicare, and Medicaid admissions, and includes a description of the process for discharging patients home or to a higher level of care, if necessary. Similar to the Admission Policy discussed above, the Admission Agreement also acknowledges that Seattle U-Mirabella is precluded from any priority admission practices related to the residents of the retirement community. [source: October 11, 2013, supplemental information, Admission Agreement revised September 25, 2013]

Medicare and Medicaid Programs

The department uses Medicare certification to determine whether the elderly would have access, or continue to have access, to services. PRS-Mirabella, the management entity, currently contracts with Medicare and provides services to Medicare patients in the planning area.

To demonstrate compliance with this sub-criterion, Seattle University stated that Seattle U-Mirabella would contract with Medicare, and if this project is approved, would immediately begin the process to obtain its Medicare provider number. Financial documents provided in the application demonstrate that Seattle U-Mirabella intends to provide services to the Medicare population. [source: Application, Schedule A and October 11, 2013, supplemental information, Schedule G]

The department uses the facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access, or continue to have access, to services. Seattle University has not operated a nursing home for almost eight years. As a Type A CCRC nursing home, Type A-Mirabella does not currently contract with Medicaid or provide services to Medicaid patients in the planning area.

To demonstrate compliance with this sub-criterion, Seattle University stated that Seattle U-Mirabella would contract with Medicaid, and if this project is approved, would immediately begin the process to obtain its Medicaid contract with the Department of Social and Health Services (DSHS). Financial documents provided in the application demonstrate that Seattle U-Mirabella intends to provide services to the Medicaid population. [source: Application, Schedule A and October 11, 2013, supplemental information, Schedule G]

To ensure that Seattle U-Mirabella would participate in both the Medicare and Medicaid programs, if this project is approved, the department would attach two conditions related to this sub-criterion. One condition would require Seattle University to provide documentation that the nursing home obtained its Medicare and Medicaid provider numbers within a specific timeframe. Another condition would require the nursing home to maintain Medicare and Medicaid certification throughout operation of the facility, regardless of ownership.

Public Comments

During the review of this project, concerns were raised regarding the intent of the applicant to 'hold' a nursing home bed for priority admission for residents of the retirement community. These concerns stem from statements made, or documents submitted, by applicant representatives at the public hearing. Excerpts from the written documents related to this issue are restated below.

"Although we have estimates of the projected need for our existing residents, we can't be certain that it is exactly accurate. Our plan provides for flexibility, so if the need of the existing residents is lower, we can serve the greater population."

*"...recently, we had to deny admission to the unit for a Mirabella resident due to the lack of an available bed. We often place holds on outside admissions to meet our own in house usage. It is clear from my experience at Mirabella that we have reached-exceeded-our current capacity to meet the needs of our **own** residents. [emphasis included in original document] Without expansion we will not be able to meet this growing need for quality care for our vulnerable elder population at Mirabella, much less in the surrounding community."*

Department Evaluation

As a Type A CCRC, residents may have received assurances that a nursing home bed would be available if nursing home services are needed. This meant that any person that is not a contractual resident of the CCRC could be denied access to the nursing home if a retirement community resident required nursing home services. Additionally, at the end of the five-year transitional period, Type A CCRC nursing homes are precluded by law from admitting patients that are not a contractual member of the CCRC. This application proposes to change the operation of the facility in these two areas: priority access—or bed holding—is not allowed. Additionally, the nursing home is required to allow access to all patients, including non-contractual members of the CCRC.

The Admission Policy and Admission Agreement provided in the application demonstrate Seattle University's intent to disallow priority admission to Seattle U-Mirabella. However, the statements above indicate that some current staff may not be aware of this significant change in admission practice for a community based nursing home.

This review criterion requires access to care for all residents of the service area, including Medicare and Medicaid patients. It does not allow for any type of withholding of services or beds to ensure priority access for any specific patient or payer source. Seattle University appropriately does not provide assurances that priority access for continuing care residents would continue if this project is approved. To ensure that Seattle U-Mirabella would be available to all residents of the community, regardless of payer source or continuing care residence, if this project is approved the department would attach a condition related to admission practices.

Based on the source information reviewed and the applicant's agreement to the conditions regarding the admission practices and the requirements related to Medicare and Medicaid contracts, **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 determines that Seattle University 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 directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

To evaluate this sub-criterion, the department first reviewed the assumptions used by Seattle University to determine the projected number of admissions, patient days, and occupancy of Seattle U-Mirabella. The assumptions used by Seattle University are summarized below. [source: Application, p14; p19; & Schedule A located in Attachment E; and October 28, 2013, supplemental information, Revised Schedule G]

- Seattle University will lease space that is currently occupied and operated by Type A-Mirabella. All patients currently receiving nursing home services by Type A-Mirabella would be patients of Seattle U-Mirabella upon opening.
- Projected patient days and occupancy of Seattle U-Mirabella are based on the current occupancy of the Type A-Mirabella which averages 85% to 92%. Since the facility is operational, Seattle University expects to open with a similar occupancy percentage on day one. Year 2014 occupancy is projected at 90.7%. This is considered 'phase one' of the project.
- Phase two is the construction of space to accommodate the remaining 24 beds. Phase two is expected to be complete by the end of June 2014. Occupancy projections for year 2015 assume all 46 beds are operational, but also take into account only six months of operation with 46 beds. Year 2015 occupancy is projected at 58.8%.
- Year 2016 assumes an increase in patient days from year 2015. The 46-bed nursing home's occupancy is projected to increase to 95.3%. Year 2017 does not anticipate any further occupancy increases; rather the nursing home is expected to maintain its occupancy at 95.3%.

Using the assumptions stated above, Seattle University projected number of patient days and occupancy for Seattle U-Mirabella. The projections are shown in the table on the following page. [source: Application, Attachment K]

Table 1
Seattle U-Mirabella
Projected Years 2014 through 2017

	2014	2015	2016	2017
Projected Number of Beds	22	46	46	46
Projected Number Patient Days	7,285	9,844	15,951	15,951
Project Occupancy	90.7%	58.8%	95.3%	95.3%

A review of the 2012 cost report data obtained from DSHS shows that the statewide average nursing home occupancy was 79.6%. While the projected occupancy in year 2014 is higher than the average for 2012, it is not unreasonable because of the current occupancy of Type A-Mirabella. For projected years 2016 and 2017, Seattle University expects a steady and reasonable occupancy growth. After reviewing the assumptions and projections, the department concludes they are reasonable.

Seattle University also provided its assumptions used to project revenue, expenses, and net income for Seattle U-Mirabella. [source: Application, pp22-23; October 11, 2013, supplemental information, pp5-6; and October 28, 2013, supplemental information, Revised Schedule G] Those assumptions are summarized below.

- **Medicaid Rate:** assumed at \$177.50. Since Type A-Mirabella does not currently accept Medicaid patients, the rate is based on a low estimate of the rate for other nursing homes in King County. The final rate will be determined by DSHS.
- **Medicare Rate:** assumed at \$551.00 and is based on the fiscal year 2013 weighted average historical RUGS rate and acuity of patients at Type A-Mirabella. This rate assumes the patient acuity remains constant. This rate is used because the existing patients at Type A-Mirabella will be admitted to Seattle U-Mirabella upon opening.
- **Other Rate:** assumed at \$408.00. This rate is based on the budgeted fiscal year 2014 Type A-Mirabella private rate. When this application was being developed, the rate was \$408. The actual fiscal year 2014 rate has increased to \$424 effective October 1, 2013. Continued use of \$408 is merely being conservative. This rate is also used because of the immediate admission of the existing Type A-Mirabella patients upon opening.
- Projected percentage of patient revenue by payer is shown in the chart below.

Year	Medicare Revenue	Medicaid Revenue	Other Revenue
2013	62.0%	0.0%	38.0%
2014	59.0%	2.0%	39.0%
2015	59.0%	3.0%	39.0%
2016	58.0%	4.0%	38.0%
2017	56.0%	4.0%	40.0%

- The largest increase in FTEs [full time equivalents] is assumed to be in the direct patient care category. The increase is expected to occur in 2014 when the final 24 beds in phase two become operational. The FTE increase shows in year 2015. No increase in year 2016 and 2017 is anticipated

- Overhead and support FTEs were assumed to increase slightly in year 2015. No further increases in years 2016 and 2017.
- Wages and salaries are expected to remain constant with 2013 amounts.
- The revenue projections assume the payer mix changes from the current mix that produces the highest revenue [Medicare and private pay] to a more conservative mix that includes Medicaid revenue.

Using the assumptions stated above, Seattle University projected revenue, expenses, and net income for Seattle U-Mirabella. The projections are shown in the table below. [source: October 28, 2013, supplemental information, Revised Schedule G]

Table 2
Seattle U-Mirabella
Projected Years 2014 through 2017

	2014	2015	2016	2017
Net Revenue	\$ 3,767,264	\$ 7,112,998	\$ 6,626,903	\$ 6,231,939
Total Expenses	\$ 3,652,508	\$ 5,889,586	\$ 5,751,898	\$ 5,617,315
Net Profit / (Loss)	\$ 114,756	\$ 1,223,412	\$ 875,005	\$ 614,624

The ‘Net Revenue’ line item is gross patient, plus other operating revenue, minus any deductions from revenue for charity care and bad debt. The ‘Total Expenses’ line item includes salaries and wages and all costs associated with operations of a nursing home. The ‘Total Expense’ line item also includes any lease costs consistent with the draft lease agreement between Seattle University and PRS-Mirabella. The draft agreement outlines roles and responsibilities for both entities, and identifies all costs associated with the lease. As shown above, Seattle University projected net profits in all years shown. Consistent with the payer mix assumptions outlined above, net profits decrease in years 2016 and 2017.

In Washington State, Medicaid nursing facility rates are set by the Nursing Home Rates Section of the Office of Rates Management part of the Aging and Disability Services Administration of DSHS. Medicaid rates for long term care nursing facilities are set individually for each specific facility. Rates are based generally on a facility’s costs, its occupancy level, and the individual care needs of its residents. The Medicaid payment rate system does not guarantee that all allowable costs relating to the care of Medicaid residents will be fully reimbursed. The primary goal of the system is to pay for nursing care rendered to Medicaid-eligible residents in accordance with federal and state laws, not to reimburse costs—however defined—accrued by providers. A facility's overall Medicaid rate is comprised of rates for the following seven separate components:

- Direct care - nursing care and related care provided to residents
- Therapy care - speech, physical, occupational, and other therapy
- Support services - food and dietary services, housekeeping, and laundry
- Operations - administration, utilities, accounting, and maintenance
- Property - depreciation allowance for real property improvements, equipment and personal property used for resident care
- Financing allowance - return on the facility’s net invested funds i.e., the value of its tangible fixed assets and allowable cost of land

[source: [An Overview of Medicaid Rate Setting for Nursing Facilities in Washington](#) provided by DSHS]

For existing nursing homes, the component rates are based on examined and adjusted costs from each facility's cost report. For new nursing homes, such as this project, the initial Medicaid rate is set using a peer group review. [source: DSHS WAC 388-96-710(3)]

All component rates require, directly or indirectly, use of the number of resident days—the total of the days in residence at the facility for all eligible residents—for the applicable report period. Resident days are subject to minimum occupancy levels. Effective February 2013, the minimum occupancy for direct care, therapy care, support services, and variable return component rates is 85%; for operations, financing allowance, and property component rates, the minimum occupancy rate is 87%.⁷ If resident days are below the minimum, they are increased to the imputed occupancy level, which has the effect of reducing per resident day costs and the component rates based on such costs. If the actual occupancy level is higher than the minimum, the actual number of resident days is used. [source: An Overview of Medicaid Rate Setting for Nursing Facilities in Washington provided by DSHS]

Information obtained from the Office of Rates Management within DSHS indicates that Seattle U-Mirabella's Medicaid reimbursement rate would be approximately \$177.78 per patient day.⁸ Within the pro forma Statement of Operations, Seattle University projected the reimbursement rate to be \$177.50 per patient day. [source: October 11, 2013, supplemental information, p5]

The department concludes that the estimated revenues for Seattle U-Mirabella shown in Table 2 could be very slightly understated in all years shown. Since a potential understatement of revenue could result in a better bottom line for Seattle U-Mirabella, the department will not recalculate the revenue and expense statement shown in Table 2 with the revised Medicaid rate.

There was no public comment submitted related to this sub-criterion. Based on the above information, the department concludes that the projected revenues and expenses at Seattle U-Mirabella are reasonable and can be substantiated for this application. The department concludes that the immediate and long-range operating costs of the project can be met. **This sub-criterion is met.**

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

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.

⁷ For essential community providers—i.e., facilities at least a forty minute drive from the next closest nursing facility—the minimum occupancy is set at 85% for all components in recognition of their location in lesser-served areas of the state. Seattle U-Mirabella does not meet the definition of an essential community provider.

⁸ These rate estimates are not guaranteed rate reimbursement by DSHS. [source: DSHS]

The 22-bed nursing home currently occupies 8,442 square feet of space. For phase 1, Seattle University expects to obtain licensure for Seattle U-Mirabella by assuming operations of the 22-bed nursing home, Type A-Mirabella. There is no construction or capital expenditure associated with phase 1 of this project.

Construction for phase 2 is expected to begin in early year 2014 and be completed within three months. Construction includes the addition of 8,770 square feet and the fixed and moveable equipment to accommodate another 24 nursing home beds. Once completed, Seattle U-Mirabella would occupy a total of 17,212 gross square feet. The capital expenditure associated with phase 2 is \$1,568,547. The table below shows a breakdown of the costs. [source: Application, pp8-9, p15, and Attachments A and B]

**Table 3
Seattle U-Mirabella
Capital Expenditure Breakdown**

Item	Cost	% of Total
Construction Costs*	\$ 540,373	34.5%
Fixed & Moveable Equipment	\$ 750,876	47.9%
Architect & Engineering Fees	\$ 35,300	2.3%
Washington State Sales Tax	\$ 76,499	4.9%
Fees (legal, permits, licensing)	\$ 165,499	10.6%
Total Estimated Capital Costs	\$ 1,568,547	100.0%

* includes site supervision and inspection

As shown in the breakdown above, the majority of the costs are associated with the construction of the additional square footage and the equipment needed to bring the additional space up to nursing home use. The purchase price for the 46 nursing home beds is \$460,000, and is included in the fixed and moveable equipment line item above.

To demonstrate compliance with this sub-criterion, Seattle University provided a non-binding construction cost estimate from its contractor, with the following statements.

“...Based on our calculations, we came up with \$514,373 for the hard costs for the project. The square footage costs is approximately \$57.40 psf which is in line with the current construction market, the size and complexity of the project. We hope the actual construction costs will come in below this estimate since you will have 3 General Contractors bidding for the job.”

[source: Application, Attachment H]

Based on the information above, the department calculated the costs of the project per gross square foot shown in the table below.

**Table 4
Seattle U-Mirabella
Construction Cost Breakdown**

Estimated gross square footage (GSF)	17,212
Number of nursing home beds	46
Construction cost per GSF	\$31.40
Total cost per GSF	\$91.13
Total cost per bed	\$34,098.85

The department recognizes that the majority of the construction and planning for the existing 22 bed facility occurred when the Type A CCRC was constructed in years 2007 and 2008. The costs for the 22-bed facility were reviewed in the application that was submitted to establish the Type A CCRC nursing home. The additional space and costs occurring in phase 2 of this project are necessary to accommodate the additional 24 beds. The construction costs for project are reasonable when compared to costs to establish a new, 46-bed nursing home in a community.

There was no public comment submitted related to this sub-criterion. Based on the above information, the department concludes that 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. **This sub-criterion is met.**

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

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

As previously stated, the capital expenditure associated with this project is \$1,568,547. Because of the lease and management arrangements outlined in this application, the capital costs are to be incurred by the landlord, PRS-Mirabella rather than Seattle University. As part of a 2012 bond refinance, funds were borrowed to cover the capital expenditure of this project. The funds are held in a trust and will be drawn as needed for the project. [source: Application, p18 and October 11, 2013, supplemental information, p9]

To demonstrate compliance with this sub-criterion, Seattle University provided its audited financial statements for years 2010, 2011, and 2012. The financial statements include both cash flow statements and balance sheets. [source: Application, Attachment I] Seattle University also provided audited financial statements for PRS-Mirabella. The financial statements also cover years 2010, 2011, and 2012.

There was no public comment submitted related to this sub-criterion. After reviewing the historical statements, the department concludes that PRS-Mirabella has adequate funds to cover this project. The capital expenditure of \$1,568,547 is not expected to adversely impact reserves, total assets, total liability, or the general health of PRS-Mirabella in a significant way.

Based on the information provided, the department concludes that the project can be appropriately financed. **This sub-criterion is met.**

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

Based on the source information reviewed and the applicant’s agreement to the conditions identified in the “Conclusion” section of this evaluation, the department determines that Seattle University has met the structure and process of care criteria in WAC 246-310-230(3), (4), and (5).

(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 concludes that the planning would allow for the required coverage.

For phase 1 of this project, Seattle University intends to maintain all current FTEs [full-time equivalents] for the 22-bed nursing home. Seattle University expects a one-time increase of 13.95 FTEs to accommodate the increase in patient days with an additional 24 beds. A breakdown of FTEs is shown in the table below. [source: Application, Attachment N]

**Table 5
Seattle U-Mirabella
2013 – 2018 Current and Projected FTEs**

Staff/FTEs	Current 2013	2014 Increase	2015 Increase	2016 Increase	Total FTEs
Nursing Total	24.63	9.76	0.00	0.00	34.39
Dietary Totals	2.95	0.84	0.00	0.00	3.79
Administration Totals	17.39	3.35	0.00	0.00	20.74
Plant/Maintenance Totals	1.00	0.00	0.00	0.00	1.00
Total FTE’s	45.97	13.95	0.00	0.00	59.92

Broken down into four main types of categories, Seattle University included all RNs, LPNs, and nursing assistants in the ‘nursing’ category. For ‘dietary’ totals, Seattle University included dietary aides only. ‘Administration’ totals included the administrator, activities director, director of nursing, clerical, housekeeping, and laundry personnel. ‘Plant/Maintenance’ FTEs are the staff needed to ensure the building and grounds are maintained.

Consultant positions are not included in the count of FTEs above. These positions include the medical director, pharmacists, physical, speech, and occupational therapists, and dietitians. While consultant positions are not currently employees of PRS, they are expected to continue in the consultant capacity for this project.

As stated in the draft management agreement between Seattle University and the corporation of PRS-Mirabella, PRS-Mirabella is responsible for day-to-day operations, including staffing the nursing home. Under the agreement, PRS-Mirabella intends to ‘hire’ all current staff of Type A-Mirabella. For future years, PRS-Mirabella does not anticipate any difficulty recruiting staff for the following reasons:

- 1) some part-time staff have already shown interest in increasing to full-time;

- 2) PRS-Mirabella encourages employee growth and promotions from within the company;
- 3) PRS-Mirabella currently offers, and would continue to offer, a competitive wage/benefit package for employees;
- 3) PRS-Mirabella offers career development opportunity for staff interested in seeking advanced certification or training.

[source: Application, p24]

In addition to the FTE table, Seattle University provided a table showing the current nursing hours per patient day at PRS-Mirabella, which is not expected to change once the nursing home is a community based provider. [source: Application, p24]

At the end of phase two of this project, PRS-Mirabella would be operating with 46 nursing home beds. For comparison purposes, the department reviewed 2012 cost report data for nursing homes located in King County with a similar number of beds. Of the 53 nursing homes operating in King County at the end of year 2013, seven were operating between 30 and 50 nursing home beds.

The department compared the nursing hours per patient day with the nursing hours per patient day calculated in the 2012 cost report data for the seven nursing homes operating in King County with a similar number of beds. That comparison is shown in the table below.

Table 6
Seattle U-Mirabella
Nursing Hours per Patient Day Comparison

	# of Beds	RN/LPN	Nursing Assistants
Seattle U-Mirabella	46	2.07	2.99
Baily-Boushay House	35	4.11	3.31
Bayview Manor	50	1.79	3.50
Covenant Shores Health Center	43	1.15	2.89
Hearthstone, The	44	1.67	3.45
St. Anne Nursing and Rehabilitation	47	1.11	2.44
Terraces at Skyline, The	34	1.75	2.94
Vashon Community Care Center	30	1.38	2.36

Using the table above, the department concludes that the projected nursing hours per patient day at Seattle U-Mirabella are comparable to similar sized facilities operating in King County. The table also indicates that Seattle U-Mirabella expects to serve patients with acuity similar to Bayview Manor and The Terraces at Skyline.

There was no public comment submitted related to this sub-criterion. Based on this information, the department concludes adequate and qualified staffing for the nursing home is available or 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(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are no 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.

As an existing provider of healthcare services in the county, PRS-Mirabella maintains appropriate relationships with ancillary and support services for the nursing home. For this project, Seattle University intends to contract with PRS-Mirabella for management services and day-to-day operations. To demonstrate compliance with this sub-criterion, Seattle University submitted a copy of the draft Management Agreement between itself and PRS-Mirabella.⁹ The draft agreement does not identify an 'effective date,' but implies that the effective date would be on the date Seattle University obtains licensure for the 22-bed nursing home. The term of the agreement is one year, or the date that both entities agree to terminate, whichever is sooner. The agreement also outlines specific roles and responsibilities for both entities. Seattle University must be the licensee of Seattle U-Mirabella and continue to be the licensee through completion of phase 2, or licensure of all 46 beds. The draft Management Agreement ensures this requirement. [source: Application, Attachment C]

As the management entity, much of the ancillary and support services would be provided by PRS-Mirabella, such as pharmacy, laboratory, x-ray/imaging, and oxygen services. For those services not provided by PRS-Mirabella, Seattle University intends to work with PRS-Mirabella's existing network of providers. [source: Application, p25 and October 11, 2013, supplemental information, p12]

Medical director services would also be provided under an agreement. Seattle University provided a copy of the current Medical Director Agreement between PRS-Mirabella and University of Washington Medical Center. The agreement was established in 2008 for the PRS-Mirabella nursing home. The agreement outlines roles and responsibilities for both entities, and identifies a commitment from University of Washington Medical Center to provide a 0.2 FTE medical director for the nursing home. Section 8.11 of the agreement identifies a termination date of July 31, 2011. Documents to extend this termination date were not provided. [source: October 11, 2013, supplemental information, Medical Director Agreement Attachment]

For this project, Seattle University states it would enter into a medical director agreement with University of Washington Medical Center for these services. The new agreement would

⁹ During the December 5, 2013, public hearing, Seattle University submitted a copy of the signed and executed Management Services Agreement for this project. For Certificate of Need reviews, new information may be submitted up to 10 days following the beginning of formal review. Specific to this project, the signed Management Agreement must be received by 5:00pm on Monday, October 28, 2013. As a result, the signed Management Agreement cannot be considered in this review.

'mirror' the existing agreement in many areas. Minor changes in the agreement are expected to occur in the costs and compensation sections. [source: October 11, 2013, supplemental information, p11]

Since the current Medical Director is agreement is expired and does not reference Seattle University, the intended licensee of the facility, the department would consider the existing Medical Director Agreement to be a draft.

There was no public comment submitted related to this sub-criterion. Both the Management Agreement and the Medical Director Agreement are considered to be drafts. If this project is approved, the department would include a condition requiring Seattle University to submit a copy of the each executed agreement. If Seattle University agrees with the conditions regarding the draft agreements, the department would conclude that adequate ancillary and support services are available for Seattle U-Mirabella. **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 no 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.

As stated in the project description portion of this evaluation, Seattle University has not operated a nursing home, or any other healthcare facility, since 2008. Pacific Retirement Services owns or operates a total of ten retirement communities in the following five states: California (3); Oregon (4); Texas (1); Washington (1); and Wisconsin (1). [source: Pacific Retirement Services website]

As part of this review, the department must conclude that the proposed services provided by PRS-Mirabella, as the management entity, would be provided in a manner that ensures safe and adequate care to the public.¹⁰ To accomplish this task, the department reviewed the quality of care compliance history for all healthcare facilities either owned, operated, or managed by Pacific Retirement Services. Using 'nursing home compare' data obtained from the Center for Medicare and Medicaid Services (CMS), information for all ten nursing homes was available.

CMS assigns a one to five 'star rating' in three separate categories: health inspection, staffing, and quality. The more stars, the better the rating.

- Health Inspection

This is a measure of the facility's ability to care for patients in a safe environment and provide appropriate nutrition and dietary services to each patient. This category also includes any pharmacy services, administration, and fire safety inspections.

¹⁰ WAC 246-310-230(5).

- Staffing
For the staffing category, CMS measures staff hours for RNs, LPNs, licensed vocational nurses, and certified nursing assistants. CMS also measures the amount of time registered nurses spend with residents.
- Quality
This is a review of the quality of care provided for both long term residents and short stay residents. This category collects the number of patients with reoccurring health issues, such as UTI, pressure ulcers, moderate to severe pain, and falls.

Based on the star rating in each of the three categories, CMS then compiles an ‘overall rating’ for the facility. As with the separate categories: the more stars, the better the rating.

All ten of the PRS owned or managed nursing homes are located within a continuing care community. Seven of the ten nursing homes received an overall rating of 4 or 5 stars.¹¹ One of the nursing homes had been in operation for less than 12 months. CMS does not provide an overall rating on nursing homes that have been in operation less than 15 months.¹²

For the remaining two nursing homes, CMS provided a ‘below average’ rating of two stars. The following information focuses on these two facilities.

Capitol Lakes Health Center located in Madison, Wisconsin – 98 nursing home beds

- A review of inspections for years 2011, 2012, and 2013, revealed that the facility paid \$17,510 in fines for years 2011 and 2012. No fines were assessed in 2013.
- The majority of the deficiencies were considered ‘minimal harm or [minimal] potential for actual harm.’ For year 2011, there was one ‘immediate jeopardy’ and one ‘actual harm’ citation. There was also one ‘immediate jeopardy’ and one ‘actual harm’ citation in year 2012. Year 2013 showed only ‘minimal harm or [minimal] potential for actual harm’ citations.
- The average number of deficiencies for nursing homes in the state of Wisconsin is 7.5. The average number of deficiencies for nursing homes across the United States is 6.8. In 2011, this facility was cited for 9 deficiencies; in 2012 the citations increased to 18 deficiencies; and in 2013, the citations decreased to 14 deficiencies.
- These factors led to an overall below average rating of 2 stars.

The Meadows of Napa Valley located in Napa, California – 69 nursing home beds

- This facility did not pay any fines in the most recent three years (2010 – 2012).
- The majority of the deficiencies were considered ‘minimal harm or [minimal] potential for actual harm.’ For year 2010, there was one ‘immediate jeopardy’ citation. Years 2011 and 2012 showed only ‘minimal harm or [minimal] potential for actual harm’ citations.

¹¹ Mirabella in Seattle Washington; Trinity Terrance in Fort Worth, Texas; Holladay Park Plaza in Portland, Oregon; Mirabella in Portland, Oregon; Rogue Valley Manor in Medford, Oregon; University Retirement Community in Davis, California; and Saratoga Retirement Community Health Center in Saratoga, California all received a 4 or 5 star rating.

¹² Cascade Manor in Eugene, Oregon.

- The average number of deficiencies for nursing home in the state of California is 10.6. The average number of deficiencies for nursing homes across the United States is 6.8. In 2010 this facility was cited for 12 deficiencies; in 2011 the citation increased to 19 deficiencies; and in 2012, the citations decreased to 6 deficiencies.
- These factors led to an overall below average rating of 2 stars.

In summary, the California facility's low rating appears to be the result of averaging the poor inspections from years 2010 and 2011 with the much better inspection in year 2012. The facility is improving, which shows in the 2012 inspection results. The department would expect this facility's average star rating to increase for year 2013.

The Wisconsin facility's inspections revealed deficiencies that resulted in significant fines. While the results of the year 2013 inspection showed some improvement, this facility's overall rating continues to be low. The department expects this facility to show continued improvement during inspections in year 2014, however, the average star rating will probably not show significant improvement until year 2015.

Given the compliance history of the majority of the health care facilities owned, operated, or managed by PRS or one of its subsidiaries, there is reasonable assurance that Seattle U-Mirabella would be operated and managed in conformance with applicable state and federal licensing and certification requirements. Additionally, since Seattle University must be the licensee of Seattle U-Mirabella through completion of phase 2, Seattle University is ultimately responsible of operations and care at the nursing home. For this reason, Seattle University has its own incentive to ensure Seattle U-Mirabella is operated in conformance with state and federal licensing requirements.

Seattle University also provided names and professional license numbers for the current staff at Type A-Mirabella. A review of the compliance history for all staff, including the proposed medical director and nursing home administrator, revealed no recorded sanctions. [source: October 21, 2013, supplemental information and Compliance history provided by Medical Quality Assurance Commission]

There was no public comment submitted related to this sub-criterion. Based on the above information, the department concludes that Seattle University demonstrated reasonable assurance that Seattle U-Mirabella would be operated in compliance with state and federal requirements. There is also reasonable assurance that PRS-Mirabella will manage Seattle U-Mirabella's day-to-day operations in compliance with state and federal 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 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.

In response to this criterion, Seattle University stated that PRS-Mirabella has already established long term relationships with healthcare entities in the Seattle community and King County for Type A-Mirabella. Even though Seattle University would be the licensee of the nursing home, PRS-Mirabella would be managing the facility and intends to continue will those relationships. [source: Application, p26]

While Seattle University has not provided healthcare services since March 2007, the management entity, PRS-Mirabella has been providing healthcare services since 2008 in Washington State. The department concludes that the PRS-Mirabella has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [source: CN historical files]

There was no public comment submitted related to this sub-criterion. Based on this information, the department concludes that approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. Further, Seattle University demonstrated it would continue to have appropriate relationships to the service area's existing health care system 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 addressed in sub-section (3) above and is **considered 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 determines that Seattle University 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

For this project, Seattle University has met the review criteria in the applicable sections of WAC 246-210, WAC 246-310-220, and WAC 246-310-230. Therefore, the department moves to step two below.

Step Two

As stated in the project description portion of this evaluation, on March 15, 2007, Seattle University discharged its last resident from the 139-bed nursing home known as Bessie Burton Sullivan and received Certificate of Need approval to bank its 56 nursing home beds for eight years under the full facility closure provisions of RCW 70.38.115(13)(b). The eight year bed banking on the 139 beds at Seattle University expires on March 15, 2015. A Certificate of Need must be issued to Seattle University by March 15, 2015, in order to preserve the rights to relicense the beds.

Before submitting this application, Seattle University considered and rejected the option of status quo. The rationale for rejection of this option is discussed below. [source: Application, p27]

Do Nothing

This option would mean that the bed banking would expire on March 15, 2015, and Seattle University would lose its ability to unbank the beds in the future. Seattle University indicates there is a need for additional nursing home beds in the county, and this project is an opportunity to meet the need for additional capacity.

Department's Review

Once Seattle University concluded that it wanted to unbank the 46 of the 139 beds, there is no other option than to submit a Certificate of Need application. No other options were identified by the department.

Step Three

This step is used to determine between two or more approvable projects which is the best alternative. This step does not apply to this project.

No public comments were submitted for this sub-criterion. Based on the requirement of Seattle University to submit an application to unbank the 46 beds, the department concludes that that this option is the best alternative. **This sub-criterion is met.**

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

(a) The costs, scope, and methods of construction and energy conservation are reasonable; and

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.

(b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2) and is met.

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

This project has the potential to improve delivery of nursing home services to the residents of King County and communities surrounding Seattle. The department is satisfied the project is appropriate and needed. This sub-criterion is met.