



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

August 28, 2017

CERTIFIED MAIL # 7014 2120 0002 7589 9469

Gaia Lukevich, Administrator
Northwest Weight Loss Surgery
125 130th Street SE
Everett, WA 98208

RE: CN Application 17-24

Dear Ms. Lukevich:

We have completed review of the Certificate of Need application submitted by Sound Surgeons, PLLC proposing to establish a two operating room ambulatory surgery center in Everett, within Central Snohomish County. Enclosed is a written evaluation of the application.

For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Sound Surgeons, PLLC agrees to the following in its entirety.

Project Description

This certificate approves the establishment of a two operating room ambulatory surgery center located in Everett, within Central Snohomish County. Surgical services provided include ENT, gastroenterology, general surgery, gynecology, ophthalmology, orthopedics, pain management, plastic surgery, podiatry, urology, and bariatric surgeries that can be appropriately performed in an outpatient setting.

Conditions

1. Sound Surgeons, PLLC agrees with the project description as stated above. Sound Surgeons, PLLC further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
2. Sound Surgeons, PLLC will maintain Medicare and Medicaid certification, regardless of facility ownership.
3. Sound Surgeons, PLLC will submit a copy of the final executed medical director agreement prior to offering services. The agreement must be consistent with the draft provided to the department within the application.

4. Sound Surgeons, PLLC Center shall update information on their website to include the approved Charity Care Policy. It shall be available in the same location that the surgery center's other patient forms are located.
5. Sound Surgeons, PLLC will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health. Sound Surgeons, PLLC will use reasonable efforts to provide charity care in the amount identified in the application or the planning area average, whichever is higher. The planning area average is 2.6% of gross revenue. Sound Surgeons, PLLC will maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department requires that these records be available upon request.

Approved Costs

The approved capital expenditure associated with this project is \$100,000.

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

If you reject any of the above provisions, your application will be denied. The department will send you a letter denying your application and provide you information about your appeal rights.

Send your written response to the Certificate of Need Program, at one of the following addresses.

Mailing Address:

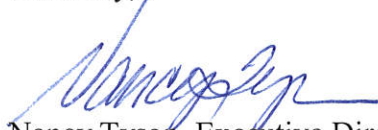
Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Physical Address:

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,



Nancy Tyson, Executive Director
Health Facilities and Certificate of Need

Enclosure

EXECUTIVE SUMMARY

EVALUATION DATED AUGUST 28, 2017 FOR TWO CERTIFICATE OF NEED APPLICATIONS, EACH PROPOSING AMBULATORY SURGERY CENTERS IN CENTRAL SNOHOMISH COUNTY

- **PROLIANCE SURGEONS, INC. P.S., DBA EVERETT BONE & JOINT SURGERY CENTER PROPOSING TO ESTABLISH A 2-OPERATING ROOM CN-APPROVED AMBULATORY SURGERY CENTER**
- **SOUND SURGEONS, PLLC PROPOSING TO EXPAND SERVICES AT AN EXISTING 2-OPERATING ROOM CN-APPROVED AMBULATORY SURGERY CENTER**

BRIEF APPICANT AND PROJECT DESCRIPTIONS

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Proliance Surgeons, Inc., P.S. (Proliance) is a for-profit Washington State professional service corporation, equally owned by over 175 physicians. Proliance operates more than 60 care centers in Washington State, including the applicant facility, Everett Bone & Joint Surgery Center.

This application proposes to establish a 2-OR, CN-approved multispecialty ambulatory surgical facility (ASF). If approved, the first full year of operation as a CN-approved ASF would be 2018 and 2020 would be year three. There is no capital expenditure associated with this project.

Sound Surgeons, PLLC

Sound Surgeons, PLLC, operating under the dba of Northwest Weight Loss Surgery Center (NWWLS) is an existing, CN-approved ASC.

This application proposes to expand the scope of services at the existing 2-OR, CN-approved ambulatory surgical facility (ASF) and to open the facility to outside physicians. If approved, the first full year of operation as a CN-approved ASF would be 2018 and 2020 would be year three. The capital expenditure associated with this project is \$100,000 and is solely for equipment purchases.

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both applications are subject to Certificate of Need review as the construction, establishment, or other development of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

CONCLUSIONS

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

For the reasons stated in this evaluation, the application submitted by Proliance Surgeons, Inc. P.S. on behalf of its subsidiary Everett Bone & Joint Surgery Center proposing to establish an

ambulatory surgery in Everett, within Central Snohomish County, is consistent with applicable criteria of the Certificate of Need Program, provided Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center agrees to the following in its entirety.

Project Description

This certificate approves the establishment of a two operating room ambulatory surgery center located in Everett, within Central Snohomish County. Surgical services provided include ENT, eye, endocrine, digestive, general surgery, gynecology, neurosurgery, orthopedic, pain management, plastic, urologic and vascular surgeries that can be appropriately performed in an outpatient setting.

Conditions

1. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center agrees with the project description as stated above. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
2. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center will maintain Medicare and Medicaid certification, regardless of facility ownership.
3. Prior to execution of this certificate, Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center will submit to the department their Medicaid number.
4. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center shall update information on their website to include the approved Charity Care Policy. It shall be available in the same location that the surgery center's other patient forms are located.
5. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center will use reasonable efforts to provide charity care in the amount identified in the application or the planning area average, whichever is higher. The planning area average is 2.6% of gross revenue. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center will maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department requires that these records be available upon request.

Approved Costs

There is no capital expenditure associated with this project.

Sound Surgeons, PLLC

For the reasons stated in this evaluation, the application submitted by Sound Surgeons, PLLC proposing to establish an ambulatory surgery in Everett, within Central Snohomish County, is consistent with applicable criteria of the Certificate of Need Program, provided Sound Surgeons, PLLC agrees to the following in its entirety.

Project Description

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gastroenterology, general surgery, gynecology, ophthalmology, orthopedics, pain management, plastic surgery, podiatry, urology, and bariatric surgeries that can be appropriately performed in an outpatient setting.

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- **SOUND SURGEONS, PLLC PROPOSING TO EXPAND SERVICES AT AN EXISTING 2-OPERATING ROOM CN-APPROVED AMBULATORY SURGERY CENTER**

APPLICANT DESCRIPTIONS

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Proliance Surgeons, Inc., P.S. (Proliance) is a for-profit Washington State professional service corporation, equally owned by over 175 physicians. Proliance operates more than 60 care centers in Washington State, including medical clinics, ambulatory surgical facilities (ASFs)¹, physical/occupational therapy clinics, and imaging centers. All Proliance facilities that provide ambulatory care are licensed by the Washington State Department of Health and hold accreditation through the Joint Commission, the Accreditation Association for Ambulatory Health Care (AAAHC), or the American Association for Accreditation of Ambulatory Surgery Facilities (AAAASF). [source: Everett Bone & Joint Surgery Center Application pp7-10]

The corporate structure includes a Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, and a governing Board of Directors composed entirely of physician shareholders that are elected by the rest of the shareholders. [source: Proliance website]

Everett Bone & Joint Surgery Center (EBJ) is a two-operating room ASF located at 1100 Pacific Avenue, Suite 100 in Everett, Washington [98201]. It has operated as a CN-exempt facility since 2001. EBJ is licensed by the Washington State Department of Health as an Ambulatory Surgical Facility (ASF) and accredited by The Joint Commission. The facility provides orthopedic surgery and pain management services. [source: EBJ Application pp7-10]

Sound Surgeons, PLLC

Sound Surgeons, PLLC, operating under the dba of Northwest Weight Loss Surgery Center (NWWLS) is an existing, CN-approved ASC. The facility is located at 125 – 130th Street Southeast, Suite 100 in Everett, within Snohomish County. It is jointly owned by Dr. Alana Chock and Dr. Robert Michaelson.

¹ For the purposes of Certificate of Need review, the terms “Ambulatory Surgery Centers” (ASCs) and “Ambulatory Surgery Facilities” (ASFs) are interchangeable. The term “ASC” is an indicator of Medicare-certification, while “ASF” refers to the licensure category.

In 2010, Northwest Weight Loss Surgery Center was issued CN #1435 for the establishment of the 2-OR facility. One condition associated with NWWLSC limited the scope of surgeries to be provided to bariatric surgery, and plastic surgery associated with bariatric surgery. Northwest Weight Loss Surgery Center was acquired by Sound Surgeons, PLLC in February 2015. [source: Sound Surgeons Application p4]

It is currently licensed as an ambulatory surgical facility by the State of Washington, is Medicare-certified, and is accredited by the Accreditation Association for Ambulatory Healthcare. It is also accredited by the American College of Surgeons. [source: Sound Surgeons Application p7]

PROJECT DESCRIPTIONS

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

With this application, EBJ proposes to establish a Certificate of Need-approved ambulatory surgery center within Everett, within the Central Snohomish County secondary service planning area. As mentioned above, EBJ already operates under a CN exemption awarded in 1999. After Certificate of Need approval, EBJ would continue to operate at its current location, at 1100 Pacific Avenue, Suite 100 in Everett, Washington [98201].

EBJ currently has two operating rooms that are exclusively dedicated to orthopedic surgery and pain management procedures. The ASF currently serves patients aged 12 and older who require surgical services, are not expected to require hospitalization, and can be served appropriately in an outpatient setting. [source: EBJ Application p13]

With Certificate of Need approval, EBJ intends to expand their surgical services to include ENT, eye, endocrine, digestive, general surgery, gynecology, neurosurgery, plastic, urologic and vascular surgeries. While the range of services would broaden with the project, the general types of patients will not change. This project proposes to allow other physicians the opportunity to perform surgeries and procedures at the ASC. This action nullifies the exemption currently in place, and therefore requires prior Certificate of Need review and approval. [source: EBJ May 18, 2017 screening response p8]

There is no capital expenditure associated with this project, as there is no construction required.

Sound Surgeons, PLLC

With this application, Sound Surgeons proposes to remove the condition on CN #1435 that limits the scope of approved services to bariatric surgery and associated plastic surgery. As mentioned above, the surgery center already exists, is operational, and holds a Certificate of Need. After CN approval of this application, NWWLS would continue to operate at its current location at 125 – 130th Street Southeast, Suite 100 in Everett, within Snohomish County. [source: Sound Surgeons Application p4]

The surgery center currently has two operating rooms that are exclusively dedicated to bariatric surgery and associated plastic surgery procedures. The surgery center currently serves patients aged 14 and older who require surgical services, are not expected to require hospitalization, and can be served appropriately in an outpatient setting. [source: Sound Surgeons March 13, 2017 screening response p2]

With Certificate of Need approval, Sound Surgeons intends to expand their surgical services to include ENT, gastroenterology, general surgery, gynecology, ophthalmology, orthopedics, pain management, plastic surgery, podiatry, urology, and bariatrics. With this change in surgical specialties offered, the type of patients served will change to expand the age range to ages 2 and older. The need methodology used by the department in the 2010 decision relied on the specific age range and narrow set of surgical types. The expansion of services would be out of compliance with the existing CN, and, therefore, requires prior Certificate of Need review and approval. [source: Sound Surgeons March 13, 2017 screening response p6]

The estimated capital expenditure associated with this project is \$100,000, and is solely related to equipment purchases. [source: Sound Surgeons March 13, 2017 screening response p104]

APPLICABILITY OF CERTIFICATE OF NEED LAW

Both applications are subject to Certificate of Need review as the construction, establishment, or other development of a health care facility under RCW 70.38.105(4)(a) and WAC 246-310-020(1)(a).

EVALUATION CRITERIA

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

- (b) *“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 experience related to a proposed undertaking, with whom the department consults during the review of an application.”*

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment). Additionally, WAC 246-310-270 (ambulatory surgery) contains service or facility specific criteria for ASC projects and must be used to make the required determinations for applicable criteria in WAC 246-310-210.

TYPE OF REVIEW

Both of these applications proposed ASCs in the Central Snohomish County secondary service planning area. These applications, though not submitted under a published concurrent review, were reviewed concurrently under the regular timeline outlined in WAC 246-310-160.

Originally, a third application was included within this concurrent review. This application was submitted by Providence Regional Medical Center Everett (Providence). During the course of the review, it became apparent that significant information was missing from the Providence application. As a result of this, the department elected to bifurcate the review of the Providence application in order to declare a Pivotal Unresolved Issue. This process would allow the program to issue a timely decision on the two applications with no significant issues, and declare a PUI on the Providence project. For these reasons, the Providence application will not be discussed any further throughout this evaluation.

The concurrent review process promotes the expressed public goal of RCW 70.38 that the development or expansion of health care facilities be accomplished in a planned, orderly fashion and without unnecessary duplication. For these projects, the concurrent review allows the department flexibility in determining the best interests for Central Snohomish County residents. The concurrent review timeline used for these two applications is summarized on the following page:

APPLICATION CHRONOLOGY

| Action | EBJ | Sound Surgeons |
|--|------------------|-----------------------|
| Letter of Intent Submitted | August 24, 2016 | November 22, 2016 |
| Application Submitted | October 6, 2016 | January 5, 2017 |
| Department’s pre-review activities: | | |
| • DOH 1st Screening Letter | October 27, 2016 | January 27, 2017 |
| • Applicant’s Responses Received | January 4, 2017 | March 13, 2017 |
| • DOH 2nd Screening Letter | April 3, 2017 | April 3, 2017 |
| • Applicant’s Responses Received | May 2, 2017 | May 18, 2017 |
| Beginning of Review | May 25, 2017 | |
| Public Hearing Conducted | N/A | |
| Public Comments accepted through the end of public comment | June 29, 2017 | |
| Rebuttal Comments Submitted | July 14, 2017 | |
| Department’s Anticipated Decision Date | August 28, 2017 | |
| Department’s Actual Decision Date | August 28, 2017 | |

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.”

As noted above, WAC 246-310-010(2) requires an affected person to first meet the definition of an ‘interested person.’ WAC 246-310-010(34) defines “interested person” as:

- (a) The applicant;
- (b) Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;
- (c) Third-party payers reimbursing health care facilities in the health service area;
- (d) Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;
- (e) Health care facilities and health maintenance organizations which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;
- (f) Any person residing within the geographic area to be served by the applicant; and
- (g) Any person regularly using health care facilities within the geographic area to be served by the applicant.

Under concurrent review, each applicant is an affected person for the other application.

During the course of review, six people requested interested person status and to be informed of the department's decision, shown below:

- Deanne Okazaki, Providence Regional Medical Center Everett
- Elana Zana, Ogden Murphy Wallace, PLLC
- Nancy Field, Field Associates
- Joy Borkholder, SEIU Healthcare 1199 NW
- Heidi Aylsworth, Swedish Health Services
- Lori Aoyama, Health Facilities Planning & Development

Of the six above, only Deanne Okazaki, representing Providence Regional Medical Center Everett qualified as an interested person. Providence Regional Medical Center Everett is located within the planning area. None of the others provided information to demonstrate that they qualified as an interested person under WAC 246-310-010(34).

None of the above persons, including Providence Regional Medical Center Everett, provided comments. Had Providence remained in this concurrent review, it would automatically receive affected person status. Since Providence was removed from this concurrent review, and did not provide comments, they no longer qualify as an affected person for these two projects. Therefore, only EBJ and Sound Surgeons qualify as affected persons within this review.

SOURCE INFORMATION REVIEWED

- EBJ Certificate of Need application received October 6, 2016
- Sound Surgeons Certificate of Need application received January 5, 2017
- EBJ screening responses received January 4, 2017 and May 2, 2017
- Sound Surgeons screening responses received March 13, 2017 and May 18, 2017
- Public comment received by 5:00pm on June 29, 2017
- Rebuttal response received by 5:00pm on July 14, 2017
- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission and Nursing Quality Assurance Commission
- Compliance history for facilities and services from the Washington State Department of Health – Office of Investigation and Inspection
- DOH Provider Credential Search website: <http://www.doh.wa.gov/pcs>
- Historical charity care data for years 2013, 2014, and 2015 obtained from the Department of Hospital/Finance and Charity Care (HFCC) Financial Review
- Year 2016 Annual Ambulatory Surgery Provider Survey for Surgical Procedures Performed During Calendar Year 2015 for hospitals, ambulatory surgery centers, or ambulatory surgical facilities located in Central Snohomish County
- Claritas population data – 2016
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- Joint Commission website: <http://www.qualitycheck.org>

- EBJ website: <http://www.ebjproliancesurgeons.com/>
- Northwest Weight Loss Surgery website: <http://www.nwwls.com/>
- Washington State Department of Revenue website: <http://www.dor.wa.gov>
- Center for Medicare and Medicaid Services website: <https://www.cms.gov>
- Certificate of Need historical files

CONCLUSIONS

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

For the reasons stated in this evaluation, the application submitted by Proliance Surgeons, Inc. P.S. on behalf of its subsidiary Everett Bone & Joint Surgery Center proposing to establish an ambulatory surgery in Everett, within Central Snohomish County, is consistent with applicable criteria of the Certificate of Need Program, provided Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center agrees to the following in its entirety.

Project Description

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Conditions

1. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center agrees with the project description as stated above. Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
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Approved Costs

There is no capital expenditure associated with this project.

Sound Surgeons, PLLC

For the reasons stated in this evaluation, the application submitted by Sound Surgeons, PLLC proposing to establish an ambulatory surgery in Everett, within Central Snohomish County, is consistent with applicable criteria of the Certificate of Need Program, provided Sound Surgeons, PLLC agrees to the following in its entirety.

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Approved Costs

The approved capital expenditure associated with this project is \$100,000.

CRITERIA DETERMINATIONS

A. NEED (WAC 246-310-210)

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center met the applicable need criteria in WAC 246-310-210 and has met the applicable ambulatory surgery facility criteria in WAC 246-310-270.

Sound Surgeons, PLLC

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Sound Surgeons, PLLC met the applicable need criteria in WAC 246-310-210 and has met the applicable ambulatory surgery facility criteria in WAC 246-310-270.

- (1) *The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.*
To evaluate this sub-criterion, the department uses facility-specific criteria found in WAC 246-310-270.

WAC 246-310-270(6)

WAC 246-310-270(6) requires a minimum of two operating rooms (ORs) in an ASC.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“The CON-approved ASF will maintain two operating rooms and will continue providing the same health care services, as well as additional services... We are requesting CON approval to improve access by other physicians, increase efficiency of this existing facility, since higher volumes will reduce average costs, and, crucially, help constrain and/or lower consumer ambulatory surgery costs as freestanding ASFs have been shown to have much lower surgical costs in comparison to hospital facilities.” [source: EBJ Application p7]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

The application provided documentation and statements to demonstrate the surgery center has two ORs. Information found within the department’s internal database confirms that EBJ has been licensed for 2 ORs since 2009, when the ASF credential was created. **This sub-criterion is met.**

Sound Surgeons, PLLC

“The NWWLS ambulatory surgery center is a physician-owned, 2-OR, CON-approved surgery center that provides bariatric surgeries, bariatric surgery requiring the use of endoscopic equipment, and bariatric-related plastic surgery.” [source: Sound Surgeons Application p7]

“This current request by Sound Surgeons does not increase the number of dedicated outpatient ORs in Central Snohomish” [source: Sound Surgeons Application p4]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

The application provided documentation and statements to demonstrate the surgery center has two ORs. Information found within the department’s internal database confirms that NWWLSC is licensed for 2 ORs. **This sub-criterion is met.**

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

WAC 246-310-270(9) provides step-by-step instructions for calculating numeric need in a planning area.

The department’s evaluation of each methodology will be discussed at the end of this sub-criterion.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

EBJ provided the following information regarding their calculation of the numeric need methodology.

“Based on the need methodology, there is need for 7.2 outpatient ORs in the Central Snohomish Planning Area in 2019.... The ASF methodology, defined in WAC 246-310-270, describes how to take current surgical capacity, hospital and ambulatory surgery utilization figures, and population estimates and forecasts to prepare a planning area need forecast to determine if there is need for additional inpatient/mixed use and/or outpatient ORs.

As shown in [the] Table below [on the following page], there are 26 CON-approved ORs in the Central Snohomish Planning Area, including 22 inpatient/mixed use ORs and 4 CON-approved outpatient ORs. Furthermore, while licensed, non-CON-approved outpatient ORs have been identified (see Exhibit 4) and their outpatient surgery volumes included in the methodology to determine planning area surgery use rates, these non-CON-approved ORs have not been included in the count of ORs in [the] Table.

| Facility name | Number of ORs | | |
|--|---------------|------------|-----------|
| | Inpatient | Outpatient | Mixed Use |
| <i>Providence Regional Medical Center Everett (Colby Campus)</i> | | | 13 |
| <i>Providence Regional Medical Center Everett (Pacific Campus)</i> | | | 9 |
| <i>Gateway Surgery Center</i> | | 2 | |
| <i>Northwest Weight Loss Surgery</i> | | 2 | |
| Total CN-Approved | | 4 | 22 |

After identifying planning area inpatient/mixed use and outpatient surgical capacity, surgery volumes by licensed surgery center were obtained:

- (1) When available, data from the Program's 2016 Annual Ambulatory Surgery Survey for Surgical Procedures Performed during CY20153 ("Survey") was utilized. This information was used for all CON-approved facilities, as listed above. However, one of these exempt facilities, Trask Surgery Center, is no longer active. Based on telephone discussion with Department CON staff, the Program's 2015 ASC Survey incorporating CY2014 has been used for Trask Surgery Center.*
- (2) The Department's 2015 ILRS database, as accessed by the Department of Health Certificate of Need staff, was used to obtain outpatient surgery volume data for Northwest Weight Loss Surgery, a licensed ambulatory surgical center in the planning area that did not respond to either the 2015 or 2016 DOH Survey, referenced above. The 2015 ILRS database was also used to access outpatient surgery volume data for Physicians Eye Surgery Center, a certificate of need exempt facility.*
- (3) Internal data from Proliance for CY2015 outpatient surgeries performed at EBJ was used for EBJ's procedure count.*
- (4) Internal data from Providence Regional Medical Center Everett ("PRMCE") for CY2015 outpatient surgeries performed at both its Colby and Pacific campuses were used for their respective procedure and minute counts.*

Based on the estimated inpatient and outpatient surgery cases for 2015 and the Central Snohomish Planning Area 2015 population, the surgical use rate was calculated at 93.6 surgeries per 1,000 population (Exhibit 11). It has been held constant over the forecast period. However, it should be noted it is likely this use rate will increase over the forecast period for at least two reasons:

- (1) The planning area population is becoming older, as discussed above. Older persons have a much higher surgery use rate than younger persons; hence, as the population ages, other things being equal, the surgery use rate will rise.*
- (2) Surgical services are shifting to outpatient settings due to improved clinical practices/technologies that allow surgeries to be performed on an outpatient basis. This change in clinical practice also induces an increase in the outpatient surgery use rate. As such, a 93.6 use rate per 1,000 residents for ambulatory surgeries, held*

constant, is a conservative approach and may be underestimating future demand for outpatient surgeries.

As noted above, 2019 will be the third full year of operation for the purposes of the need methodology.” [EBJ Application pp20-21]

“The model shows projected net need of 7.2 outpatient ORs in Central Snohomish Planning Area in 2019. This analysis provides strong quantitative support for approval of this CON application.

As mentioned above, market demand for surgeries is moving away from inpatient to outpatient surgeries due to advances in the medical practice that allow physicians to perform safe, high-quality procedures in an outpatient setting, as well as patient expectations and preferences for more care being available in an ambulatory setting. There also is growing demand by payers and other stakeholders to move care delivery to lower cost care settings, as appropriate. As demonstrated in application of WAC 246-310-270(9), there is forecasted net need for outpatient operating suites. This demonstrated Central Snohomish Planning Area need is driving our request, a request that will improve access to affordable care.” [source: EBJ Application pp22-24]

Public Comments

None

Rebuttal Comments

None

Sound Surgeons, PLLC

“This application does not propose the addition of outpatient surgery operating rooms in Central Snohomish County. Rather, it requests that an existing CON condition restricting the scope of surgery allowed by non-owner physicians in 2 existing and longstanding OR' s be removed. Removal of this restriction will allow greater access by planning area residents and their surgeons of all specialties to dedicated outpatient surgery and its many advantages over those of inpatient and mixed-use surgery settings.” [source: Sound Surgeons Application p16]

The application included the following assumptions for projecting need for ambulatory surgical services:

**Application Table 3
Assumptions & Calculations**

| | |
|---|---------|
| 2015 Use Rate, Surgeries per 1,000 population | 95.86 |
| 2020 Central Snohomish Population | 328,159 |
| 2020 Projected Total Cases | 31,456 |
| Percent Inpatient/Mixed Use Cases | 49.0% |
| Percent Outpatient Cases | 51.0% |
| Forecast mixed use/inpatient cases, 2020 | 15,414 |
| Forecast outpatient cases, 2020 | 16,043 |
| Additional outpatient cases per aging, 2020 | 673 |
| Adjusted outpatient cases, 2020 | 16,716 |

The methodology completed by Sound Surgeons resulted in a need for 7.85 outpatient ORs in Central Snohomish County in 2020. [source: Sound Surgeons Application pp21-23]

Public Comments

Everett Bone and Joint provided the following comments related to this sub-criterion:

“In the case of the PRMCE request, this would affect net need evaluation, since its approval would increase the supply of outpatient ORs, as would our request, but in the case of Northwest Weight Loss, it would not change supply of CN-approved outpatient ORs, since it was already CN-approved for its two ORs. Our analysis demonstrates there is net need for an additional seven (7) outpatient ORs. We have requested two ORs be CN-approved, PRMCE has requested five and Northwest Weight Loss, no additional outpatient ORs. In other words, all three CN requests can be approved, based on our findings.” [source: EBJ Comments p3]

Rebuttal Comments

None

Department Numeric Need Methodology and Evaluation for All Applications

The numeric portion of the methodology requires a calculation of the annual capacity of the existing providers inpatient and outpatient OR’s in a planning area – Central Snohomish County. To determine the zip codes associated with Central Snohomish County, the department relied on the map and breakdown of zip codes identified in the 1980 State Health Plan for Central Snohomish County. While the State Health Plan was sunset in 1989, for some projects, it continues to be a reliable tool. The department continues to use the zip codes listed by planning area as a starting point for determining ASC planning area zip codes.

For ASC planning areas, the state health plan identifies 9 Central Snohomish County zip codes. Three of these, identified in the table below, are not valid zip codes and do not have any associated residents. When the remaining 6 zip codes are charted on the Department of Ecology Snohomish County zip code map, inclusion of another 2 zip codes appears reasonable based on the geographic location of the zip codes. Table 1 on the following page shows the zip

codes and associated cities within the Central Snohomish County secondary service planning area. [sources: 1980 SHP and Washington State Department of Ecology Snohomish County zip code map prepared by GIS Technical Services and released August 3, 2006; USPS ZIP Code Lookup Tool]

Table 1
Central Snohomish County Planning Area ZIP Codes

| ZIP Code | City | Source |
|-----------------|------------------|------------------------|
| 98201 | Everett | 1980 State Health Plan |
| 98202 | Invalid ZIP Code | 1980 State Health Plan |
| 98203 | Everett | 1980 State Health Plan |
| 98204 | Everett | 1980 State Health Plan |
| 98205 | Invalid ZIP Code | 1980 State Health Plan |
| 98206 | PO Box | 1980 State Health Plan |
| 98208 | Everett | Snohomish County Map |
| 98258 | Lake Stevens | 1980 State Health Plan |
| 98270 | Marysville | 1980 State Health Plan |
| 98271 | Marysville | Snohomish County Map |
| 98275 | Mukilteo | 1980 State Health Plan |

According to the department’s records, there are six planning area providers with OR capacity. Of these providers, one is a hospital and five are ambulatory surgical facilities. One additional ambulatory surgical facility – Trask Surgery Center – is also included, for a total of six. Though the facility closed in 2016, this surgery center held a significant market share for surgical services in the Central Snohomish secondary service planning area. To exclude the Trask Surgery Center volumes would artificially suppress need in the planning area and skew the methodology.

Because there is no mandatory reporting requirement for utilization of ASFs or hospital ORs, the department sends an annual utilization survey to all hospitals and known ASFs in the state. When these applications were submitted, the most recent utilization survey data available was for year 2015. The data provided in the utilization survey is used, if available.

Below, Table 2 shows a listing of the hospital sites. [source: CN historic files, ILRS]

Table 2
Central Snohomish County Hospital ORs

| Facility | ZIP Code |
|---|-----------------|
| Providence Regional Medical Center Everett – Colby Campus | 98201 |
| Providence Regional Medical Center Everett – Pacific Campus | 98201 |

[source: ILRS]

For the hospital, all known OR capacity and procedures are included in the methodology calculations for the planning area.

Table 3 below, contains a listing of the ASFs in the planning area.

Table 3
Central Snohomish County ASFs

| Facility | ZIP Code | CN Approved or Exempt? |
|---------------------------------------|-----------------|-------------------------------|
| Gateway Surgery Center | 98201 | Approved |
| Northwest Weight Loss Surgery | 98208 | Approved |
| Everett Bone and Joint Surgery Center | 98201 | Exempt |
| Kemp Surgery Center | 98201 | Exempt |
| Physicians Eye Surgery Center | 98201 | Exempt |
| Trask Surgery Center | 98201 | Exempt |

[source: ILRS]

Out of the six ASFs listed above, four are located within the offices of private physicians, whether in a solo or group practice that have received an exemption (considered a Certificate of Need-exempt ASF). The use of these ASFs is restricted to physicians that are employees or members of the clinical practices that operate the facility. Therefore, these facilities do not meet the ASC definition in WAC 246-310-010. For Certificate of Need-exempt ASFs, the number of surgeries, but not ORs, is included in the methodology for the planning area. In summary, OR capacity will be counted for two Certificate of Need-approved ASFs and four hospitals.

The data points used in the department's numeric methodology are identified in Table 4. The methodology and supporting data used by the department is provided in Appendix A, attached to this evaluation.

Table 4
Department's Methodology Assumptions and Data

| Assumption | Data Used |
|--|---|
| Planning Area | Central Snohomish County |
| Population Estimates and Forecasts | Age Group: 0-85+ Claritas Population Data released year 2015 Year 2015 – 309,336 Year 2020 – 328,159 |
| Use Rate | Divide calculated surgical cases by 2015 population results in the service area use rate of 93.668/1,000 population |
| Year 2015 Total Number of Surgical Cases | 14,143 – Inpatient or Mixed-Use; 14,832 – Outpatient 28,975 – Total Cases |
| Percent of surgery: outpatient vs. inpatient | Based on DOH survey and ILRS: 51.19% outpatient; 48.81% inpatient |
| Average minutes per case | Based on DOH survey and ILRS: Outpatient cases: 54.51 minutes Inpatient cases: 117.33 minutes |
| OR Annual capacity in minutes | 68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule) |
| Existing providers/ORs | Based on listing of Central Snohomish Providers: 4 dedicated outpatient ORs 22 mixed use ORs |
| Department's Methodology Results | Need for 8.46 outpatient ORs |

Based on the assumptions described in Table 4 above, the department's application of the numeric methodology indicates a need for 8.46 outpatient ORs in 2020.

When comparing the applicant's and department's methodology, there are small differences in several data points identified in Table 4 above. The outcomes of each methodology are shown below:

Table 5
Use Rate Comparison

| | Use Rate | Projection Year | Numeric Need |
|-------------------------------|-----------------|------------------------|---------------------|
| DOH | 93.668/1,000 | 2020 | 8.46 |
| Everett Bone and Joint | 93.600/1,000 | 2019 | 7.21 |
| Sound Surgeons | 95.860/1,000 | 2020 | 7.85 |

Both of the applicants used the same data sources, including DOH Survey, ILRS, and 2015 Claritas population data.

As shown above, EBJ used 2019 as the projection year; while the department and Sound Surgeons used 2020. It is not clear why EBJ used a shorter projection horizon. The data points used in this numeric need methodology are tightly connected, and EBJ’s population forecast resulted in a numeric need for additional outpatient operating rooms. By increasing the population, the need for outpatient operating rooms also increased. The discrepancy between these two applicants and the department on this data point does not affect the numeric need significantly.

Though Sound Surgeons and the department used the same data, as well as the same projection horizon, Sound Surgeons forecasted a need for fewer ORs in 2020. It is not clear why their methodology resulted in less numeric need, as they did not provide their methodology in a format that could allow the department to check the formulas used.

In some ASF applications, the differences described above can significantly affect the outcome of the methodology. The differences in this instance are not significant, as need is still shown in excess of the ORs proposed by both applicants. This is shown below:

**Table 6
Central Snohomish County Numeric Need**

| | Numeric Need |
|---|---------------------|
| Gross Planning Area Need for Outpatient ORs | 8 ORs |
| Everett Bone and Joint | -2 ORs |
| Sound Surgeons | 0 ² ORs |
| Need remaining | 6 ORs |

Based on the source information evaluated the department concludes, **there is numeric need for additional outpatient ORs.**

As shown above, the total number of requested outpatient operating rooms between both applicants does not exceed the net need identified within the numeric need methodology. Numeric need would not be a barrier to approval of both projects. Therefore, the department will not complete a superiority review under any of the following sub-criterion in this evaluation.

WAC 246-310-210

In addition to demonstrating need for services within a planning area, the applicant must also demonstrate that existing services are not sufficiently available and accessible to meet that need.

² As stated above, Sound Surgeons, PLLC’s surgery center is already operational and CN approved for 2 ORs. This application proposes an expansion of services, and does not propose to add any ORs to the planning area.

The department's evaluation of each applicant with respect to this sub-criterion will be discussed at the end of this sub-criterion.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“Market demand for surgeries is moving away from inpatient to outpatient surgeries due to advances in the medical practice that allow physicians to perform safe, high-quality procedures in an outpatient setting, as well as patient expectations and preferences for more care being available in an ambulatory setting. There also is growing demand by payers and other stakeholders to move care delivery to lower cost care settings, as appropriate. As demonstrated in application of WAC 246-310-270(9), there is forecasted net need for outpatient operating suites. This demonstrated Central Snohomish Planning Area need is driving our request, a request that will improve access to affordable care.” [source: EBJ Application p24]

“Everett Bone & Joint currently provides over 1,700 outpatient surgeries (Table 3). CON approval of this facility will improve the range and quality of services available at EBJ to better meet current and future patient needs.” [source: EBJ Application p24]

“As a prominent provider of surgical care in the Central Snohomish Planning Area, Proliance believes in the benefit of CON-approved facilities, and as such is seeking CON approval to convert the Everett Bone and Joint ASC into a ASF. There is no anticipated impact on any other provider in the Central Snohomish Planning Area.” [source: EBJ Application p31]

“Based on the quantitative analysis, there is projected net demand for additional outpatient operating rooms in the Central Snohomish Planning Area. This project will help alleviate this net demand and offer Central Snohomish Planning Area residents easy access to ambulatory surgery services. Patients throughout the Central Snohomish Planning Area will be able to avoid traffic and congestion in comparison to being forced to out-migrate and seek ambulatory surgery care outside of the planning area or in expensive hospital-based surgery centers.” [source: EBJ Application p33]

Public Comments

The department received three letters of support for EBJ's request. Each of the three were signed, but the name of the people providing comments were not legible. In any case, each of the three letters included the following language related to this sub-criterion.

“The current request is an integral component of Proliance's goal of providing local, affordable ambulatory care options to residents in the Central Snohomish Planning Area. Approval will create an ambulatory surgery facility that will be open to all physicians in the community who are credentialed and privileged as a member of Proliance's medical staff, improving local access for other local surgeons and their patients. These are all excellent reasons for approval.”

Rebuttal Comments

None

Sound Surgeons, PLLC

“The only existing provider of the specific clinical services in CON-approved dedicated OR's and similar to those proposed by Sound Surgeons ASC is the 2-OR Gateway ASC operated by Western Washington Medical Group. The four constraints discussed below demonstrate that Gateway's existing capacity is not sufficient to absorb the forecast utilization at Sound Surgeons ASC to 2020.

- ***Constraint 1: Planning Area Utilization will increase demand at Gateway so it cannot also accommodate the increased specialty case demand projected for Sound Surgeons.***

A 36% planning area wide growth in outpatient surgeries was projected for Central Snohomish. The table below provides the relevant calculation:

| <i>Year</i> | <i>Planning Area Dedicated Outpatient Cases</i> |
|---------------------------|---|
| <i>2015 Actual</i> | <i>12,317</i> |
| <i>2020 Projected</i> | <i>16,705</i> |
| <i>Increase 2015-2020</i> | <i>4,338</i> |
| <i>Percent Increase</i> | <i>36%</i> |

- ***Constraint 2: Competitive issues among specialists***

In its Certificate of Need application, WWMG projected the following types of surgery cases in the 2-OR Gateway ASC: podiatry, orthopedic, urology, general surgery, spinal surgery, ENT, plastics, OB/GYN, ophthalmology, and pain intervention. A review of the WWMG web site indicates that the group includes surgeons that perform procedures in all of these specialties.

The ownership of Gateway by this broad range of specialists points to another constraint on availability of Gateway ASC capacity to meet the projected demand at Sound Surgeons, now or to 2020. For competitive reasons, independent specialty surgeons must find ambulatory surgery capacity that is not owned by surgeons of the same specialty in which they practice. Take, for example, the letter written by ophthalmic surgeon John J. Whitehead who wishes to bring 1,000 eye surgery cases per year to Sound Surgeons ASC. Dr. Whitehead describes the common practice that specialty surgeons who own their own surgery capacity do not necessarily open surgical staff privileges to competing specialists. He reports that currently, ‘The ASC's that do have Ophthalmic equipment are owned by other Ophthalmologists and I cannot operate there for my Snohomish County patients.’

- ***Constraint 3: Aging population results in intense demand for orthopedic outpatient surgery capacity.***

Gateway ASC projected in its CON application that 47% of its cases would be "orthopedic" or "podiatry." The NHR (see Appendix SI-H), shows that orthopedic surgeries are the highest volume of all outpatient surgery types.³ A national study by

Etzioni found that persons over age 65 make up over 50% of all orthopedic surgery cases. The rapid growth projected for orthopedic surgery is, therefore, based on a number of factors:

- Orthopedic surgery is a large percentage of all outpatient surgery workload both in case volume and in surgical minutes.*
- A large portion of orthopedic surgery is performed on patients over age 65 - and, as discussed elsewhere in this application, this age cohort is growing rapidly in Snohomish County.*
- Medical technology is rapidly moving more inpatient orthopedic cases to the outpatient setting.*

The combined result of these factors means that growth in orthopedics volumes will outstrip even the rapid growth in the other outpatient surgical specialties. Where Central Snohomish outpatient surgery facilities are owned, wholly or in part by orthopedic surgeons and/or podiatrists, the accommodation of these facilities to rapidly increasing orthopedic demand will correspondingly reduce their capacity for other surgery specialties and limit the availability of OR time to non-owning, independent surgeons in the planning area.

- ***Constraint 4: WWMG/Gateway ASC's own business plan***

At Appendix S1-Q, please see a letter from Jeffrey W. Boggs, DPM, FACFAS, a podiatrist, a member of WWMG and an owner of Gateway ASC. Dr. Boggs supports Sound Surgeons' request to remove the current restriction on its ASC to bariatric-related cases. In part, Dr. Boggs states: '...it is important that Snohomish County have a number of non-hospital ASC's in order to allow better patient access and help reduce cost to the patients versus hospital-based surgery.'

Gateway ASC's Certificate of Need projected over 3500 surgical cases at the new facility by its third year. Dr. Boggs letter of support is consistent with WWMG's expectations for high utilization of its own ASC and a lack of concern that Sound Surgeons ASC will have any detrimental impact on its potential market share. Furthermore, Dr. Boggs underscores the value of expanding clinical scope at a highly regarded, existing facility: 'Northwest Weight Loss Surgery is an established, high quality, facility with a strong reputation and staff already in place. Allowing this Surgery Center to have a CON would allow other surgeons in the community to utilize this facility and therefore would be of benefit for the medical community in general.'

[source: Sound Surgeons March 13, 2017 screening response pp13-16]

Public Comments

Six individuals provided comments in support of Sound Surgeon's application in relation to this sub-criterion. Below are excerpts from some of their letters:

Erica Peavy, MD – The Everett Clinic

"The Everett Clinic is strongly supportive of Northwest Weight Loss's pursuit of a certificate of need for two operating rooms in Snohomish County because these operating rooms are

designed for, and safely equipped to offer ambulatory surgical procedures to morbidly obese patients, unlike other ambulatory surgery environments. Northwest Weight Loss operating rooms would permit Snohomish County patients to have elective procedures in a lower cost, safe outpatient environment, including surgeries other than weight loss surgeries”

M C Whitman III, MD – Cascade Surgeons

“Myself and my partner are established practicing general surgeons located in north Snohomish County since 1989. Our primary base is Cascade Valley Hospital. I have used Cascade Valley Hospital's Whitehorse Surgical center for my outpatient surgical needs.

As our practice grows, we are getting more patients from south and central Snohomish County. These patients would like to have surgical procedures more conveniently closer to their home.

I am writing this letter in support of the application for the certificate of need for Northwest Weight Loss Surgical Ambulatory Care Unit.

It has become clear that there is an increasing need for ambulatory surgical services in the south and central Snohomish County region. We need accommodations that are fully capable of anesthesia and staff trained for general surgical outpatient procedures.”

Ronald Krueger, MD

“My practice is a subspecialty practice focusing on rhinology and sleep medicine. As an independent practice, I rely on Providence Hospital for my inpatient cases and I rely on outpatient surgery centers for the balance of these cases. My patients draw from throughout Snohomish County as well as on to Whidbey Island and many patients come in from north King County as well. My practice is now entering its fourth year and every year we serve more patients.

The bulk of my patients, in fact 98%, can be served in an ambulatory surgery center rather than a hospital setting. The option of an additional freestanding ambulatory surgery center will help my patients in reducing waiting times and increasing accessibility.”

Dan Downey, MD – Downey Plastic Surgery

“I am writing to support the value of loosening the Certificate of Need limitations imposed on the Ambulatory Surgery Center at Northwest Weight Loss Surgery.

I am a plastic and reconstructive surgeon, and I have practiced in Seattle for nearly thirty years. I perform outpatient surgery at Ambulatory Surgery Centers for medium complexity cosmetic and reconstructive surgical conditions, which amounts to ¼ of my case volume.

My typical venues for treating my surgical patients are hospitals and surgery centers from First Hill in Seattle (Swedish, Virginia Mason), and North Seattle (Northwest Hospital and

their ASC. Childrens Hospital, Swedish Edmonds, Proliance / Edmonds Center for Outpatient Surgery).

The physician leadership at Northwest Weight Loss Surgery have indicated their willingness to accept my application to their medical staff. After touring their two-room Medicare -C facility, I am excited to seek privileges to operate there. They have a modern, immaculately-maintained, full-featured surgery center with well-trained staff and excellent clinical outcomes.”

John Whitehead, MD – Northwest Glaucoma and Cataract

“I am writing this letter in support of Northwest Weight Loss Surgery/Sound Surgeons application to establish a 2-OR outpatient surgical facility in Central Snohomish County. I am an Ophthalmic Surgeon who is fellowship trained in advanced Cataract Surgery and Glaucoma Surgery and there is a lack of locations for me to operate in Snohomish County. I practiced in Snohomish County for 7 years and a significant portion of my patients reside in Snohomish County. I had been practicing at the Everett Clinic for those 7 years, and a major reason for me leaving that institution was the business decision by the organization to close the Trask Surgical Center. This proposed action would have had a direct negative impact on my ability to provide care to my patient population which contributed to me leaving The Everett Clinic. Because of a lack of Operating Rooms that cater to Ophthalmic surgery both in Hospitals and ASC's in Snohomish County, I must now operate in King County. I have many patients from Snohomish county who delay or cancel needed surgery because of the difficulty in transporting to Seattle.

In my career. I perform, on average 1,000 cataract operations per year and on average 200 glaucoma operations per year. I currently operate 2 days per week in Seattle. If I could operate at a surgical center in Snohomish County. I would likely move one of my operative days per week to that location. The equipment I utilize is very specific to Ophthalmology and many ASC's and hospitals do not offer them. The ASC's that do have Ophthalmic equipment are owned by other Ophthalmologists and I cannot operate there for my Snohomish County patients. Access to Ophthalmic surgical care in Snohomish County is limited even when the Trask Surgical Center was open. When I was at the Trask Surgical Center, it was not uncommon for patients to wait 3-4 months for routine cataract surgery because of the lack of capacity. Now that the Trask Surgical Center has closed, this problem has only intensified. This results in extended wait times for not only routine operative cases but even urgent and emergent surgical cases have limited room placing patient's sight in jeopardy.”

Jeffrey Boggs, DPM – Gateway Surgery Center

“I am writing this letter in support of the CON for Northwest Weight Loss Surgery/Sound Surgeons. I do feel it is important that Snohomish County have a number of non-hospital ASC's in order to allow better patient access and help reduce cost to the patient's versus hospital-based surgery. Northwest Weight Loss Surgery/Sound Surgeons is an established, high-quality facility with a strong reputation and staff already in place. Allowing this Surgery Center to

have a CON would allow other surgeons in the community to utilize this facility and therefore would be of benefit for the medical community in general.”

Rebuttal Comments

None

Department Evaluation of both applicants

In addition to numeric need, the department must determine whether other services and facilities for the type proposed are not or will not be sufficiently available and accessible to meet that need.

Each of the applicants provided statements related to the availability and accessibility of other providers in the planning area. Their statements largely focused on the numeric need. It is true, the numeric need does demonstrate that there is a shortage of CN-approved dedicated outpatient ORs available in the planning area.

Several local surgeons provided comments supporting the addition of outpatient OR capacity in the planning area. Three were supportive of the EBJ project, and six were supportive of the Sound Surgeons project. The department did not receive any public comment to suggest that other area providers opposed the addition of outpatient surgery capacity in the planning area. To further evaluate this sub-criterion, the department identified the surgical specialties available at the existing planning area surgery centers, below. This includes those surgery centers dedicated to endoscopy that were excluded in the numeric need methodology.

**Table 7
Surgical Specialty Comparison**

| ASF | Current Specialties Provided |
|--|---|
| Gateway Surgery Center | ENT, Orthopedics, Plastic Surgery, Urology, Pain Management |
| Northwest Weight Loss Surgery* | Bariatrics and Plastic Surgery |
| Everett Bone and Joint Surgery Center* | Orthopedics and Pain Management |
| Kemp Surgery Center | ENT, Gastroenterology, General Surgery, Maxillofacial, Ophthalmology, Orthopedics, Plastic Surgery, Podiatry, Urology |
| Physicians Eye Surgery Center | Ophthalmology |
| Trask Surgery Center** | General Surgery, Gynecology, Ophthalmology, Podiatry, Plastic Surgery |

* - applicant

** - Trask Surgery Center closed in 2016.

[source: ILRS, DOH IIO]

Of the surgery centers above, only two have Certificate of Need approval – shown in bold. Of these two, one is exclusively dedicated to bariatrics and associate plastic surgery. The remaining CN-approved surgery center does not provide the full range of outpatient surgical services. Though exempt surgery centers are present in the planning area, they are under no obligation to provide charity care, or to serve Medicare and Medicaid patients. Therefore, these remaining surgery centers may not be sufficiently available and accessible to all residents of the planning area.

In summary, based on the department’s numeric need methodology, numeric need for additional OR capacity in the Central Snohomish County secondary service planning area is demonstrated. The number of ORs requested by both applicants does not exceed the planning area need, and the existing supply may not be sufficiently available and accessible to all planning area residents. Further, each applicant meets the standard under WAC 246-310-270(6). **This sub-criterion is met.**

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

To evaluate this sub-criterion, the department evaluates an applicant’s admission policies, willingness to serve Medicare and Medicaid patients, and to serve patients that cannot afford to pay for services. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and assurances regarding access to treatment.

The admission policy must also include language to ensure all residents of the planning area would have access to the proposed services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

Medicare certification is a measure of an applicant’s willingness to serve the elderly. With limited exceptions, Medicare is coverage for individuals age 65 and over. It is also well recognized that women live longer than men and therefore more likely to be on Medicare longer.

Medicaid certification is a measure of an applicant’s willingness to serve low income persons and may include individuals with disabilities.

Charity care shows a willingness of a provider to provide services to individuals who do not have private insurance, do not qualify for Medicare, do not qualify for Medicaid, or are under insured. With the passage of the Affordable Care Act, the amount of charity care is expected to decrease, but not disappear. Specific to ASCs, WAC 246-310-270(7) requires that ASCs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed project.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

EBJ provided copies of the following Proliance policies, which are currently in use at Everett Bone & Joint Surgery Center. [source: EBJ Application p33, Exhibits 13, 14, 15]

- Admission Policy
- Patient Rights and Responsibilities Policy
- Charity Care Policy

In addition to the policies listed above, Proliance provided the following statement:

“Proliance accepts all patients with insurance, including Medicaid and Medicare. We allocated 2.5% of annual gross revenues to charity care in our pro forma provided in Exhibit 16, consistent with the Puget Sound regional charity care average. Based on the Department of Health Charity Care data, the average allocation of charity care in Puget Sound from 2012 to 2014 was 2.5%.

We allow all patients to receive care at our facility regardless of nationality, creed, religion, disability, gender identity or expression, social status, marital status, veteran status, or any other inherent individual characteristic. We accept all patients regardless of ability to pay, providing charity care where needed.” [source: EBJ Application p32]

EBJ provided its current and projected sources of revenue by payer. A breakdown is shown below. [source: EBJ Application p14]

Table 8
EBJ Current and Projected Payer Mix

| Payer | Historical | Forecast |
|------------------|-------------------|-----------------|
| Commercial | 51.2% | 51.2% |
| Worker’s Comp | 36.4% | 33.4% |
| Medicare | 10.9% | 12.0% |
| Medicaid | 0.1% | 2.0% |
| Self-Pay | 1.1% | 1.1% |
| Other Government | 0.3% | 0.3% |
| Total | 100.0% | 100.0% |

Public Comments

None

Rebuttal Comments

None

Department Evaluation

The draft admission policy that was provided includes the required information, including the criteria for admitting patients and a description of the types of patients that would be served.

The financial data provided in the application shows Medicare and Medicaid revenues consistent with Table 8 above. The department concluded that EBJ intends for this proposed surgery center to be accessible and available to Medicare and Medicaid patients based on the information provided. EBJ is currently Medicare certified, and was in the process of obtaining a Medicaid provider number during the course of the application process. If approved, the department would attach a condition requiring EBJ to provide the department with their Medicaid number as soon as it is available.

Based on EBJ's historical financials, it does not appear that the surgery center has provided charity care in the past. The proposed charity care policy is consistent with other approved charity care policies for CN-approved Proliance ASCs. If approved, consistent with other CN-approved Proliance ASCs, the department would attach a condition requiring EBJ to post the charity care policy on the EBJ website along with the other financial information. The current language on the website would be modified to identify the availability of charity care at the facility.

Based on the information reviewed and with EBJ's agreement to the conditions identified above, the department concludes **this sub-criterion is met.**

Sound Surgeons, PLLC

Sound Surgeons provided copies of the following policies, which are currently in use at Northwest Weight Loss Surgery Center. [source: Sound Surgeons Application Appendices I, J, and K]

- Admission Policy
- Patient Rights and Responsibilities Policy
- Charity Care Policy

In addition to the policies listed above, Sound Surgeons provided the following statement:

“In 2010, NWWLS agreed to the CON condition that it make a commitment to charity care recognizing that Medicare and Medicaid do not pay for bariatric care in an outpatient setting. See also a percent of gross revenues has been included as the requisite charity care in the proforma operating statement.” [source: Sound Surgeons Application p32]

Sound Surgeons provided its current and projected sources of revenue by payer. A breakdown is shown on the following page. [source: Sound Surgeons Application p12]

Table 9
Sound Surgeons Current and Projected Payer Mix

| Payer | Historical | Forecast |
|------------------|-------------------|-----------------|
| Commercial/Other | 75.6% | 57.0% |
| Medicare | - | 20.0% |
| Medicaid | - | 8.0% |
| Self-Pay | 24.4% | 15.0% |
| Total | 100% | 100% |

Public Comments

None

Rebuttal Comments

None

Department Evaluation

The draft admission policy that was provided includes the required information, including the criteria for admitting patients and a description of the types of patients that would be served.

The financial data provided in the application shows Medicare and Medicaid revenues consistent with Table 9 above. The department concluded that Sound Surgeons intends for this proposed surgery center to be accessible and available to Medicare and Medicaid patients based on the information provided. Sound Surgeons' facility is currently Medicare certified.

Based on the historical financials, it appears that the surgery center has provided charity care in the past, consistent with the condition on the existing CN. The proposed charity care policy includes the process a patient would need to follow in order to obtain charity care. If approved, the department would attach a condition requiring Sound Surgeons to post the charity care policy on their website along with the other financial information. The current language on the website would be modified to identify the availability of charity care at the facility.

Based on the information reviewed and with Sound Surgeons' agreement to the conditions identified above, the department concludes **this sub-criterion is met.**

WAC 246-310-270(7) – Charity Care Requirement

WAC 246-310-270(7) requires that ASCs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed ASC.

The department's evaluation of each applicant with respect to this sub-criterion will be discussed at the end of this sub-criterion.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“Proliance accepts all patients with insurance, including Medicaid and Medicare. We allocated 2.5% of annual gross revenues to charity care in our pro forma provided in Exhibit 16, consistent with the Puget Sound regional charity care average. Based on the Department of Health Charity Care data, the average allocation of charity care in Puget Sound from 2012 to 2014 was 2.5%.

We allow all patients to receive care at our facility regardless of nationality, creed, religion, disability, gender identity or expression, social status, marital status, veteran status, or any other inherent individual characteristic. We accept all patients regardless of ability to pay, providing charity care where needed.” [source: EBJ Application p32]

Public Comments

None

Rebuttal Comments

None

Sound Surgeons, PLLC

“In 2010, NWWLS agreed to the CON condition that it make a commitment to charity care recognizing that Medicare and Medicaid do not pay for bariatric care in an outpatient setting. See also a percent of gross revenues has been included as the requisite charity care in the proforma operating statement.” [source: Sound Surgeons Application p32]

Public Comments

None

Rebuttal Comments

None

Department Evaluation – Charity Care Requirement

For charity care reporting purposes, Washington State is divided into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. Each of the applications propose ASCs in Central Snohomish County, within the Puget Sound Region.

Currently there are 19 hospitals operating within the region. Of the 19 hospitals, some did not report charity care data for the years reviewed.³ The only hospital located in Central Snohomish County is Providence Regional Medical Center Everett, in Everett.

³ For years 2013 and 2014, the following three hospitals did not report data: Forks Community Hospital in Forks; Whidbey General Hospital in Coupeville; and EvergreenHealth-Monroe [formerly Valley General Hospital, Monroe]. For years 2015, EvergreenHealth-Monroe and Cascade Valley Hospital did not report data.

Table 10 below compares the three-year historical average of charity care provided by the hospitals operating in the Puget Sound Region (with the exception of those that did not report), in Snohomish County, in Central Snohomish County, and the applicants' projected charity care percentages.

Table 10
Charity Care – Three Year Average

| | % of Total Revenue | % of Adjusted Revenue |
|------------------------------------|---------------------------|------------------------------|
| 3-year Puget Sound Region | 1.88% | 4.65% |
| 3-year Snohomish County | 2.38% | 6.01% |
| 3-year Central Snohomish County | 2.60% | 6.64% |
| Everett Bone and Joint – Projected | 2.50% | 2.91% |
| Sound Surgeons – Projected | 1.50% | 2.08% |

[source: EBJ January 4, 2017 screening response pp42, 46; Sound Surgeons March 13, 2017 screening response Appendix L]

As shown above, the projected percentage of charity care proposed by EBJ is higher than the regional average, but slightly lower than the Central Snohomish average. The projected percentage of charity care proposed by Sound Surgeons is lower than the regional average and the Central Snohomish average. That being said, charity care has decreased consistently statewide year by year.

The 2014 Report of Charity Care in Washington Hospitals offers the following analysis of decreased charity care across Washington State Hospitals with the introduction of the Affordable Care Act (ACA):

“Implementation of the ACA is changing the landscape of charity care in Washington State. More patients have health coverage, either through Medicaid expansion or through purchase of private coverage. As a result, Washington saw the first decline in the amount of charity care reported by hospitals since the department began gathering these data...”

“As hospitals begin to report all data for calendar year 2014, the ACA becomes fully effective, and the number of insured stabilizes, we will likely see a continued decline in charity care in Washington over the next few years before it levels off again.” [source: 2014 Washington State Charity Care in Washington Hospitals – January 2016]

The Certificate of Need program recognizes that charity care in Washington State is expected to continue to decline as more individuals receive healthcare coverage under the ACA, but charity care is not expected to reach zero.

For each of the applicants, the department would attach a condition, if approved. These conditions and rationale are shown on the following page:

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

EBJ’s application proposes that the ASF would provide charity care at 2.50% of total revenues. While this is higher than the regional average, it is slightly lower than the Central Snohomish County average.

The department evaluated the impact on the ASF if it provided charity care at the Central Snohomish County average. The results of this analysis are summarized in Table 11 below.

Table 11
EBJ Charity Care Impact

| | Charity Care Dollars at 2.50% | Charity Care Dollars at 2.60% |
|-------------|---------------------------------------|--------------------------------------|
| 2018 | \$400,359 | \$416,374 |
| 2019 | \$425,344 | \$442,358 |
| 2020 | \$447,739 | \$465,649 |
| | Net Revenue exceeding expenses | |
| 2018 | \$3,453,904 | \$3,437,889 |
| 2019 | \$3,837,776 | \$3,820,762 |
| 2020 | \$4,181,397 | \$4,163,487 |

As shown above, revenue will still exceed expenses, even if the charity care level is increased. Based on the above analysis, if this project is approved, the department would attach a condition requiring EBJ to make reasonable efforts to provide charity care at the levels stated in the application, or the planning area average – whichever is higher. This condition would also require EBJ to maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department would require that these records be available upon request.

Based on the information reviewed and with EBJ’s agreement to the conditions identified above, the department concludes **this sub-criterion is met.**

Sound Surgeons, PLLC

Sound Surgeons’ application proposes that the ASF would provide charity care at 1.50% of total revenues. While this is lower than the regional average, it is slightly higher than the actual amount of charity care provided in 2015 in Central Snohomish County.

The department evaluated the impact on the ASF if it provided charity care at both the regional average and the Central Snohomish County average. The results of this analysis are summarized in Table 12 on the following page.

Table 12
Sound Surgeons ASF Charity Care Impact

| | Charity Care Dollars at 1.50% | Charity Care Dollars at 1.88% | Charity Care Dollars at 2.60% |
|-------------|--|--|--|
| 2018 | \$193,714 | \$242,789 | \$335,771 |
| 2019 | \$230,793 | \$289,260 | \$400,041 |
| 2020 | \$254,820 | \$319,374 | \$441,688 |
| | Net Revenue exceeding expenses | | |
| 2018 | \$3,458,092 | \$3,409,017 | \$3,316,035 |
| 2019 | \$4,130,412 | \$4,071,945 | \$3,961,164 |
| 2020 | \$4,626,123 | \$4,561,569 | \$4,439,255 |

As shown above, revenue will still exceed expenses, even if the charity care level is increased. Based on the above analysis, if this project is approved, the department would attach a condition requiring Sound Surgeons to make reasonable efforts to provide charity care at the levels stated in the application, or the planning area average – whichever is higher. This condition would also require Sound Surgeons to maintain records of charity care applications received and the dollar amount of charity care discounts granted at the proposed ASF. The department would require that these records be available upon request.

Based on the information reviewed and with Sound Surgeons’ agreement to the conditions identified above, the department concludes **this sub-criterion is met.**

(3) The applicant has substantiated any of the following special needs and circumstances the proposed project is to serve.

(a) The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers providing a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas.

Department Evaluation

This sub-criterion is not applicable to this application

(b) The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.

Department Evaluation

This sub-criterion is not applicable to this application

(c) The special needs and circumstances of osteopathic hospitals and non-allopathic services.

Department Evaluation

This sub-criterion is not applicable to this application

(4) The project will not have an adverse effect on health professional schools and training programs. The assessment of the conformance of a project with this criterion shall include consideration of:

(a) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

Department Evaluation

This sub-criterion is not applicable to this application

(b) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools serving the area will have access to the services for training purposes.

Department Evaluation

This sub-criterion is not applicable to this application

(5) The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of a health maintenance organization or proposed health maintenance organization and the services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization.

Department Evaluation

This sub-criterion is not applicable to this application

B. FINANCIAL FEASIBILITY (WAC 246-310-220)

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center met the applicable financial feasibility criteria in WAC 246-310-220.

Sound Surgeons, PLLC

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Sound Surgeons, PLLC the applicable financial feasibility criteria in WAC 246-310-220.

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

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

The assumptions used by EBJ to determine utilization and the projected number of surgeries for the first three full years of operation are below. [source: EBJ Application pp 25-29, EBJ January 4, 2017 screening response pp5-7]

The forecast model uses the following assumptions and methodologies:

- 1. Surgical use rates by ICD-9 procedure code groups were derived from the latest National Center for Health Statistics ("NCHS") survey study, "Ambulatory Surgery in the United States." The report analyzed and presented summaries of data from the 2006 National Survey of Ambulatory Surgery ("NSAS"). In this study, ambulatory surgery refers to surgical and nonsurgical procedures performed on an ambulatory basis in a hospital or freestanding center's general ORs, dedicated ambulatory surgery rooms, and other specialized rooms. This NCHS survey study is the principal source for published national data on the characteristics of visits to hospital-based and freestanding ASFs. The report was updated and revised in 2009 and contains the latest NCHS estimates on ambulatory surgery use rates.*

**National Center for Health Statistics
Ambulatory Surgery Utilization Estimates**

| Procedure Description (ICD9-CM Code) | ICD9-CM Code | Utilization Rate / 10,000 |
|---|---|----------------------------------|
| <i>All Operations</i> | | 1,788.3 |
| <i>Operations on the Nervous System</i> | 01-05 | 107.2 |
| <i>Operations on the Endocrine System</i> | 06-07, 40-41, 72-75 | 11.5 |
| <i>Operations on the Eye</i> | 08-16 | 237.6 |
| <i>Operations on the Ear</i> | 18-20 | 37.3 |
| <i>Operations on the Nose, Mouth, and Pharynx</i> | 21-29 | 96.0 |
| <i>Operations on the Respiratory System</i> | 30-34 | 14.9 |
| <i>Operations on the Cardiovascular System</i> | 35-39, 00.50-00.51, 00.53-00.55, 00.61- 00.66 | 46.1 |
| <i>Operations on the Digestive System</i> | 42-54 | 483.3 |
| <i>Operations on the Urinary System</i> | 55-59 | 59.6 |
| <i>Operations on the Male Genital Organs</i> | 60-64 | 21.2 |
| <i>Operations on the Female Genital Organs</i> | 65-71 | 83.7 |
| <i>Operations on the Musculoskeletal System</i> | 76-84, 00.70-00.73, 00.80-00.84 | 266.4 |
| <i>Operations on the Integumentary System</i> | 85-86 | 120.1 |
| <i>Miscellaneous diagnostic and therapeutic procedures and new technologies</i> | 87-99, 00 | 203.2 |

2. The NCHS use rates were multiplied by the 2017-2021 Central Snohomish Planning Area population forecasts (see Exhibit 11), and then divided by 10,000 in order to forecast Planning Area resident ambulatory surgeries by procedure type, by year. Table 11 includes these procedure estimates for the planning area.

**Application Table 11
Central Snohomish County Planning Area Ambulatory Surgery Forecasts**

| Procedure Description (ICD9-CM Code) | Utilization Rate | 2018 | 2019 | 2020 |
|---|-------------------------|-------------|-------------|-------------|
| <i>Operations on the Nervous System</i> | 107.2 | 3,435 | 3,476 | 3,518 |
| <i>Operations on the Endocrine System</i> | 11.5 | 368 | 373 | 377 |
| <i>Operations on the Eye</i> | 237.6 | 7,613 | 7,703 | 7,797 |
| <i>Operations on the Ear</i> | 37.3 | 1,195 | 1,209 | 1,224 |
| <i>Operations on the Nose, Mouth, and Pharynx</i> | 96.0 | 3,076 | 3,112 | 3,150 |
| <i>Operations on the Respiratory System</i> | 14.9 | 477 | 483 | 489 |
| <i>Operations on the Cardiovascular System</i> | 46.1 | 1,477 | 1,495 | 1,513 |
| <i>Operations on the Digestive System</i> | 483.3 | 15,486 | 15,669 | 15,860 |
| <i>Operations on the Urinary System</i> | 59.6 | 1,910 | 1,932 | 1,956 |
| <i>Operations on the Male Genital Organs</i> | 21.2 | 341 | 345 | 349 |

| Procedure Description (ICD9-CM Code) | Utilization Rate | 2018 | 2019 | 2020 |
|---|-------------------------|---------------|---------------|---------------|
| <i>Operations on the Female Genital Organs</i> | 83.7 | 1,335 | 1,351 | 1,368 |
| <i>Operations on the Musculoskeletal System</i> | 266.4 | 8,536 | 8,631 | 8,742 |
| <i>Operations on the Integumentary System</i> | 120.1 | 3,848 | 3,894 | 3,941 |
| <i>Miscellaneous diagnostic and therapeutic procedures and new technologies</i> | 203.2 | 6,511 | 6,588 | 6,668 |
| Total Planning Area Cases | | 55,611 | 56,268 | 56,953 |

3. A market share figure was applied to each procedure code group based on current and planned surgeries. These market share figures are principally based on the existing subspecialty expertise of Proliance physicians. They are also based on subspecialties of other area physicians who would be expected to utilize the ASF if available. Table 12 below provides these market share figures. As noted in Table 12, in some cases the ASF would perform small volumes of ambulatory surgeries in certain of the procedure code groups listed in the NCHS analysis. In other procedure groups, such as such as respiratory, cardiovascular surgeries, or "miscellaneous diagnostic and therapeutic procedures and new technology" procedures (ICD-9 procedure codes 87-99, 00), it would not perform any surgeries.

Table 12 indicates that, in general, in most all other procedure code groups, the market share figures begin with very small values, such as five percent for operations of the endocrine system, or one percent for operations of the nervous system. However, in other cases, such as operations on the musculoskeletal system, EBJ is projected to have a larger share of the market to reflect Proliance existing operations. Again, Proliance's existing facility, EBJ, currently provides orthopedic and pain management surgeries and procedures, but it is anticipated, once CON-approved, EBJ will also provide digestive, endocrine, ENT, and plastic surgeries as non-Proliance physicians gain access to EBJ. Table 12 demonstrates projected growth of the ASF market share figures is very modest over time.

**Application Table 12
EBJ Market Share Assumptions**

| Procedure Description (ICD9-CM Code) | 2017 | 2018 | 2019 | 2020 |
|---|-------------|-------------|-------------|-------------|
| Market Share Growth | | 5.0% | 5.0% | 4.0% |
| <i>Operations on the Nervous System</i> | 1.0% | 1.1% | 1.1% | 1.1% |
| <i>Operations on the Endocrine System</i> | 3.0% | 3.2% | 3.3% | 3.4% |
| <i>Operations on the Eye</i> | 0.0% | 0.0% | 0.0% | 0.0% |
| <i>Operations on the Ear</i> | 4.0% | 4.2% | 4.4% | 4.6% |

| Procedure Description (ICD9-CM Code) | 2017 | 2018 | 2019 | 2020 |
|---|-------------|-------------|-------------|-------------|
| <i>Operations on the Nose, Mouth, and Pharynx</i> | 3.0% | 3.2% | 3.3% | 3.4% |
| <i>Operations on the Respiratory System</i> | 0.0% | 0.0% | 0.0% | 0.0% |
| <i>Operations on the Cardiovascular System</i> | 0.0% | 0.0% | 0.0% | 0.0% |
| <i>Operations on the Digestive System</i> | 2.0% | 2.1% | 2.2% | 2.3% |
| <i>Operations on the Urinary System</i> | 3.0% | 3.2% | 3.3% | 3.4% |
| <i>Operations on the Male Genital Organs</i> | 4.0% | 4.2% | 4.4% | 4.6% |
| <i>Operations on the Female Genital Organs</i> | 2.0% | 2.1% | 2.2% | 2.3% |
| <i>Operations on the Musculoskeletal System</i> | 21.9% | 23.0% | 24.1% | 25.1% |
| <i>Operations on the Integumentary System</i> | 4.0% | 4.2% | 4.4% | 4.6% |
| <i>Miscellaneous diagnostic and therapeutic procedures and new technologies</i> | 0.0% | 0.0% | 0.0% | 0.0% |

4. Estimated planning area surgeries were then multiplied by the presumed market share figures for the ASF, yielding forecasted numbers of procedures, by year. These projections are included on the following page in Table 13. Please note that CON approval is assumed to occur by late 2016. Thus, from an operations point of view, year one is 2017, since that is the first complete year after CON approval.

Application Table 13
EBJ Projected Number of Ambulatory Surgeries, by Type

| Procedure Description (ICD9-CM Code) | 2017 | 2018 | 2019 | 2020 |
|---|---------------|---------------|---------------|---------------|
| <i>Operations on the Nervous System</i> | 34 | 36 | 38 | 40 |
| <i>Operations on the Endocrine System</i> | 11 | 12 | 12 | 13 |
| <i>Operations on the Eye</i> | 0 | 0 | 0 | 0 |
| <i>Operations on the Ear</i> | 47 | 50 | 53 | 56 |
| <i>Operations on the Nose, Mouth, and Pharynx</i> | 91 | 97 | 103 | 108 |
| <i>Operations on the Respiratory System</i> | 0 | 0 | 0 | 0 |
| <i>Operations on the Cardiovascular System</i> | 0 | 0 | 0 | 0 |
| <i>Operations on the Digestive System</i> | 306 | 325 | 346 | 364 |
| <i>Operations on the Urinary System</i> | 57 | 60 | 64 | 67 |
| <i>Operations on the Male Genital Organs</i> | 13 | 14 | 15 | 16 |
| <i>Operations on the Female Genital Organs</i> | 26 | 28 | 30 | 31 |
| <i>Operations on the Musculoskeletal System</i> | 1,848 | 1,963 | 2,085 | 2,195 |
| <i>Operations on the Integumentary System</i> | 152 | 162 | 172 | 181 |
| <i>Miscellaneous diagnostic and therapeutic procedures and new technologies</i> | 0 | 0 | 0 | 0 |
| Total EBJ Cases | 2,586 | 2,747 | 2,918 | 3,072 |
| Total Central Snohomish Cases | 54,961 | 55,611 | 56,268 | 56,953 |
| EBJ Market Share | 4.7% | 4.9% | 5.2% | 5.4% |

5. *Table 13 also includes estimated market share of EBJ's projected ambulatory surgeries as a percent of all Central Snohomish Planning Area ambulatory surgeries. This is calculated by dividing Planning Area total cases by the EBJ volumes, as provided in Table 13. These figures demonstrate very modest market share over time.*

The assumptions EBJ used to project revenue, expenses, and net income for the proposed surgery center for projection years 2017-2020 are shown below. [sources: EBJ Application pp35-38, EBJ January 4, 2017 screening response pp10-11]

- *Inflation of gross and net revenues was excluded from the models.*
- *Revenues were calculated using actual revenue statistics from EBJ for orthopedics and adjusted based on revenue statistics from comparable Proliance ASCs for other principal procedure groups included in the model.*
- *Deductions from revenue were calculated based on Proliance payer reimbursement figures, by payer.*
- *Bad debt is assumed constant at 1.5% of gross revenues. That bad debt percentage is based on Proliance actuals as of 2016.*
- *Charity care is assumed constant at 2.5% of gross revenue. It should be noted this figure is consistent with the Puget Sound regional charity care average of 2.5% over the 2012-2014 period.*
- *The payer percentages for both cases and gross revenues, used in Exhibit 16, is provided...below. The payer mix is based on current EBJ*

| Payer | % Total |
|---|----------------|
| <i>Commercial/Healthcare Contractor</i> | <i>51.2%</i> |
| <i>Worker's Comp</i> | <i>33.4%</i> |
| <i>Medicare</i> | <i>12.0%</i> |
| <i>Medicaid</i> | <i>2.0%</i> |
| <i>Self-Pay</i> | <i>1.1%</i> |
| <i>Other Government</i> | <i>0.3%</i> |
| Total | 100.0% |

- *Staffing requirements are based on current (September 2016) FTE counts at EBJ. FTEs were held constant over the forecast period, given the expected modest increase in case volumes and the continued use of the two existing ORs.*
- *Wage and salary figures are specific to each group of FTEs, and are calculated on an hourly basis, based on EBJ 2016 actuals. It is assumed an FTE works 2,080 hours per year.*
- *Non-productive hours are found by multiplying productive hours by 1.12-the non-productive factor is, thus 12%. This is also based on EBJ actuals.*
- *Benefits were calculated as 22% of total wages and salaries, based on EBJ 2016 actuals.*
- *Supplies, purchased services, telephone, IT, advertising, postage, and marketing were calculated on a per case basis, driven off EBJ actuals (2015).*

- Expenses for building maintenance and equipment maintenance and repair were held constant based on EBJ actuals (2015).
- Expenses for leased equipment; building maintenance; malpractice insurance; employee development; dues, memberships and licenses; and employee relations were held constant at EBJ actuals (2015).
- B&O taxes were calculated at 1.6% of net revenue.
- Given the operating suites are already operational, 2015 actual straight-line depreciation expenses have been incorporated into the projections
- Lease expense was calculated off the Lease Agreement (Exhibit 8). It was inflated for 2016 forward, based on the CPI-All Urban, as specified in the Agreement.
- There were also lease fees for storage costs, held constant at EBJ actual (2015).
- There was an overhead allocation of for central business office costs. It was held constant at EBJ actuals (2015)
- Inflation was not included in any operating expense forecasts other than lease fees, noted above.

EBJ’s projected revenue, expenses, and net income for the proposed ASF are shown in Table 13 below.

**Table 13
Projected Revenue and Expenses Years 2017 through 2020**

| | CY2017 (partial year) | CY2018 (year one) | CY2019 (year two) | CY2020 (year three) |
|---------------------------------|----------------------------------|------------------------------|------------------------------|--------------------------------|
| Procedures | 2,586 | 2,747 | 2,918 | 3,071 |
| Net Revenue | \$7,873,306 | \$8,364,644 | \$8,886,643 | \$9,354,542 |
| Total Expenses | \$4,778,052 | \$4,908,210 | \$5,046,337 | \$5,170,615 |
| Net Profit/(Loss) | \$3,095,254 | \$3,456,433 | \$3,840,306 | \$4,183,928 |
| Net Profit/(Loss) per Procedure | \$1,196.93 | \$1,258.26 | \$1,316.07 | \$1,362.40 |

The “Net Revenue” line item is gross patient revenue, minus deductions from revenue for contractual allowances, bad debt, and charity care. The “Total Expenses” line item includes operating expenses, including salaries and wages, benefits, insurance, rentals and leases, corporate allocation, and depreciation.

Public Comments

None

Rebuttal Comments

None

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by EBJ to determine the projected number of procedures and occupancy of the proposed ASF. The

NCHS report used by EBJ to assume surgical use in the planning area is the most recently available utilization survey for outpatient surgery trends in the United States. Furthermore, the volumes projected using these use rates are very close to the volumes supported in the department's numeric need methodology. After reviewing EBJ's utilization assumptions, the department concludes they are reasonable.

EBJ based its revenue and expense assumptions for the on the assumptions listed above, including actual historical figures, as this is an existing facility. This is reasonable.

EBJ provided a lease agreement and an amendment for the site, between Everett Bone & Joint Surgery Center and Pacific Avenue Associates, LLC. The lease commenced on September 1, 2004, and was amended on September 1, 2016. The amendment extended the lease for an additional five years. The lease identifies the roles and responsibilities for each, party. All costs associated with the lease are substantiated in the revenue and expense statement.

EBJ identified the medical director, Dr. Jeff Mason, who is a Proliance surgeon shareholder. The role of medical director is uncompensated, and there is no associated contract. EBJ provided a job description for the medical director, which includes roles and responsibilities for both EBJ and the medical director. [source: EBJ January 4, 2017 screening response p11, May 2, 2017 screening response p2]

The pro forma financial statements show revenues exceeding expenses within the first full year of operation and to continue doing so.

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

Sound Surgeons, PLLC

The Sound Surgeons forecast model uses the following assumptions and methodologies. [source: Sound Surgeons Application pp26-29]

“The context for the utilization forecast for Sound Surgeons ASC includes:

- *growth rate in total population*
- *growth in surgery use rates projected for that total population*
- *relative expansion within the population of age cohorts with higher than average surgery use rates*
- *growth rates in the use of specific surgical specialties and subspecialties of the physicians who will use the surgery center*
- *continuing shift of hospital inpatient surgery to outpatient surgery*
- *continuing shift of hospital outpatient surgery to less expensive outpatient surgery settings.*
- *volume trends in individual surgeons' annual case load as it reflects the maturity of each surgeon's practice.”*

- *“Sound Surgeons ASC aggregate market share is just below 4%.*
- *The Digestive specialty is largest at 6% because the volumes in the existing NWWLS practice will continue to grow.*
- *Five specialty areas have market shares ranging from 2-5%. These reflect specialties of surgeons who have expressed interest in using the ASC once the CON restriction has been removed.*
- *The remaining specialty areas have market shares of 1 %. This reflects use by general surgeons and plastic surgeons whose practices cover a wide range of body systems.”*

Sound Surgeons provided information from local providers who have indicated they would bring additional volumes to the surgery center, below:

“Sound Surgeons has received several requests by area surgeons for use of its existing operating room suites. A number of these surgeons have also provided letters attached as Appendix S1-E. The letters do not reflect all the requests that have been made.

Five of the letters represent six surgeons. The sixth letter is from the Everett Clinic, representing its Surgery Department, including six surgeons who specialize in outpatient surgery. Of the six letters, the estimated approximate annual volume of surgeries would be nearly 2,000 per year.

| <i>Requester</i> | <i>Annual Cases</i> |
|---------------------------------|----------------------------|
| <i>NW Glaucoma and Cataract</i> | <i>1,100</i> |
| <i>Downey Plastic Surgery</i> | <i>48</i> |
| <i>Mill Creek OB/GYN</i> | <i>208</i> |
| <i>Ronald Krueger</i> | <i>300</i> |
| <i>Cascade Surgeons</i> | <i>60</i> |
| <i>Everett Clinic</i> | <i>260</i> |
| <i>Total</i> | <i>1,976</i> |

The total projected utilization of the surgery center is shown on the following page. [source: Sound Surgeons March 13, 2017 screening response Appendix L]

Table 14
Projected Utilization by Year

| Surgical Type | 2018 | 2019 | 2020 |
|----------------------|--------------|--------------|--------------|
| ENT | 75 | 150 | 300 |
| Gastroenterology | 473 | 520 | 572 |
| General Surgery | 78 | 91 | 104 |
| Gynecology | 45 | 50 | 55 |
| Ophthalmology | 500 | 750 | 750 |
| Orthopedics | 11 | 12 | 15 |
| Pain Management | 161 | 178 | 197 |
| Plastic Surgery | 161 | 178 | 197 |
| Podiatry | 12 | 13 | 14 |
| Urology | 12 | 13 | 14 |
| Bariatrics | 467 | 513 | 513 |
| Total | 1,995 | 2,468 | 2,731 |

The assumptions Sound Surgeons used to project revenue, expenses, and net income for the proposed surgery center for projection years 2018-2020 are shown below. [sources: Sound Surgeons March 13, 2017 screening response Appendix L]

- *Revenues were based on historical financials*
- *Deductions from revenue were calculated based research on Medicare and Medicaid reimbursement and historical financials*
- *Bad debt is assumed constant at 2.5% of gross revenues, based on historical financials*
- *Charity care is assumed constant at 1.5% of gross revenue.*
- *The payer mix has been adjusted to account for additional Medicare and Medicaid volumes following CN approval*

| Payer | Historical | Forecast |
|-------------------------|-------------------|-----------------|
| <i>Commercial/Other</i> | 75.6% | 57.0% |
| <i>Medicare</i> | - | 20.0% |
| <i>Medicaid</i> | - | 8.0% |
| <i>Self-Pay</i> | 24.4% | 15.0% |
| Total | 100% | 100% |

- *Staffing requirements are based on current with modest increases as volumes increase*
- *Wage and salary figures are based on historical actuals*
- *Benefits were calculated as 14.10% of total wages and salaries, based on historical actuals.*
- *Expenses are based on historical actuals*
- *Lease expense was calculated off the Lease Agreement (Appendix G), with the ASC responsible for 40% of cost*

Sound Surgeons’ projected revenue, expenses, and net income for the ASF are shown in Table 15 below.

Table 15
Projected Revenue and Expenses Years 2018 through 2020

| | CY2018 (year one) | CY2019 (year two) | CY2020 (year three) |
|---------------------------------|------------------------------|------------------------------|--------------------------------|
| Procedures | 1,995 | 2,468 | 2,731 |
| Net Revenue | \$6,588,828 | \$7,732,094 | \$8,529,215 |
| Total Expenses | \$3,130,736 | \$3,601,682 | \$3,903,092 |
| Net Profit/(Loss) | \$3,458,092 | \$4,130,412 | \$4,626,123 |
| Net Profit/(Loss) per Procedure | \$1,733 | \$1,673 | \$1,693 |

The “Net Revenue” line item is gross patient revenue, minus deductions from revenue for contractual allowances, bad debt, and charity care. The “Total Expenses” line item includes operating expenses, including salaries and wages, benefits, insurance, rentals, and leases.

Public Comments

See public comment provided under WAC 246-310-210(1)

Rebuttal Comments

None

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by Sound Surgeons to determine the projected number of procedures and occupancy of the proposed ASF. The NCHS report is the most recently available utilization survey for outpatient surgery trends in the United States. The adjustments to for an aging population are also reasonable. Furthermore, the volumes projected using these use rates are very close to the volumes supported in the department’s numeric need methodology. In addition to this, Sound Surgeons provided letters from several area surgeons confirming the volumes they would bring to the surgery center following CON approval. After reviewing Sound Surgeons’ utilization assumptions, the department concludes they are reasonable.

Sound Surgeons based its revenue and expense assumptions for the on the assumptions listed above, including actual historical figures, as this is an existing facility. This is reasonable.

Sound Surgeons provided a lease agreement, an extension to the lease, and a document assigning the lease to Sound Surgeons following the change of ownership in 2015. The lease is between Sound Surgeons, PLLC and GIO, Inc. The lease commenced on October 4, 2004, with a term of ten years and two options to renew for an additional five years each. Sound surgeons has already taken the option to renew through 2020. The lease identifies the roles

and responsibilities for each, party. All costs associated with the lease are substantiated in the revenue and expense statement.

Sound Surgeons identified the medical director, Dr. Marc Erlitz, who will provides his services to the surgery center by way of a contract. The role of medical director is uncompensated. The draft contract includes a job description for the medical director, which includes roles and responsibilities for both Sound Surgeons and the medical director. If this application is approved, the department would attach a condition requiring Sound Surgeons to provide the executed version of the contract, consistent with the draft. [source: Sound Surgeons March 13, 2017 screening response p11, Appendix K, May 18, 2017 screening response p2]

The pro forma financial statements show revenues exceeding expenses within the first full year of operation and to continue doing so.

Based on the information above, 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.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

EBJ provided the following statement related to this sub-criterion:

“Since there are no capital costs associated with the project, we would not expect any impact on other health services.” [source: EBJ Application p35]

Public Comments

The department received three letters of support for EBJ's request. Each of the three were signed, but the name of the people providing comments were not legible. In any case, each of the three letters included the following language related to this sub-criterion.

“I understand EBJ has requested CN approval to improve access by other physicians, increase efficiency of this existing facility, given higher volumes will reduce average costs and very importantly, help constrain and/or lower consumer ambulatory surgery costs, given freestanding ASFs have much lower surgical costs in comparison to hospital facilities.”

Rebuttal Comments

None

Department Evaluation

In order to evaluate this sub-criterion, the department performed a calculation of gross revenue per procedure after the project to determine whether the applicant’s projections were reasonable.

Table 16
Department Calculation of Gross Charges per Case

| | 2018 | 2019 | 2020 |
|---------------------------------------|--------------|--------------|--------------|
| Gross Revenue | \$15,981,916 | \$17,264,547 | \$18,173,545 |
| Number of Procedures | 2,881 | 3,159 | 3,325 |
| Gross Revenue (charges) per Procedure | \$5,547.35 | \$5,465.71 | \$5,465.89 |

As shown above, the difference in gross charges year by year is nominal.

Furthermore, there is no capital expenditure associated with this project.

The public comments provided correctly point out that ASFs bill at a lower rate than hospitals, resulting in lower charges.

Based on the above information, the department concludes that the establishment of Everett Bone and Joint Surgery Center as a CN-approved ASF would likely not have an unreasonable impact on the costs and charges for healthcare services in the Central Snohomish secondary service planning area. **This sub-criterion is met**

Sound Surgeons, PLLC

“The proposed project presents the opportunity to contain capital costs for health care in the Central Snohomish Planning Area. Given the limited access to dedicated outpatient surgery to the population, making an existing facility available to the full range of patient types will be a very cost-effective way to expand access to additional surgical services.”

“Since NWWLS is already operating profitably, the addition of other types of surgery to the workload will spread fixed costs over a larger patient volume. This will result in overall reduction in operating costs per case.

“As federal payment to ASC’ s moves toward Value-Based Purchasing, the increased volumes at Sound Surgeons resulting from this project will allow all participating surgeons to collaborate with Sound Surgeons to develop Value-Based pricing and offer it to the market.”

[source: Sound Surgeons Application p34]

Public Comments

Two of the letters of support for Sound Surgeons’ project speaks directly to this sub-criterion:

Ronald Krueger, MD

“In my 23-year career serving Snohomish County and the patients within, my patients have consistently done better in ambulatory surgery centers than in the hospital setting. For many patients, it is simply a cost issue where the costs are reduced to both the patients and their insurance. In the climate of escalating patient responsibility, patients are becoming increasingly aware of this. In addition, the efficiency of ambulatory surgery centers make much better use of my time.”

Dan Downey, MD – Downey Plastic Surgery

“The benefit to loosening Certificate of Need limitations for the Ambulatory Surgery Center at Northwest Weight Loss Surgery is that the scope of practice of the ASC will be more broad, which will improve utilization of the facility, thus multiplying its value to the community.”

Rebuttal Comments

None

Department Evaluation

In order to evaluate this sub-criterion, the department performed a calculation of gross revenue per procedure after the project to determine whether the applicant’s projections were reasonable.

**Table 17
Department Calculation of Gross Charges per Case**

| | 2018 | 2019 | 2020 |
|---------------------------------------|--------------|--------------|--------------|
| Gross Revenue | \$12,914,288 | \$15,386,177 | \$16,987,985 |
| Number of Procedures | 1995 | 2468 | 2731 |
| Gross Revenue (charges) per Procedure | \$6,473.33 | \$6,234.27 | \$6,220.43 |

As shown above, the difference in gross charges drops after year one, and then is nominal thereafter.

Furthermore, there is minimal capital expenditure associated with this project, and it is solely related to equipment purchases. The public comments provided correctly point out that ASFs bill at a lower rate than hospitals, resulting in lower charges. They also speak to the effective use of existing resources at the facility.

Based on the above information, the department concludes that the expansion of services at the Sound Surgeons ASF would likely not have an unreasonable impact on the costs and charges for healthcare services in the Central Snohomish secondary service planning area.

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.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

"There are no estimated capital expenditures associated with the project. These operating suites are already fully built-out and operational." [source: EBJ Application p35]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As stated above, there are no capital expenditures associated with this project. Therefore, this sub-criterion is not applicable for EBJ.

Sound Surgeons, PLLC

"Upon CON approval, NWWLS is prepared to use existing funds from its established reserves for the project costs." [source: Sound Surgeons Application p34]

Sound Surgeons provided a letter of financial commitment and documentation of the availability of their cash reserves. [source: Sound Surgeons March 13, 2017 screening response Appendix C, Appendix D]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As stated above, Sound Surgeons intends to finance their equipment purchases using existing financial resources. The balance sheet provided by Sound Surgeons shows total current cash available from checking and savings at \$2,330,267.25. The estimated capital expenditure of \$100,000 represents approximately 4% of this total. The department concludes that this financing method is appropriate. **This sub-criterion is met.**

C. STRUCTURE AND PROCESS (QUALITY) OF CARE (WAC 246-310-230)

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center met the applicable structure and process (quality) of care criteria in WAC 246-310-230.

Sound Surgeons, PLLC

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Sound Surgeons, PLLC met the applicable structure and process (quality) of care criteria in WAC 246-310-230.

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

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 [full time equivalents] 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.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“This facility offers attractive work environment, hours, and pay, attracting local residents who are highly qualified. We do not expect any staffing challenges that would disrupt our ability to achieve our goals and objectives relative to Everett Bone & Joint Surgery Center.”
[source: EBJ Application p41]

“FTEs were held constant over the forecast period, given the expected modest increase in case volumes and the continued use of the two existing ORs.” [source: EBJ Application p37]

EBJ provided the following table, showing that staffing will remain consistent after project completion:

Table 18
EBJ Current and Projected FTEs

| | 2017 (partial year) | 2018 (year one) | 2019 (year two) | 2020 (year three) |
|------------------------|--------------------------------|----------------------------|----------------------------|------------------------------|
| Business Office Staff | 1.0 | 1.0 | 1.0 | 1.0 |
| Reception | 1.5 | 1.5 | 1.5 | 1.5 |
| Scrub Technicians | 2.0 | 2.0 | 2.0 | 2.0 |
| Registered Nurses | 11.0 | 11.0 | 11.0 | 11.0 |
| Instrument Technicians | 2.5 | 2.5 | 2.5 | 2.5 |
| Materials Management | 1.0 | 1.0 | 1.0 | 1.0 |
| Manager | 1.0 | 1.0 | 1.0 | 1.0 |
| Total FTEs | 20.0 | 20.0 | 20.0 | 20.0 |

In addition, Proliance identified the medical director as Dr. Jeff Mason.

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As shown above, the ASF is already fully staffed, and no staffing changes are expected as a result of this project.

Information provided in the application demonstrates that EBJ is a well-established provider of healthcare services in the Central Snohomish secondary service planning area. EBJ is currently operational with two operating rooms. Information within the application supports that utilization has been consistent at this surgery center since 2011.

Given that the facility is already operational with staff in place, the department concludes that EBJ has the ability to staff the ASF.

Based on the above information, the department concludes that a sufficient supply of qualified staff is available for this project. **This sub-criterion is met.**

Sound Surgeons, PLLC

Sound Surgeons provided the following statement related to this sub-criterion:

“NWWLS has a successful staff recruitment and retention program and has not experienced problems with the availability of qualified clinical and management personnel.” [source: Sound Surgeons Application p37]

Sound Surgeons also provided the table below, showing current staffing as well as staffing throughout the projection period. [source: Sound Surgeons March 13, 2017 screening response Appendix L]

Table 19
Sound Surgeons ASF Current and Projected FTEs

| | 2017 | 2018 | 2019 | 2020 |
|------------------------|-------------|-------------|-------------|-------------|
| Office/Admin | 2.9 | 3.5 | 3.5 | 3.5 |
| Scrub Technicians | 1.3 | 1.7 | 1.9 | 2.1 |
| Instrument Technicians | 1.0 | 1.0 | 1.2 | 1.5 |
| Registered Nurses | 5.0 | 5.3 | 6.0 | 6.5 |
| Medical Assistants | 2.0 | 2.0 | 2.0 | 2.0 |
| Manager | 1.0 | 1.0 | 1.0 | 1.0 |
| Total FTEs | 13.2 | 14.5 | 15.6 | 16.6 |

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As shown above, the ASF is already fully staffed, and moderate and gradual staffing changes are expected as a result of this project, with a total increase of 3.4 FTEs over 4 years.

Information provided in the application demonstrates that Sound Surgeons is a well-established provider of healthcare services in the Central Snohomish secondary service planning area. Sound Surgeons is currently operational with two operating rooms. Information within the application supports that utilization has consistently grown at this surgery center since 2012.

Given that the facility is already operational with the majority of necessary staff in place, the department concludes that Sound Surgeons has the ability to staff the ASF.

Based on the above information, the department concludes that a sufficient supply of qualified staff is available for this project. **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) as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“EBJ currently provides orthopedic surgeries and related care and MRI services. Our services include all necessary resources to diagnose and treat orthopedic outpatient cases, including surgery. As an existing facility since 2001, we have a well-known presence in the lower Snohomish County healthcare system. Our existing contracts with other local providers sufficiently support the services offered at EBJ and meet all demands of patient care.” [source: EBJ Application p41]

EBJ also provided a list of their current vendors.

Public Comments

None

Rebuttal Comments

None

Department Evaluation

EBJ has been operational since 2001. All ancillary and support services are already in place. EBJ does not expect the existing ancillary and support agreements to change as a result of this project.

Based on the information reviewed in the application, the department concludes that there is reasonable assurance that EBJ will continue to maintain the necessary relationships with ancillary and support services if this project is approved. **This sub-criterion is met.**

Sound Surgeons, PLLC

“NWWLS opened in August of 2005 and has a working history of established relationships with ancillary and support services. Within its ASC facility, NWWLS provides pre-op consultation, laparoscopic bariatric surgery, post-op follow up, and an ASC developed solely for the bariatric patient.

NWWLS has relationships for ancillary services for lab work, bio med services, pathology and a pharmacy consultant.

The anesthesiologist group at NWWLS has dedicated their practice to outpatient surgery. The anesthesia group were pioneers in the ambulatory surgery center arena, having started the first ASC in the State of Washington. This group has also worked with NWWLS surgeons since 2003 and has become the leaders in bariatric anesthesia for gastric banding.

Other ancillary and support services are primarily provided by outside vendors. A list of vendors by major category, please see Appendix N.” [source: Sound Surgeons Application p37]

Appendix N contains a list of over 80 vendors for assorted ancillary services.

Public Comments

None

Rebuttal Comments

None

Department Evaluation

NWWLS has been operational since 2005. All ancillary and support services are already in place. Sound Surgeons does not expect the existing ancillary and support agreements to change as a result of this project.

Based on the information reviewed in the application, the department concludes that there is reasonable assurance that Sound Surgeons will continue to maintain the necessary relationships with ancillary and support services if this project is approved. **This sub-criterion is met.**

- (3) *There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.* WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“Proliance does not have any such convictions as defined in WAC 246-310-230 (5) (a).” [EBJ Application p42]

“All Proliance facilities meet all relevant State and Federal rules and regulations. Everett Bone & Joint Surgery Center abides by all current laws, rules and regulations. All physicians performing surgeries at this ASC are credentialed and privileged as a member of one or more of the Proliance medical staffs and are all in good standing within the medical community.” [EBJ Application p42]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As a part of this review, the department must conclude that the proposed services provided by an applicant would be provided in a manner that ensures safe and adequate care to the public.⁴ To accomplish this task, the department reviewed the quality of care and compliance history for the healthcare facilities owned, operated, or managed by Proliance Surgeons, Inc., P.S.

Washington State Survey Data

Proliance Surgeons currently owns or operates 16 ambulatory surgical facilities in Washington State. Of these 16, all but two are accredited by either the Joint Commission⁵, the

⁴ WAC 246-310-230(5)

⁵ *“An independent, not-for-profit organization, The Joint Commission accredits and certifies nearly 21,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.”* [source: Joint Commission website]

Accreditation association for Ambulatory Health Care⁶, or American Association for Accreditation of Ambulatory Surgery Facilities⁷.

Using its own internal database, the department reviewed historical survey data for healthcare facilities associated with Proliance. The survey data is summarized by facility in the table below. [source: EBJ Application p10, DOH Office of Investigations and Inspections]

Table 20
Proliance Facilities

| Facility Name | License Number | Surveys Since 2014 | Substantially Compliant? |
|--|-----------------|--------------------|--------------------------|
| Cascade Ear Nose and Throat Surgery Center | ASF.FS.60442571 | 1 | Yes |
| Edmonds Center for Outpatient Surgery | ASF.FS.60101035 | 0 | Yes |
| Everett Bone and Joint Surgery Center* | ASF.FS.60101038 | 0 | Yes |
| Lakewood Surgery Center | ASF.FS.60101047 | 1 | Yes |
| Plastic and Reconstructive Surgeons ASC | ASF.FS.60572737 | 2 | Yes |
| Proliance Orthopedic Associates ASC | ASF.FS.60101083 | 2 | Yes |
| Proliance Eastside Surgery Center | ASF.FS.60101042 | 2 | Yes |
| Proliance Highlands Surgery Center | ASF.FS.60101051 | 1 | Yes |
| Puyallup Ambulatory Surgery Center | ASF.FS.60534460 | 1 | Yes |
| Seattle Orthopedic Center – Surgery | ASF.FS.60101053 | 1 | Yes |
| Seattle Surgery Center | ASF.FS.60101072 | 0 | Yes |

⁶ “AAAHC accreditation means that the organization participates in on-going self evaluation, peer review and education to continuously improve its care and services. The organization also commits to a thorough, on-site survey by AAAHC surveyors, who are themselves health care professionals, at least every three years.” [source: AAAHC website]

⁷ “AAAASF accreditation programs help facilities demonstrate a strong commitment to patient safety, standardize quality, maintain fiscal responsibility, promote services to patients and collaborate with other health care leaders. AAAASF provides official recognition to facilities that have met 100% of its high standards. Accreditation assures the public that patient safety is top priority in a facility. An accredited facility must comply with the most stringent set of applicable standards available in the nation and meet our strict requirements for facility directors, medical specialist certification and staff credentials. It also must pass a thorough survey by qualified AAAASF surveyors. An accredited facility is re-evaluated through a self-survey every year, and an onsite survey every three years. Facilities must continuously comply with all AAAASF accreditation standards between surveys. Upon approval, an accredited facility must prominently display its accreditation certificate in public view. An accredited facility must be fully equipped to perform procedures in the medical specialties listed on its accreditation application.” [source AAAASF website]

| Facility Name | License Number | Surveys Since 2014 | Substantially Compliant? |
|--|-----------------|--------------------|--------------------------|
| Skagit Northwest Orthopedic ASC at Continental | ASF.FS.60442605 | 0 | Yes |
| Skagit Northwest Orthopedic ASC at LaVenture | ASF.FS.60101074 | 1 | Yes |
| Southwest Seattle Ambulatory Surgery Center | ASF.FS.60101076 | 1 | Yes |
| The Retina Surgery Center | ASF.FS.60278648 | 2 | Yes |
| The Surgery Center at Rainier | ASF.FS.60101080 | 1 | Yes |

* - Applicant

As shown above, all Proliance facilities are substantially compliant.

In addition to the facilities identified above, the department also reviewed the compliance history of the physicians associated with EBJ. The table below shows the ten physicians and their credential status. [source: EBJ Application Exhibit 3, Medical Quality Assurance Commission]

Table 21
EBJ Physicians

| Name | Credential Number | License Status |
|---------------------|-------------------|----------------|
| Howard Barker, MD | MD00039924 | Active |
| Ralph Haller, MD | MD00023815 | Active |
| Todd Havener, MD | MD00043648 | Active |
| Bill Huang, MD | MD00047621 | Active |
| Peter Kinahan, MD | MD00039462 | Active |
| Kenneth Lin, MD | MD00047536 | Active |
| Jeff Mason, MD | MD00030797 | Active |
| Douglas Nowak, MD | MD60191176 | Active |
| John Pryor, MD | MD60170138 | Active |
| Lawrence Fowler, MD | MD00043158 | Active |

As shown above, all physicians associated with EBJ have active credentials in good standing. Based on the information above, the department concludes that EBJ demonstrated reasonable assurance that the facility would continue to operate in compliance with state and federal requirements if this project is approved. **This sub-criterion is met.**

Sound Surgeons, PLLC

“Through its licensing, accreditation and certifications, NWWLS assures the community of the clinical quality of its services and its conformance to all legal requirements:

- *NWWLS ASC is a current licensed ambulatory surgery center (ASC) by the State of Washington with the effective date of July 2nd 2015 expiration date of July 1st 2018.*

- *NWWLS ASC is a Medicare-certified facility and accredited by Accreditation Association for Ambulatory Health Care, Inc. (AAAHC). With accreditation term of February 24th 2016 expiring February 23rd 2019.*
- *In addition, NWWLS is certified as a Metabolic and Bariatric Surgery Accreditation and Quality Improvement Program (MBSAQIP) by the American College of Surgeons as an accredited center.”*

“There is no such history [of actions noted in CN rules and regulations WAC 246-310-230(5)(a)].” [source: Sound Surgeons Application p38]

Public Comments

The department received two letters of support for Sound Surgeons that spoke directly to the quality of care provided at NWWLS:

Ronald Krueger, MD

“In my 23-year career serving Snohomish County and the patients within, my patients have consistently done better in ambulatory surgery centers than in the hospital setting.... A unique ability of NWLS/Sound Surgeons ambulatory center is their experience with the morbidly obese. Unfortunately, many of my severe obstructive sleep apnea patients fall into this category. As such, they could use a well qualified ambulatory center that had experience in dealing with the morbidly obese that treats them with safety and with respect.”

Dan Downey, MD – Downey Plastic Surgery

“The physician leadership at Northwest Weight Loss Surgery have indicated their willingness to accept my application to their medical staff. After touring their two-room Medicare -C facility, I am excited to seek privileges to operate there. They have a modern, immaculately-maintained, full-featured surgery center with well-trained staff and excellent clinical outcomes.

“I am also a Medicare ASC surveyor (AAAASF). The physicians at Northwest Weight Loss Surgery should be proud of their facility and clinical and administrative staff.”

Rebuttal Comments

None

Department Evaluation

Northwest Weight Loss Surgery Center has been in operation for many years, and Sound Surgeons has been the owner of this surgery center since 2015. As a part of this review, the department must conclude that the proposed services provided at the ASF would be provided in a manner that ensures safe and adequate care to the public.⁸ To accomplish this task, the

⁸ WAC 246-310-230(5)

department reviewed the quality of care compliance history for the facility, shown below.
 [source: DOH Office of Investigations and Inspections]

Table 22
NWWLS Compliance

| Facility Name | License Number | Surveys Since 2014 | Substantially Compliant? |
|--------------------------------------|-----------------|--------------------|--------------------------|
| Northwest Weight Loss Surgery Center | ASF.FS.60534516 | 1 | Yes |

In addition to the facilities identified above, the department also reviewed the compliance history of the physicians, ARNP, and PA associated with NWWLS. The table below shows the fourteen staff and their credential status. [source: Sound Surgeons March 13, 2017 screening response p2, Medical Quality Assurance Commission, Nursing Quality Assurance Commission]

Table 23
NWWLS Physicians

| Name | Credential Number | License Status |
|-------------------------|-------------------|----------------|
| Robert Michaelson, MD | MD00039621 | Active |
| Devorah Alana Chock, MD | MD00018985 | Active |
| Kevin Montgomery, MD | MD00026324 | Active |
| Joshua Cooper, MD | MD60003034 | Active |
| Scott Sattler, MD | MD00037832 | Active |
| Marc Erlitz, MD | MD00013191 | Active |
| Ron Abrams, MD | MD00011345 | Active |
| Douglas Williams, MD | MD00028582 | Active |
| Mary Dion, MD | MD00019339 | Active |
| Michelle Marshall, MD | MD60407938 | Active |
| Michael Hom, MD | MD00023238 | Active |
| Michael Flacco, MD | MD00017352 | Active |
| Karin Heusted, ARNP | AP30005606 | Active |
| Kim Boyce, PA | PA60536597 | Active |

As shown above, all staff associated with NWWLS have active credentials in good standing. Based on the information above, and supportive public comments, the department concludes that NWWLS demonstrated reasonable assurance that the facility would continue to operate in compliance with state and federal requirements if this project is approved. **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 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.

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“EBJ currently promotes continuity of care, since it offers all elements of outpatient orthopedic care, including diagnoses, treatment, and, if necessary, outpatient surgery. CON approval will allow other, non-Proliance physicians and their patients this same access, which will reduce existing fragmentation of services.

The project includes EBJ's two-suite operating room facility as a CON-approved ASF, allowing for increased access to the existing facility. Further, CON approval is beneficial for patients in that assurance of greater access and high quality care is improved.

Everett Bone & Joint Surgery Center is working with the only local inpatient health provider for inpatient care, as required. Please see Exhibit 18, which includes a copy of the transfer agreement with Providence Regional Medical Center Everett.” [source: EBJ Application p41]

Public Comments

The department received three letters of support for EBJ's request. Each of the three were signed, but the name of the people providing comments were not legible. In any case, each of the three letters included the following language related to this sub-criterion.

“Approval will create an ambulatory surgery facility that will be open to all physicians in the community who are credentialed and privileged as a member of Proliance's medical staff, improving local access for other local surgeons and their patients. These are all excellent reasons for approval.”

Rebuttal Comments

None

Department Evaluation

The letters sent by area physicians provide valuable perspective related to this sub-criterion. The letters express the importance of having available ORs for the full spectrum of surgical services. No letters of opposition were submitted for this project.

Information in the application demonstrates that as a long-time provider of outpatient surgical services, EBJ has the infrastructure in place continue operations and to increase the scope of services.

EBJ provided information within the application to demonstrate it intends to continue existing relationships, and that these relationships are adequate to support the increase in services to be provided. This includes the executed transfer agreement between EBJ and Providence

Regional Medical Center Everett. Based on the information provided in the application, the department concludes there is reasonable assurance that approval of this this project would continue to promote continuity in the provision of health care services in the community. **This sub-criterion is met.**

Sound Surgeons, PLLC

“Evergreen Hospital Medical Center in Kirkland provides inpatient backup care for NWWLS patients in the unlikely event that a patient would require hospitalization. EvergreenHospital Medical Center is an inpatient hospital which provides bariatric surgery services and is certified as a Center of Excellence by the American Society for Metabolic and Bariatric Surgery. NWWLS has a transfer agreement with Evergreen Hospital Medical Center in the event of need for a patient hospitalization.

“The advantage of a dedicated, physician-owned outpatient surgery facility is that patient visits and surgery visits can frequently take place at the same location. Even when the surgeon's office is not co-located with the surgery center, the surgeon's office staff is small enough to track each patient through the initial visit, to surgery and back to post-surgical visit.” [soure: Sound Surgeons Application pp37-38]

Public Comments

Out of the letters of support provided for Sound Surgeons, 3 spoke directly to this sub-criterion:

Jeffrey Boggs, MD – Western Washington Medical Group

“Allowing this Surgery Center to have a CON would allow other surgeons in the community to utilize this facility and therefore would be of benefit for the medical community in general.”

Erica Peavey, MD – The Everett Clinic

“The Everett Clinic's point of view is that options for ambulatory surgery serve the interest of patients, providers and the community. TEC favors the utilization of existing resources, when available, over building additional facilities.”

M C Whitman III, MD – Cascade Surgeons

“Ambulatory centers are less costly to our patients and their insurers than our existing hospital operating facilities. Using existing facilities has been difficult for us to arrange because we are not part of a multispecialty group. Independent certified freestanding ambulatory care facilities such as North West Loss Surgical Ambulatory Care Unit would be ideal to meet our needs and the needs of our patients.”

Rebuttal Comments

None

Department Evaluation

The letters sent by area physicians provide valuable perspective related to this sub-criterion. The letters express the importance of having available ORs for the full spectrum of surgical services. No letters of opposition were submitted for this project.

Information in the application demonstrates that as a long-time provider of outpatient surgical services, Sound Surgeons has the infrastructure in place continue operations and to increase the scope of services.

Sound Surgeons provided information within the application to demonstrate it intends to continue existing relationships, and that these relationships are adequate to support the increase in services to be provided. This includes the executed transfer agreement between Sound Surgeons and EvergreenHealth Medical Center. Based on the information provided in the application, the department concludes there is reasonable assurance that approval of this project would continue to promote continuity in the provision of health care services in the community. **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 met for both applicants.

D. COST CONTAINMENT (WAC 246-310-240)

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center met the applicable cost containment criteria in WAC 246-310-240.

Sound Surgeons, PLLC

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that Sound Surgeons, PLLC met the applicable cost containment criteria in WAC 246-310-240.

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

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

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, in step two, the department assesses the other options considered by the applicant. If the department determines the proposed project is better or equal to other options considered by the applicant and the department has not identified any other better options this criterion is determined to be met unless there are multiple applications.

If there are multiple applications, the department's assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type in Step three. The superiority criteria are objective measures used to compare competing projects and Page 187 of 209 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 type superiority criteria as directed by WAC 246-310-200(2) (a)(i), then the department would use 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

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center met the applicable review criteria under WAC 246-310-210 through 230. Their application will be evaluated further under Steps Two and Three.

Sound Surgeons, PLLC met the applicable review criteria under WAC 246-310-210 through 230. Their application will be evaluated further under Steps Two and Three.

Step Two

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“Everett Bone & Joint is requesting certificate of need approval of its existing two-OR ambulatory surgery center to convert it to a CON-approved ASF. Our project will help address net need for outpatient operating rooms in the Central Snohomish Planning Area by providing non-Proliance physicians and their patients' access to our ambulatory surgical facility. This will expand the volume of cases and thus increase efficiency at the ASF, as well as expand capacity of available, lower cost, outpatient ORs for physicians and their patients.

In deciding to submit this application, EBJ explored the following options: (1) no project-continuing as a licensed, certificate of need exempt facility, (2) the requested project-seeking certificate approval for a 2-OR facility, and (3) seeking certificate of need approval for a 4-OR facility.” [source: EBJ Application p43]

The “no project” option was ruled out for the following reasons. [source: EBJ Application pp43-45]

“There is no advantage to continuing as-is in terms of improving access.”

“The principal disadvantage with maintaining the current situation is driven by projected shortages of outpatient ambulatory surgery suites. Over time, as access is constrained, there will be adverse impacts on quality of care if Planning Area physicians and their patients either have to wait for surgical capacity or travel to other locations outside the Planning Area, assuming this is an option.”

The 4-OR facility was ruled out for the following reasons. [source: EBJ Application pp43-45]

“A 4-OR facility would require development of a new site that would lead to delays in access for current services needed by Planning Area residents.”

“A new site and a new facility would be required to accommodate the additional 2 ORs. This would require substantial capital expenditures.”

Public Comments

Sound Surgeons provided the following comments related to the EBJ application:

“In its application and related materials, Proliance states the ASC need methodology shows there is need for all three proposed projects. Sound Surgeons agrees with this finding. This is particularly true since the Proliance need methodology shows Sound Surgeons 2-OR capacity as already existing and with no mention of – or calculation adjusting for – the condition limiting it to bariatric surgeries”

Rebuttal Comments

None

Department Evaluation

Information provided in the application demonstrates that the decision to request CN approval rather was the best available alternative for EBJ. EBJ provided rationale for foregoing the “no project” option as well as for not expanding the OR count.

The department did not identify any alternative that was a superior alternative in terms of cost, efficiency, or effectiveness that is available or practicable.

For the EBJ application, the department moves on to step three.

Sound Surgeons, PLLC

“Alternatives [to the requested project] considered include:

- 1) No action or postponing action*
- 2) Adding OR's*

3) *Expanding permitted services but still with restrictions*” [source: Sound Surgeons Application pp39-40]

The “no action” option was ruled out for the following reason:

“The disadvantages of "taking no action" or "postponing action" outweighed its advantages. While "no action" was legally feasible and had no capital or staffing impacts, it was not the best alternative because it neither responds to physician and community need nor improves the cost effectiveness of the existing operation. In particular, taking no action means that NWWLS cannot accommodate current requests from area surgeons to bring their surgery patients to the facility.”

The “adding ORs” option was ruled out for the following reasons:

“NWWLS considered requesting an expansion of the existing number of operating rooms in the facility. Currently, bariatric endoscopic procedures are performed by Sound Surgeons bariatric surgeons in one of the same rooms as are surgeries. The existing facility is large enough to accommodate such a procedure room; it would be a cost effective alternative and would involve very little capital expense. There would be little staffing impact of this alternative.

“On the other hand, until NWWLS expands to serving the full range of community surgeons and their patients, the need for adding a separate procedure room will not be clear. Taken as a whole, the alternative was rejected for now, pending removal of the existing CON condition and assessment of resulting workload on the existing 2 operating rooms.”

The expansion option was ruled out for the following reasons:

“NWWLS briefly considered whether removal of the current limitation on clinical scope might reasonably be replaced with a new but broader limit. Such a request responded to none of the criteria so it was rejected without further analysis.”

Public Comments

None

Rebuttal Comments

None

Department Evaluation

Information provided in the application demonstrates that the decision to request CN approval rather was the best available alternative for Sound Surgeons. EBJ provided rationale for foregoing the “no project” option as well as for ruling out a CN application with a narrower scope of services or limitations.

The department did not identify any alternative that was a superior alternative in terms of cost, efficiency, or effectiveness that is available or practicable.

For the Sound Surgeons application, the department moves on to step three.

Step Three

WAC 246-310 does not contain service or facility-specific criteria for determining superiority between ASF applications in a concurrent review. Each of the applications met the applicable review criteria thus far. Furthermore, there is numeric need under WAC 246-310-270(9) to support the approval of both applications. Both applicants provided rationale as to why their project would be superior, in the event that the numeric need was not sufficient to approve more than one project. As there is numeric need for both, those comments are not relevant and will not be evaluated. Therefore, the department will not identify a superior applicant.

For both applicants, 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;*

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

This application does not involve construction. This sub-criterion does not apply to the EBJ application.

Sound Surgeons, PLLC

This application does not involve construction. This sub-criterion does not apply to the Sound Surgeons application.

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

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

Department Evaluation

This application does not involve construction. This sub-criterion does not apply to the EBJ application.

Sound Surgeons, PLLC

Department Evaluation

This application does not involve construction. This sub-criterion does not apply to the Sound Surgeons application.

- (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.*

Proliance Surgeons, Inc. P.S., dba Everett Bone & Joint Surgery Center

“An important benefit of the Requested Project is the expansion of access for non-Proliance physicians and their patients, providing greater access to lower cost care. Without such access, ambulatory surgeries would be limited to hospital-based ambulatory surgery facilities that are higher cost.

It seemed the logical choice to apply for a CON for multiple types of ambulatory surgeries to allow the increasing number of non-Proliance physicians moving services into the planning area to operate on patients locally in our facility, providing access to a lower cost, high quality ASF rather than the more expensive option of hospital-based ambulatory surgery.” [source: EBJ Application p46]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

This project has the potential to continue improving the delivery of outpatient services to the residents of Central Snohomish County and surrounding communities with the continued operation of EBJ, but as a CN-approved facility. The department is satisfied the project is appropriate and needed. **This sub-criterion is met.**

Sound Surgeons, PLLC

“Adding workload to an existing facility allows NWWLS to optimize the efficiency of its existing staff and only requires additional hiring to respond to variable demand.

The lower overall cost of surgeries in an outpatient setting saves money in the health care insurance premium that can be used for other services needed by the insured and by the community.” [source: Sound Surgeons Application p40]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

This project has the potential to continue improving the delivery of outpatient services to the residents of Central Snohomish County and surrounding communities with the continued operation of the Sound Surgeons ASF, but as a CN-approved facility without the scope constraints outlined in CN #1435. The department is satisfied the project is appropriate and needed. **This sub-criterion is met.**



**APPENDIX A
ASC Need Methodology
Central Snohomish County**

CN APP NO.:17-07, 17-24

| | | | | | | | | | | |
|-------------------------------|---------|---|--------|-----------|-------------------------------|------------------------------|----------------------|--|--|--|
| Service Area Population: 2020 | 328,159 | Claritas | 0-85+ | | | | | | | |
| Surgeries @ 93.668/1,000: | 30,738 | | | | | | | | | |
| a.i. | 94,250 | minutes/year/mixed-use OR | | | | | | | | |
| a.ii. | 68,850 | minutes/year/dedicated outpatient OR | | | | | | | | |
| a.iii. | 4 | dedicated outpatient OR's x 68,850 minutes = | | 275,400 | minutes dedicated OR capacity | 5,052 | Outpatient surgeries | | | |
| a.iv. | 22 | mixed-use OR's x 94,250 minutes = | | 2,073,500 | minutes mixed-use OR capacity | 17,672 | Mixed-use surgeries | | | |
| b.i. | | projected inpatient surgeries = | 15,004 | = | 1,760,395 | minutes inpatient surgeries | | | | |
| | | projected outpatient surgeries = | 15,735 | = | 857,672 | minutes outpatient surgeries | | | | |
| b.ii. | | Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's | | | | | | | | |
| | | 15,735 - 5,052 = | | | 10,682 | outpatient surgeries | | | | |
| b.iii. | | average time of inpatient surgeries | | = | 117.33 | minutes | | | | |
| | | average time of outpatient surgeries | | = | 54.51 | minutes | | | | |
| b.iv. | | inpatient surgeries*average time | | = | 1,760,395 | minutes | | | | |
| | | remaining outpatient surgeries(b.ii.)*ave time | | = | 582,272 | minutes | | | | |
| | | | | | 2,342,667 | 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. | | | | | | | | |
| | | 2,073,500 | | | | | | | | |
| | | - 2,342,667 | | | | | | | | |
| | | -269,167 | / | 94,250 | = | -2.86 | | | | |
| 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 | | | | | | | | |
| | | 1,760,395 | | | | | | | | |
| | | - 2,073,500 | | | | | | | | |
| | | (313,105) | / | 94,250 | = | -3.32 | | | | |
| | | divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's | | | | | | | | |
| | | 582,272 | / | 68,850 | = | 8.46 | | | | |



**APPENDIX A
ASC Need Methodology
Central Snohomish County**

CN APP NO: 17-07, 17-24

| Facility | License Number | Zip Code | Special Procedure Rooms | Dedicated Inpatient ORs | Dedicated Outpatient ORs | Mixed Use ORs | Inpatient min/case | Inpatient Cases in Mixed Use ORs | 2015 Inpatient Mins. In Mixed Use ORs | Outpatient Min/Case | Outpatient Cases | Outpatient Mins. | Data Source |
|--|-----------------|----------|-------------------------|-------------------------|--------------------------|---------------|------------------------|----------------------------------|---------------------------------------|-------------------------|------------------|------------------|---------------------------------|
| Providence Regional Medical Center Everett - Colby | HAC.FS.00000084 | 98201 | 3 | 0 | 0 | 13 | 131.0 | 9,849 | 1,290,703 | | | | 2016 survey for 2015 info |
| Providence Regional Medical Center Everett - Pacific | HAC.FS.00000084 | 98201 | 0 | 0 | 0 | 9 | 85.9 | 4,294 | 368,717 | | | | 2016 survey for 2015 info |
| Gateway Surgery Center | ASF.FS.60100914 | 98201 | 0 | 0 | 2 | 0 | | | | 45.0 | 1,633 | 73,485 | 2016 survey for 2015 info |
| Northwest Weight Loss Surgery | ASF.FS.60534516 | 98208 | 0 | 0 | 2 | 0 | | | | 68.9 | 882 | 60,794 | Application 17-24 Table 4 (p22) |
| Everett Bone and Joint Surgery Center | ASF.FS.60101038 | 98201 | 0 | 0 | 2 | 0 | | | | 50.0 | 1,722 | 86,100 | Application 17-07 Table 3 (p12) |
| Kemp Surgery Center | ASF.FS.60100209 | 98201 | 4 | 0 | 4 | 0 | | | | 69.3 | 4,635 | 321,372 | 2016 survey for 2015 info |
| Physicians Eye Surgery Center | ASF.FS.60099809 | 98201 | 0 | 0 | 3 | 0 | | | | 50.0 | 1,500 | 75,000 | ILRS |
| Trask Surgery Center | ASF.FS.60100213 | 98201 | 0 | 0 | 4 | 0 | | | | 43.0 | 4,460 | 191,725 | ILRS (closed in 2016) |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| Totals | | | 7 | 0 | 17 | 22 | 216.9 | 14,143 | 1,659,420 | 326 | 14,832 | 808,476 | |
| | | | | | | | Avg min/case inpatient | | 117.33 | Avg min/case outpatient | | 54.51 | |
| ORs counted in numeric methodology | | | | | 4 | 22 | | | | | | | |
| ILRS: Integrated Licensing & Regulatory System | | | | | | | | | | | | | |
| Population data source: Claritas 2016 | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| Total Surgeries | | | 28,975 | | | | | | | | | | |
| Area population 2015 [0-85+] | | | 309,336 | | | | | | | | | | |
| Use Rate | | | 93.668 | | | | | | | | | | |
| Planning Area projected 0-85+ population Year: 2020 | | | 328,159 | | | | | | | | | | |
| | | | | | | | | | | | | | |
| % Outpatient of total surgeries | | | 51.19% | | | | | | | | | | |
| % Inpatient of total surgeries | | | 48.81% | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |
| | | | | | | | | | | | | | |