



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH  
*Olympia, Washington 98504*

July 30, 2018

CERTIFIED MAIL # 7016 3010 0001 575 1126

Howard Wall, Secretary  
Capella Healthcare, Inc.  
103 Continental Place, #200  
Brentwood, Tennessee 37027

Dear Mr. Wall:

RE: CN Application #18-64 – RCCH Trios Health, LLC

It has been brought to my attention that the conditional approval outlined on pages 17 and 18 of the evaluation for the Certificate of Need application submitted by RCCH Trios Health, LLC omitted a condition. The condition related to the Community Care Agreement. The condition is initially referenced on page 4 of the evaluation and states that submission of an executed copy of the agreement will be a condition to the approval. Enclosed with this letter is a revised pages 17, 18, and 19 of the evaluation with the Community Care Agreement condition included.

For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided RCCH Trios Health, LLC agrees to the following in its entirety.

**Project Description**

This certificate approves the purchase of the Trios Hospital by RCCH Trios Health, LLC. Trios Hospital is currently licensed for 111 beds located at two separate campuses in Kennewick, within Benton County. There is no change in the number of approved beds. A breakdown of beds by campus and type is shown below:

Bed Type	Trios SouthRidge Hospital Number of Licensed Beds
General Medical/Surgical	74
Level II Special Care Nursery	0
<b>Total Licensed Beds</b>	<b>74</b>

Trios Women's & Children's Hospital Number of Licensed Beds
27
10
<b>37</b>

### **Conditions**

1. Approval of the project description as stated above. RCCH Trios Health, LLC further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. RCCH Trios Health, LLC shall finance the project as described in the application.
3. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Master Asset Purchase Agreement. The executed copy must be consistent with the draft agreement provided in the application.
4. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Community Care Agreement. The executed copy must be consistent with the draft agreement provided in the application.
5. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Hospital Facility Lease. The executed copy must be consistent with the draft lease provided in the application.
6. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the MOB (Medical Office Building) Lease. The executed copy must be consistent with the draft lease provided in the application.
7. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the adopted copies of its admissions policy, non-discrimination policy, end-of-life policy, and reproductive health policy. Each of these policies must be consistent with the drafts provided in the application.
8. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the Certificate of Need Program a copy of the charity care policy that has been reviewed and approved by the Charity Care Program within the Department of Health.
9. Trios Health will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health, or any subsequent policies reviewed and approved by the Department of Health. Trios Health will use reasonable efforts to provide charity care in an amount identified in the application or comparable to the average amount of charity care provided by hospitals in the Central Region – whichever is greater. The amount identified in the application was 0.86% of gross revenue and 3.26% of adjusted revenue. Currently, the regional average is 1.05% gross revenue and 3.34% of adjusted revenue. Trios Health will maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department requires these records to be available upon request.
10. Trios Health will maintain its participation in the Medicare and Medicaid program at a rate that is consistent with the payer mix in the Benton and Franklin County planning area. The reporting

requirement for this condition will be captured in the quarterly financial statements required to be submitted to the Department of Health by Trios Health.

11. Trios Hospital will continue providing the essential services identified in the application for a minimum of ten years. These services are restated below:

- Perinatal/Obstetrical Services, including C-Section and LDRP
- Level 2 Special Care Nursery
- Critical Care
- Pediatric Care
- 24-hour Emergency Care
- Acute Dialysis Services
- Diagnostic Services including cardiac catheterization lab
- Endoscopy
- Imaging
- Laboratory
- Pulmonary Function Services
- Nuclear Medicine
- Physical, Occupational, and Speech therapies
- Respiratory Therapy
- Sports Medicine
- Stress Testing
- Gastro-intestinal Laboratory
- Electrocardiography
- Electroencephalography
- Radioactive implants
- Inpatient and Outpatient Surgical Services
- Outpatient Imaging Services

**Approved Costs**

The approved capital expenditure for the purchase of Trios Health and the healthcare clinics and offices identified in the application is \$78,000,000. A breakdown of the costs, with the funding sources is below.

<b>Item</b>	<b>Amount</b>	<b>Percentage of Total</b>
Capital for Equipment	\$15,000,000	19.2%
Capital for MOB and Hospital Leases	\$63,000,000	80.8%
<b>Total Project Cost</b>	<b>\$78,000,000</b>	<b>100.0%</b>

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.

Howard Wall, Secretary  
Capella Healthcare, Inc.  
July 30, 2018  
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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 the Certificate of Need Program at (360) 236-2955.

Sincerely,

A handwritten signature in blue ink that reads "Nancy Tyson". The signature is written in a cursive style.

Nancy Tyson, Executive Director  
Health Facilities and Certificate of Need

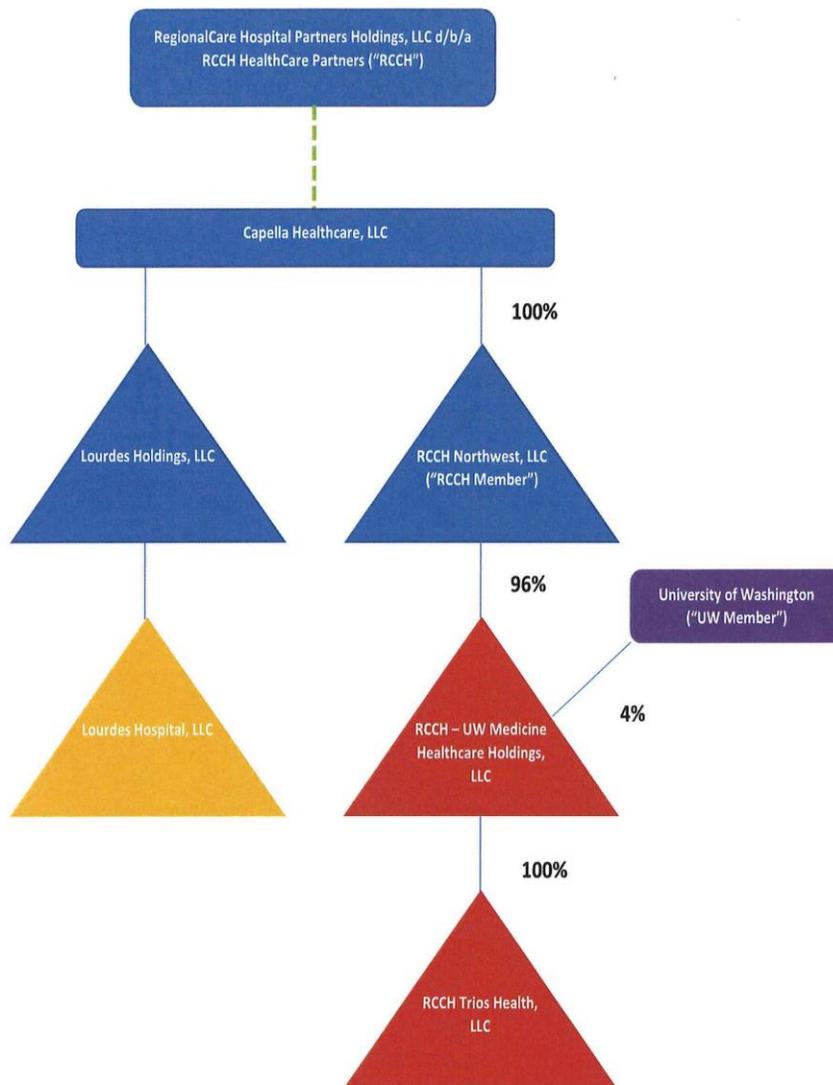
Enclosure

**CORRECTED EVALUATION DATED JULY 27, 2018, OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY RCCH TRIOS, LLC PROPOSING TO PURCHASE KENNEWICK PUBLIC HOSPITAL DISTRICT #1 DBA TRIOS HEALTH LOCATED IN BENTON COUNTY**

**APPLICANT DESCRIPTION**

RegionalCare Hospital Partners Holdings, Inc. (d/b/a RCCH HealthCare Partners) is a Delaware corporation that was formed in 2009. On a consolidated basis, RegionalCare Hospital Partners Holdings, Inc., through its subsidiaries, owns or leases and operates general acute care hospitals and other related health care organizations in the United States. On April 29, 2016, RegionalCare Hospital Partners Holdings, Inc. merged with Capella Health Holdings, LLC, which owned and operated eight general acute care hospitals in five states at the time of the merger. The RegionalCare/Capella Merger was effective May 1, 2016. [source: Application, Attachment 7, pp8-9]

A further subsidiary is RCCH Trios Health, LLC. A picture showing the ownership and subsidiary structure is below. [source: Application, Exhibit 2]



As shown above, RCCH Trios Health, LLC is owned 100% by RCCH - UW Medicine Healthcare Holdings, LLC. RCCH - UW Medicine Healthcare Holdings, LLC is owned 96% by RCCH Northwest, LLC (RCCH)

and 4% by the University of Washington, through its unincorporated division. UW Medicine and RCCH recently announced the creation of a public-private partnership to own and operate community hospitals in Washington, Alaska, and Idaho. RCCH will operate and manage these facilities and UW Medicine will provide clinical and quality expertise. Both UW Medicine and RCCH will be owners of this new LLC with each having representation on the Board and Quality Committee. [source: Application, p29]

If this project is approved, Trios Hospital will be one of the first community hospitals owned by RCCH - UW Medicine Healthcare Holdings, LLC. For this project, RCCH Trios Health, LLC is the applicant, with the recognition of the ownership structure above. In this evaluation, the applicant will be referred to as “RCCH Trios Health.”

**PROJECT DESCRIPTION**

RCCH Trios Health proposes to acquire substantially all of the healthcare assets and the operations of Kennewick Public Hospital District No. 1 d/b/a Trios Health (the "District"). The purchase includes the acute care hospital, known as Trios Health<sup>1</sup>, and the public hospital district’s ownership percentage of a CN approved surgery center, and a variety of healthcare clinics and offices. Specifically, along with the acute care hospital, the purchase includes the district’s percentage of ownership for High Desert Surgery Center (28.4%) and Tri-Cities Cancer Center (33.3%). A change of ownership for High Desert Surgery Center and Tri-Cities Cancer Center does not require prior Certificate of Need review and approval. [source: Application, pp5-6]

Clinics and offices included in the purchase include: Trios Urgent Care Center-Columbia Center, Tricare Care Center at Grandridge, Tricare Care Center at Vista Field, Trios Care Center at Chavallo Complex, Trios Care Center at deBit, Trios Care Center at Spaulding, and Trios Care Center at Southridge. [source: Application, pp5-6] None of these clinics require prior Certificate of Need review and approval.

The subject of this Certificate of Need review is the 111-bed licensed hospital known as Trios Health. For reader ease and to alleviate any confusion between the applicant and the hospital, in this evaluation, the hospital will be referred to as “Trios Hospital” rather than its given name of “Trios Health.” The hospital includes two inpatient campuses, which are identified below. [source: Application, p2 and p6]

Hospital Campus Name	Location	# of Licensed Beds
Trios Southridge Hospital	3810 Plaza Way, Kennewick/99338	74
Trios Women's & Children's Hospital	900 South Auburn Street, Kennewick/99336	37

Trios Hospital provides both inpatient and outpatient acute care services to the residents of Benton and Franklin counties. The hospital holds level III adult trauma and level III pediatric trauma designations for Washington State. [source: December 2017 Washington State Department of Health Trauma Services Designations]

The estimated capital expenditure for the purchase, which includes the hospital district’s ownership percentage of Tri-Cities Cancer Center and High Desert ASF and the healthcare clinics and offices, is \$78,000,000.

If this project is approved, RCCH Trios Health intends to complete the transaction within 14 days of Certificate of Need approval. [source: Application, p15]

Additionally, if approved, RCCH Trios Health identified the current services that would be maintained at Trios Hospital, which are listed below. [source: Application, pp9-10]

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<sup>1</sup> On October 8, 2013, the hospital board of commissioners voted to change Kennewick General Hospital’s name to Trios Health. The change was effective two days later on October 10, 2013.

- Perinatal/Obstetrical Services, including C-Section and LDRP
- Level 2 Special Care Nursery
- Critical Care
- Pediatric Care
- 24-hour Emergency Care
- Acute Dialysis Services (contracted with Fresenius Medical Care)
- Diagnostic Services including cardiac catheterization lab
- Endoscopy
- Imaging
- Laboratory
- Pulmonary Function Services
- Nuclear Medicine
- Physical, Occupational, and Speech therapies
- Respiratory Therapy
- Sports Medicine
- Stress Testing
- Gastro-intestinal Laboratory
- Gastro Intestinal Laboratory
- Electrocardiography
- Electroencephalography
- Radioactive implants
- Inpatient and Outpatient Surgical Services
- Outpatient Imaging Services

### **Agreements and Leases Provided in the Application**

This project requests a change of ownership of Trios Hospital. Before submitting this application, RCCH Trios Health entered into an Operating Agreement with Kennewick Public Hospital District. The operating agreement allowed the hospital to continue operations while the Certificate of Need application was developed by the applicant and reviewed by the department. Below is a brief description of each agreement or lease that was submitted for this project, including the Operating Agreement. [source: Application, Exhibit 5 and Attachments 1, 2, 3, & 4]

#### **Operating Agreement [source: Application, Exhibit 5]**

Status of Agreement: Executed on December 14, 2017.

Between: Kennewick Public Hospital District dba Trios Health and RCCH Trios Health, LLC

Term: Begins December 14, 2017 and terminates when the change of ownership is effective.

Additional Information: The agreement identifies the various other agreements that must be created and executed as part of the transaction.

#### **Master Asset Purchase Agreement [source: Application, Attachment 1]**

Status of Agreement: Draft

Between: Kennewick Public Hospital District dba Trios Health & RCCH Trios Health, LLC

Term or Closing Date: The date on which the Closing takes place is referred to herein as the "Closing Date." Unless otherwise agreed by the Parties, the transactions contemplated by this Agreement shall be effective for accounting purposes as of 12:01 a.m., on the first day of the calendar month immediately following the Closing Date (the "Effective Time").

Hospital Facility Lease [source: Application, Attachment 2]

Status of Agreement: Draft

Between: Kennewick Holdings, LLC (Lessor) and RCCH Trios Health, LLC (Lessee)

Term: 13 year term; renewal for an additional 20 years

Additional Information: This is the lease for the building at South Ridge that houses 74 of the 111 acute care beds. The initial rent for the lease agreement is \$15,000,000 annual.

MOB (Medical Office Building) Lease [source: Application, Attachment 3]

Status of Agreement: Draft

Between: DOC-3730 Plaza Way MOB, LLC (a Wisconsin LLC) and RCCH Trios Health, LLC

Term: 8 years with a renewal for an additional 20 years

Additional Information: This is the lease for the medical office building at 3730 Plaza Way. This building houses administrative and other services for operations of the hospital. Initial annual rent in year one is \$2,342,476; the rent increases to \$3,287,593 annual by the end of year eight.

Community Care Agreement [source: Application, Attachment 4]

Status of Agreement: Draft

Between: Kennewick Public Hospital District dba Trios Health & RCCH Trios Health, LLC

Term: Once the change of ownership occurs, the Operating Agreement expires. This agreement begins on the date of that the Master Asset Purchase Agreement is effective and will continue as long as the hospital lease is effective.

Additional Information: this agreement identifies the operations of the hospital and takes the place of the Operating Agreement (identified above).

Each of these agreements will be referenced in portions of this evaluation, but their description will not be repeated. If this project is approved, the department will include a condition requiring RCCH Trios Health to provide a copy of the executed agreements for each of the drafts referenced above.

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

This project is subject to review as the sale or purchase of a hospital under Revised Code of Washington 70.38.105(4)(b) and Washington Administrative Code 246-310-010(1)(b).

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

*“The department may consider any of the following in its use of criteria for making the required determinations:*

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

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the applicable 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).

### **TYPE OF REVIEW**

Applications for the sale or purchase of a hospital qualify for an expedited review under WAC 246-310-150. For this project, the applicant requested that the project be reviewed under the emergency review timeline outlined in WAC 246-310-110. To qualify for an emergency review, a project must meet the standard stated below.

*“An emergency review may, with the written consent of the appropriate advisory review agencies, be conducted when an immediate capital expenditure is required in order for a health care facility to maintain or restore basic and essential patient services.”*

### **RCCH Trios Health, LLC**

To support its request for an emergency review, RCCH Trios Health submitted the following information. [source: Application, cover letter]

*“...As you know, and will learn further upon review of the application, the District is currently in Chapter 9 federal bankruptcy proceedings in the United States Bankruptcy Court Eastern District of Washington, In Re: Kennewick Public Hospital District, Debtor. On May 17, 2018 the District filed its "Second Amended Plan for the Adjustment of Debts Dated May 17, 2018 (the "Plan") which sets forth the plan for the payment and adjustment of all of the District's debts and which is facilitated by the transaction described in the CN application.*

*According to the most recent 13 Week Cash Flow filed in that matter (and attached to this letter), the District is projected to run out of sufficient cash to continue operations by July 31, 2018. If that happens, the District will be forced to close the Trios Hospital and discontinue all operations, putting an enormous strain on the healthcare system in Benton and Franklin counties, as well as putting over 1,000 employees of the Trios Hospital out of work. RCCH and the District have been in diligent, in-depth negotiations both between themselves and with third party creditors of the District to effect this transaction and avoid a closure. The capital expenditure related to the proposed transaction is required for the Trios Hospital to maintain its basic and essential patient services. Therefore, this transaction and application fit squarely within the emergency review category.”*

## Public Comment

Kadlec Regional Medical Center, a Providence Health & Services facility, provided comments related to the type of review for this project. Specifically, Kadlec Regional Medical Center asserts that there is no legal or factual basis for the department to conduct an emergency review of the project. Excerpts from Kadlec Regional Medical Center's public comments are below.

- *The financial condition of a healthcare facility is not a valid basis for conducting an emergency review. The financial condition of Trios is not a valid basis for conducting an emergency review of RCCH's CN application. This is evident when the origins of the emergency review provision are considered.*

*The narrow scope of the emergency review provision is evidenced by the fact that it has rarely been used during the 38 years of its existence. This is to be expected: calamitous events seldom occur. To our knowledge, the financial condition of a health care facility has never provided the basis for emergency review by either the Department or its predecessor, the Department of Social and Health Services. Given the purpose of the provision, this is not surprising: the provision applies when an unexpected or unforeseen event occurs; a facility's financial condition is of its own making.*

*In view of the historical background of the emergency review provision, it is clear that a health care facility's financial circumstances cannot provide a basis for emergency review. Those circumstances - however dire they may seem to the facility - are of the facility's own making. They are not the result of the sort of extraordinary and unexpected occurrence contemplated by the emergency review provision. Accordingly, the Department cannot, as a matter of law, conduct an emergency review of RCCH's CN application.*

- *The department does not have sufficient evidence to conclude that emergency review is warranted. If, solely for the sake of argument, a health care facility's financial circumstances may provide a basis for emergency review, RCCH has not provided sufficient evidence to justify emergency review. To our knowledge, the Department's decision to conduct an emergency review was based upon a single paragraph in RCCH's June 22, 2018 cover letter to its CN application.*

*To our knowledge, Trios itself has not provided any statements or information to the Department confirming RCCH's representations. Moreover, we are not aware of the Department having undertaken efforts to independently confirm RCCH's representations.*

*In addition, RCCH's assertion that Trios's closure will put "an enormous strain on the healthcare system in Benton and Franklin counties" overstates the potential impact of a closure. Trios is just one of three hospitals in the counties. Hence, the closure of Trios will not, as asserted by RCCH, necessarily place "an enormous strain on the healthcare system."*

- *There is no provision for public comment under the emergency review process. The Department's decision to permit a four-day public comment period does not provide an opportunity for meaningful public comment.*

*The ability of community members (residents, health care providers, non-profit service organizations, businesses, and governmental entities) to comment upon CN applications is a fundamental element of the certificate of need review process. However, the emergency review process does not provide an opportunity for public comment. The Department acknowledges this in its July 6, 2018 letter to RCCH granting RCCH's request for emergency review: "[t]he emergency review timeline does not specify a formal public*

*comment and rebuttal period." This differs from the regular and expedited review processes, both of which provide for public comment.*

*Despite the fact that public comment is not provided for under the emergency review process, but in an apparent recognition of the importance of providing an opportunity for community comment on RCCH's CN application, the Department has decided to provide a four day public comment period on the application. In its July 6 letter to RCCH, the Department states that (1) the "formal review" of the application will begin on Tuesday, July 10, and (2) the "end of public comment" will be on Friday, July 13. It is our understanding that the Department intends to issue a Beginning of Review Notice on July 10. We presume that, in accordance with its usual practice, the Department will publish the Beginning of Review Notice (which contains notice of the public comment period) in a local newspaper on July 10.*

*The four-day public comment period manifestly does not provide the community with a meaningful opportunity to comment on RCCH's CN application. First, it is unclear how community members will obtain access to the application in order to review it. Second, even if the Department makes the application available on its Web site on July 10, members of the community will have to review a voluminous amount of documentation in a short period of time: the CN application and its Exhibits and Attachments are more than 500 pages in length. It is unreasonable to expect community members to review that amount of documentation, and then prepare comments, within four days.*

*Accordingly, although the Department's attempt to provide an opportunity for public comment is laudable, that opportunity is of little or no value. RCCH's CN application involves the sale of public hospital district assets that have been valued at \$78 million by RCCH and Trios. Providing the members of the community with four days to comment upon a project of that magnitude does not give them an opportunity to comment substantively and meaningfully upon the project.*

- *If the Department conducts an emergency review of RCCH's CN application, it will create a precedent for future applicants.*

*By granting emergency review to RCCH, the Department will create a precedent that will enable future applicants to argue that their financial circumstances constitute an "emergency" that necessitates emergency review. This is of particular concern because, as discussed above, the Department has apparently based its decision to conduct an emergency review solely upon the representations made by RCCH as to the existence of an "emergency," which the Department, to our knowledge, has accepted at face value, with no input from Trios, and with no attempt by the Department to independently confirm RCCH's representations.*

*In this case, the Department's decision to conduct an emergency review is based upon two factors: (1) Trios's purported cash flow problems and (2) the purported impact of Trios's closure on the community's health care system. However, there are two fundamental defects in the Department's reliance upon these factors. First, the representations upon which the Department has relied are entirely subjective. Second, and more importantly, the event that is prompting the "emergency" is entirely within the health care facility's control: Trios is not the victim of an unexpected and unforeseen event. The situation in which Trios finds itself is entirely of its own making. Accordingly, the Department's decision to conduct an emergency review is not based upon any objective criteria that can be consistently applied by the Department in the future. Instead, it has relied solely upon the subjective representations of RCCH. Given this precedent, a future applicant would be encouraged to argue that its "emergency" financial circumstances also justify emergency review. This strategy has a great deal of appeal to an applicant, since emergency review ( 1) significantly shortens the application review period and (2) eliminates public comment on (and potential opposition to) the applicant's proposed project.*

Accordingly, if the Department conducts an emergency review of RCCH's CN application, it can expect to receive requests for emergency review based upon an applicant's "emergency" financial circumstances on a regular basis in the future.

[source: Kadlec Regional Medical Center July 10, 2018, public comment and July 19, public comment]

**Rebuttal Comment**

RCCH Trios Health provided extensive rebuttal responses to Kadlec Regional Medical Center's comments above. Excerpts from the rebuttal responses are below. The excerpts below focus on the four issues raised by Kadlec Regional Medical Center. [source: July 24, 2018, RCCH Trios Health rebuttal comments]

The Program's application of the emergency review process is proper.

The Program properly determined to evaluate the Application under the emergency review process in WAC 246-310-110. The first subsection of the rule states as follows:

(a) Emergency review.

- (i) An emergency review may, with the written consent of the appropriate advisory review agencies, be conducted when an immediate capital expenditure is required in order for a health care facility to maintain or restore basic and essential patient services.

The test for emergency review is quite clear from the words of the regulation itself- emergency review can be "conducted when an immediate capital expenditure is required in order for a health care facility to maintain or restore basic and essential patient services." **There is no ambiguity in this language.** There is no need to look at regulatory or legislative history to determine the test for when emergency review should apply. It applies if there is an "immediate capital expenditure" necessary to maintain patient services.

The District has an immediate need for capital funds to maintain its operations. This is well documented in the public record through its bankruptcy proceeding. There is no question that the District's financial position is precarious and, if not immediately solved, patient services will be jeopardized. In fact, the Washington State Auditor recently issued a finding to this effect:

"The District's financial condition puts it at risk of not being able to meet financial obligations and maintain current service levels."

The State Auditor's Report further addressed its doubt of the District's ability to continue offering patient services:

*"Description of Condition*

We analyzed the District's financial condition and focused on the following areas. The District's change in net position was negative for each year and continues to decline, which means the District had more expenditures than revenues received.

<b>Year</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Percentage change in net position	-11.9%	-20.5%	-1.1%	-60.4%	-207.2%

The number of days District could operate on its net position was negative for fiscal year 2017, indicating the District is unable to meet financial obligations and does not have enough cash to pay bills.

<b>Year</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<i>Net position sufficiency</i>	<i>111 days</i>	<i>79 days</i>	<i>72 days</i>	<i>27 days</i>	<i>-30 days</i>

*Effect of Condition*

*The District filed for bankruptcy. The District has encountered recurring losses and cash flow issues resulting in default on obligations. This raises substantial doubt about the District's ability to continue operations. Without a formal comprehensive plan to monitor financial condition and address cash flow issues, the District will be unable to ensure it can meet its financial obligations and provide services at current levels."*

*The RCCH purchase of Trios Hospital provides that comprehensive plan to address cash flow issues and ensures that Trios Hospital can continue to provide essential patient services. By the State Auditor's own account, in 2017 the District was unable to meet its financial obligations and its cash on hand was negative for thirty days. This transaction is aimed at allowing the District to proceed out of bankruptcy with a plan for Trios Hospital to continue operations under new ownership and provide care to patients within the Tri-Cities.*

*Despite Kadlec's inappropriate allegations that the Department should not take RCCH's representation regarding the District's financial condition at face value, the public record is well established that the District's financial condition is in crisis.*

*The Department has no reason not to take RCCH's statement at "face value." There is ample supporting evidence that the District is facing an immediate need for capital which will be solved by this transaction. The State Auditor's report makes it quite clear that the District did not have sufficient cash on hand to pay its bills and that it has reservations about the District's ability to continue operation. Further, the bankruptcy proceeding itself documents the dire financial position of the District. The attached letter from Thomas Marshall, the District's Chief Financial Officer, says it best:*

*"The District's viability as a going concern beyond the end of July, however, is questionable at best. By the end of August 2018, the District projects that its total cash deficit will exceed \$3.8 million. Consequently, if the District is unable to consummate a transaction to sell its going concern operations to RCCH before the end of July, the District will likely be forced to completely shut down its healthcare operations and terminate all of its approximately 1,000 employees due to the District's inability to meet payroll."*

*The Public has had sufficient notice to submit comments on the RCCH transaction.*

*The public has known about a proposed transaction between RCCH and the District for nearly a year. Further, local newspapers have also kept the public informed about the transaction.*

*Kadlec and the public at large have had ample opportunity to comment on the transaction through the bankruptcy process. In large Chapter 9 and Chapter 11 cases, the debtor routinely obtains an order of the court (at the very outset of the case) limiting notice of most motions and filings to the largest creditors and those entities who file a request for special notice. Such a request is not limited to creditors, and in fact any person or entity can file one with the court. Moreover, the District's bankruptcy was a matter of national public concern, appearing on a near regular basis in the state and local media, and in national trade publications. Without question, Kadlec had both actual and constructive knowledge of the case. At any point prior to confirmation of the Chapter 9 plan, Kadlec could have filed a request for special notice so that it could have stayed abreast of the plan confirmation process (the RCCH transaction was incorporated in the debtor's Chapter 9 plan of adjustment). Had Kadlec wished to participate as parties-in-interest in the District's bankruptcy, they could have done so.*

*Moreover, regardless of whether Kadlec received notice of the sale through the bankruptcy court, the District solicited itself for sale for an extended period of time prior to bankruptcy, during bankruptcy, and prior to consummation of the RCCH transaction. Unlike most transactions that trigger CN applications, this is one of the most well publicized transactions.*

*The emergency review process does not contemplate a public comment period or a public hearing. This makes sense considering the exigencies giving rise to the need for emergency review to "restore basic and essential patient services." We understand that out of an abundance of caution, and with the goal of transparency, the CN Program implemented a public comment period for this Application. Another, and perhaps more appropriate, forum for public comment is the process required by the Public Hospital District enabling statute, RCW 70.44, relating to the sale of a public hospital district hospital. Specifically, RCW 70.44.315 required the District to obtain an expert opinion and hold a public hearing on the expert opinion and transaction. The District held this public hearing on June 22, 2018. The District also held a public hearing on July 9, 2018 to consider the proposed sale of real property. Neither SEIU or Kadlec submitted comments to the District at either of these public hearings.*

*In addition, even during this relatively short public comment period, the Department has received two lengthy comments from Kadlec as well as public comments from the SEIU and two citizens. The public has had the opportunity to provide their opinions to the Bankruptcy Court, the District, and the Department. Moreover, the public is always allowed to attend the District's Board Meetings in which this transaction was discussed, as well as comment on the transaction. The public will also be able to comment on the transaction at the public Board Meeting on July 26<sup>th</sup>.*

*Kadlec's warning regarding creating precedent for abuse of the emergency review process is unfounded.*  
*Kadlec's assertion that emergency review is not warranted, as such review by the Department is based upon (1) the District's purported cash flow problems and (2) the purported impact of the District's closure on the community's health care system, stands in stark contrast to reality. As a threshold matter, the implication that this application has created a slippery slope whereby health care facilities will simply utilize bankruptcy as a means to establish an artificial exigency warranting emergency review by the Department is, frankly, absurd. The economic costs attendant to reorganization in bankruptcy, as well as the inherent uncertainty of the outcomes available under the bankruptcy process, point to but one conclusion: bankruptcy is truly a last resort of a desperate entity. It is not, as suggested by Kadlec, merely a tool to be utilized in the CN application process to expedite review.*

*With specific regard to the factors identified by Kadlec above, the factual record in this case makes plain that the District's cash flow problems were profound in the period prior to bankruptcy, and they remain so now. This fact is self-evident from the financial reporting required of debtors-in-possession under the Bankruptcy Code, as well as in the various sworn schedules filed by the District throughout that process. To imply that the District's cash flow problems are/were anything less than catastrophic is therefore not just false, but plainly contrary to the sworn record in the bankruptcy case. Further, the purported impact of Trios Hospital's closure on the community health care system is similarly far from doubt. In fact, Judge Corbit entered specific findings of fact and conclusions of law related to this precise issue in his Order confirming the District's Chapter 9 Plan of Adjustment:*

*"The purpose of the Plan is to adjust the District's debts through a sale of the District Operations as a going-concern, thereby enabling the District to facilitate the continued provision of adequate and necessary health care services to its residents and meet its future financial obligations, consistent with the overarching remedial purpose of chapter 9 and the objectives and purposes of the Bankruptcy Code... The District provides essential medical and other health care services, including critical care*

*services for which there is not adequate capacity at other nearby facilities, to residents and others in the Tri-Cities region. No viable alternatives to the Plan exist that would continue the District Operations as a going concern and provide a greater recovery to [creditors] ..."*

*While not dispositive to the Department's final determination with regards to the Application, that a federal court has already weighed the evidence regarding the benefit of the RCCH transaction in the continued provision of adequate and necessary health care services to the residents of the Tri-Cities area, and found the transaction to be in furtherance of such care, should at minimum, staunch any negative inferences raised by Kadlec with regard to this issue.*

### **Department Evaluation**

The hospital district's 2016 financial statement included as Attachment 8 in the application provides insight about the financial health of Trios Health. An excerpt of Note #11 attached to the financial statement is below. [source: Application, Attachment 8]

#### **Note 11 of 2016 Audited Financial Statements**

*"The District has experienced expenses in excess of revenues before capital contributions of \$22,883,553 for the year ended December 31, 2016 and \$710,595 for the year ended December 31, 2015. During the years ended December 31, 2016 and 2015, the District has experienced an overall decrease in net position of \$21,374,981 and \$395,284. The current ratio was .18 and 1.43 for the years ended December 31, 2016 and 2015. The days cash on hand decreased from 9.2 days as of December 31, 2015 to 6.0 days as of December 31, 2016. The current ratio and days cash on hand suggests a serious liquidity problem exists as the District. The significant loss in the current year and the tight cash position have prevented the District from fully implementing the necessary changes to the operations to become successful.*

*During 2014, the Southridge campus was completed which was to become the main campus of the hospital. The Auburn campus remains open as it houses the birthing center and pediatrics unit, all other services would be at the Southridge campus. At completion of the project, the District recorded a capital lease in the amount of \$110,000,000. The District is to purchase the building for this amount at the end of 10 years (June 2022).*

*Currently, the District is recognizing all payments to the lessor as interest expense, approximately \$9,805,000, in 2016, increasing 2.5% annually. During 2015, the Medical Office Building was completed which holds the specialty services and physician practices. At completion of this project, the District recorded a capital lease in the amount of approximately \$43,740,000. The sixth floor was completed in May 2016 adding an additional \$3,795,000 to the capital lease. The District does have various options to buy the Medical Office Building. The District pays a monthly payment including principal and interest. Interest expense for the Medical Office Building approximated \$5,067,000 for the year ended December 31, 2016.*

*With the new buildings, many leases were entered into for upgraded technology, resulting in additional capital leases of approximately \$21,042,000 as of December 31, 2016. During 2016, the leases for the hospital, medical office building, and the majority of the equipment, were in default and shown as current maturities of long-term debt. The amount of capital leases and other debt has caused the District to become highly leveraged, resulting in an average payment period of 451 days as of December 31, 2016, up from 69 days as of December 31, 2015. The District also had long-term debt to net position of 93.0% as of December 31, 2016, and 84.8% as of December 31, 2015.*

*Due to the District's tight cash position, accounts payable balances have significantly increased from approximately \$14 million in 2015 to approximately \$19.9 million in 2016. Management has been working closely with the vendors to ensure continued purchases of necessary supplies and various payment options, including financing old outstanding payables to long-term.*

*During 2016, the District hired an outside organization to complete a financial operational and strategic assessment. This resulted in many recommendations given to the District to implement, including expense reduction and volume and charge capture improvements. A majority of the savings are in full-time equivalent reductions and productivity improvements or changes in salaries of employed physicians. If implemented, a savings of \$12 million annually could be achieved.*

*The District filed for Chapter 9 Bankruptcy protection on June 30, 2017. In addition, management is looking at possible affiliation or other reorganization options.”*

Documentation provided in the application substantiate that the public hospital district board voted unanimously to file for Chapter 9 bankruptcy with the U.S. Bankruptcy Court for the Eastern Division of Washington on June 29, 2017. Chapter 9 bankruptcy documents were filed with the court on June 30, 2017. [source: Application, Exhibit 14]

Prior to approving the acquisition of a district hospital, RCW 70.44.315, requires the hospital district to obtain an independent expert review of the acquisition. RCW 70.44.315(3)(a) states:

*“Prior to approving the acquisition of a district hospital, the board of commissioners of the hospital district shall obtain a written opinion from a qualified independent expert or the Washington state department of health as to whether or not the acquisition meets the standards set forth in RCW [70.45.080](#).”*

For this project, the hospital district obtained its expert opinion from Eide Bailly, a regional certified public accounting and business advisory firm headquartered in Fargo, North Dakota. An excerpt of the information provided in the Eide Bailly report is below. [source: Application, Attachment 9, p6]

*District's Cash Flows*

*Cash and cash equivalents decreased from \$12,431,299 in 2015 to \$11,017,097 in 2016. Cash and cash equivalents increased \$3,897,966 between 2014 and 2015.*

*Capital Assets*

*The District experienced a net decrease in capital assets of \$7,333,237 or 3.7% from 2015 to 2016 as compared to a net increase of \$42,040,335 or 26.7% from 2014 to 2015. The District spent approximately \$5.6 million in new additions in 2016, much of which was financed via capital leases. The District spent approximately \$55.1 million on new additions in 2015 and entered into capital lease arrangements of approximately \$51.3 million, \$43.7 million of that relating to the Southridge Care Center.*

*Long-Term Debt*

*At the end of 2016, the District had \$198,236,871 in long-term debt and obligations under capital leases. This is an increase of \$488,937 or .002% from 2015. At the end of 2015, the District had \$197,747,934 in long-term debt and obligations under capital leases. This was an increase of \$53,456,866 or 37.0% from 2014. This increase was due to several new capital equipment leases totaling approximately \$7.6 million and the recording of the Southridge Care Center lease of \$43.7 million.*

### Economic Factors

*The health care market continues to be a challenge. There are many factors that impact the industry. Some of these factors are as follows:*

- *National economy*
- *State budget deficits*
- *Uninsured and underinsured patients*
- *Changes in reimbursement*
- *Physician shortages*
- *Increases in supply costs*
- *Facilities at the District that require constant maintenance*
- *Government regulation and health care reform*

As part of its research, the department obtained from Eide Bailly the December 31, 2017 financial statement and analysis released on July 19, 2018. [source: December 31, 2017, and 2016, Financial Statement and Management Discussion and Analysis] Excerpts from that document are below.

### Emphasis of Matter Regarding Going Concern

*The accompanying financial statements have been prepared assuming that the District will continue as a going concern. As discussed in Note 13 to the financial statements, the District has suffered recurring losses and cash flow issues resulting in a default on long-term debt and filing of Chapter 9 bankruptcy.*

*These conditions raise substantial doubt about its ability to continue as a going concern. Management's plans in regard to these matters are also described in Note 13. The financial statements do not include any adjustments that might result from the outcome of this uncertainty. Our opinion is not modified with respect to that matter.*

### Financial Highlights

- *The District's net position decreased in the current fiscal year from \$14,874,967 to (\$21,501,417). This is a decrease of \$36,376,384 or 244.5%. In the prior fiscal year ending December 31, 2016, net position decreased from \$36,525,452 to \$14,874,967 for a decrease of \$21,650,485 or 59.3%.*
- *Operating revenue decreased by \$19,384,329 or 10.8% during the current fiscal year. At the same time, operating expenses decreased by \$2,500,324 or 1.3%. Operating revenue also decreased \$3,528,277 or 1.9% during the fiscal year ending December 31, 2016 while operating expenses increased by \$8,672,154 or 4.9%.*
- *The District showed an operating loss for the current fiscal year of \$24,736,118 compared to an operating loss of \$7,852,113 in 2016 and an operating income of \$4,348,318 in 2015. The operating loss in 2017 is due to decrease in volumes resulting in a decrease in revenues. The bankruptcy filing in 2017 is believed to have caused some of the volume decreases. In addition, the State of Washington settled several years of Medicaid cost reports resulting in an additional \$8 million of contractual adjustments to be recorded.*
- *As a result of its current financial trends and its inability to support the increased long-term debt, the District made the decision to file a Chapter 9 bankruptcy on June 30, 2017. The hope of the filing is to allow the District to renegotiate its long-term debt related to the financing of the new hospital, medical office building and outpatient center, and the related equipment. The debt service on these items is consuming a level of cash flow that*

*is not sustainable. A plan of adjustment has been accepted subsequent to December 31, 2017 (see footnote 14).*

- *The District has also made the decision to explore the potential for an acquisition partner and is currently in the due diligence process with an organization. This acquisition is expected to occur August 1, 2018.*

Information provided in the application, including the recent bankruptcy filing and the bankruptcy court's findings, all demonstrate that the hospital is not financially healthy. Independent reports and documents provided in the application and obtained by the department during this review, substantiate the financial claims made by RCCH Trios Health.

Kadlec Regional Medical Center raised concerns about the emergency review timeline. In rule, the timeline associated with emergency reviews are shortened and do not identify specific time for public comment or rebuttal. The concerns raised by Kadlec Regional Medical Center are not taken lightly by the department. To allow for public comment, the department provided a short window of opportunity for public comment and rebuttal. Kadlec Regional Medical Center and others took the opportunity to provide comprehensive comments regarding this project.

Kadlec Regional Medical Center's concerns regarding precedence setting related to grounds for emergency review are also important to the department. For this project, information provided in the application and obtained during this review demonstrated that the hospital would be unable to continue operations in the near future without an immediate financial infusion. The department recognized the unique circumstances in this project and concluded an emergency review should be conducted to maintain basic and essential patient services to the Benton and Franklin County community.

WAC 246-310-140 outlines the timeline for the emergency review once the department begins formal review of the project. It states:

- (1) *The emergency review process shall not exceed fifteen working days from the beginning of the review period.*
- (2) *The department shall complete its final review and the secretary's designee shall make his or her decision on an emergency certificate of need application within fifteen working days after the beginning of the review period unless the department extends its final review period in accordance with the provisions of subsection (3) of this section.*
- (3) *If an issue, which is pivotal to the decision of the secretary's designee remains unresolved, the department may make one request for additional information from the person submitting the application. The department may extend its final emergency review period up to but not exceeding ten days after receipt of the applicant's written response to the department's request for information.*

A summary of the emergency review timeline for this project is shown below.

## **APPLICATION CHRONOLOGY**

<b>Action</b>	<b>RCCH Trios Health, LLC</b>
Letter of Intent Submitted	May 22, 2018
Application Submitted	June 22, 2018
Department's pre-review activities <ul style="list-style-type: none"> <li>• DOH's 1st Screening Letter</li> <li>• Applicant's Responses Received</li> </ul>	July 3, 2018 July 6, 2018
Beginning of Review	July 13, 2018
Public Comment <sup>2</sup>	July 19, 2018
Rebuttal Comment Due <sup>3</sup>	July 24, 2017
Department's Scheduled Decision Date	August 3, 2018
Department's Actual Decision Date	July 27, 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.*

Four persons asked to receive updates on the application either before or after it was submitted. A brief description of each of person or healthcare provider is below.

<sup>2</sup> While no formal public comment period is identified in the emergency review timeline, the department accepted all public comment that was received by 5:00pm on July 19, 2018. Comments were received by Kadlec Regional Medical Center, SEIU 1199NW, and two community members located in the planning area. All public comments were distributed to the applicant and affected persons to allow for rebuttal comments.

<sup>3</sup> The emergency review timeline does not identify a rebuttal period in the review. Given that public comments were submitted, the department allowed the applicant and affected persons to submit rebuttal comments by 5:00pm July 24, 2018. This timeline allowed the department to incorporate any relevant public comment and rebuttal comment into the evaluation. Both RCCH Trios Health and Kadlec Regional Medical Center provided rebuttal comments.

### Providence Health & Services

Two representatives from Providence Health & Services requested interested person status as defined above. One representative from the larger entity of Providence Health & Services; and one from Kadlec Regional Medical Center, a Providence facility located in Benton County. Kadlec Regional Medical Center is a 270-bed hospital located in Richland, within Benton County. Services provided by the hospital include acute care services typically provided by a hospital, plus open heart surgery and cardiac catheterization, levels II and III neonatal intensive care services, and a variety of outpatient services.

On July 10 and July 19, 2018, Providence Health & Services provided public comments on behalf of Kadlec Regional Medical Center. Both Providence Health and Services and Kadlec Regional Medical Center meet the definition of an “interested person” under WAC 246-310-010(34)(b). As a result both Providence Health & Services and Kadlec Regional Medical Center qualify as an “affected person.”

### SEIU 1199NW

Two representative from SEIU (Services Employees International Union) 1199NW requested interested person status. SEIU 1199NW is a statewide union of nurses and healthcare workers. According to its website, SEIU 1199NW represents more than 30,000 nurses and healthcare workers across Washington State. On July 19, 2018, SEIU 1199NW provided written comments regarding the acquisition. [source: SEIU 1199NW website] Though SEIU 1199NW represents employees at Trios Hospital, it is not located within the applicant’s health service area. SEIU 1199NW meets the definition of an ‘interested person,’ but does not qualify as an “affected person.” As an interested person, SEIU 1199NW provided public comments on the application. Since SEIU 1199NW does not meet the definition of an affected person, it could not provide rebuttal comments. SEIU 1199NW did not submit rebuttal comments.

### Roger Erich Lenk, a community member

Roger Erich Lenk is a resident of Pasco and a user of the health care services. On July 15, 2018, Mr. Lenk provided comments regarding this project and asked to be kept informed of the process and information submitted. Roger Erich Lenk qualifies as an “interested person” and an “affected person” for this project.

### **SOURCE INFORMATION REVIEWED**

- RCCH Trios Health, LLC Certificate of Need application received June 22, 2018
- RCCH Trios Health, LLC first screening response received July 6, 2018
- Public comment received before submission of the application
- Public comment received as of 5:00pm on July 19, 2018
- Rebuttal comment submitted by RCCH Trios Health, LLC received on July 24, 2017
- Rebuttal comment submitted by Kadlec Regional Medical Center received on July 24, 2017
- Hospital/Finance and Charity Care (HFCC) Financial Review received July 26, 2018
- Comprehensive Hospital Abstract Reporting System (CHARS) Data 2013-2017
- Joint Commission website at [www.jointcommission.org](http://www.jointcommission.org)
- Trios Health website at [www.trioshealth.org](http://www.trioshealth.org)
- Washington State Secretary of State website at [www.sos.wa.gov](http://www.sos.wa.gov)
- Office of the Washington State Auditor website at [www.sao.wa.gov](http://www.sao.wa.gov)
- SEIU 1199NW website at [www.seiu1199nw.org](http://www.seiu1199nw.org)
- December 31, 2017 financial statement and analysis released by Eide Bailly on July 19, 2018
- Certificate of Need historical files

**PUBLIC COMMENTS OUTSIDE SCOPE OF REVIEW CRITERIA**

Richard Yrjanson, a community member, provided comments prior to submission of the application, Mr. Yrjanson’s comments questioned whether the hospital district should be allowed to continue collecting property tax for Trios Hospital after it is sold to RCCH Trios, LLC. This topic, while thought provoking, is outside the scope of the Certificate of Need review criteria. As a result, this topic will not be further discussed in this evaluation.

Roger Erich Lenk, a community member, provided comments during the review. Mr. Lenk’s comments suggested that the hospital district’s poor management resulted in the poor financial health of Trios Hospital. This topic is also outside the scope of the Certificate of Need review criteria. As a result, this topic will not be further discussed in this evaluation.

**CONCLUSION**

For the reasons stated in this evaluation, the application submitted by RCCH Trios Health, LLC proposing to purchase Trios Hospital from the Kennewick Public Hospital District is consistent with the applicable review criteria of the Certificate of Need Program, provided that RCCH Trios Health, LLC agrees to the following in its entirety.

**Project Description**

This certificate approves the purchase of the Trios Hospital by RCCH Trios Health, LLC. Trios Hospital is currently licensed for 111 beds located at two separate campuses in Kennewick, within Benton County. There is no change in the number of approved beds. A breakdown of beds by campus and type is shown below:

	<b>Trios SouthRidge Hospital</b>	<b>Trios Women’s &amp; Children’s Hospital</b>
<b>Bed Type</b>	<b>Number of Licensed Beds</b>	<b>Number of Licensed Beds</b>
General Medical/Surgical	74	27
Level II Special Care Nursery	0	10
<b>Total Licensed Beds</b>	<b>74</b>	<b>37</b>

**Conditions**

1. Approval of the project description as stated above. RCCH Trios Health, LLC further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. RCCH Trios Health, LLC shall finance the project as described in the application.
3. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Master Asset Purchase Agreement. The executed copy must be consistent with the draft agreement provided in the application.
4. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Community Care Agreement. The executed copy must be consistent with the draft agreement provided in the application.
5. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the Hospital Facility Lease. The executed copy must be consistent with the draft lease provided in the application.

6. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the executed copy of the MOB (Medical Office Building) Lease. The executed copy must be consistent with the draft lease provided in the application.
7. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the department for review and approval the adopted copies of its admissions policy, non-discrimination policy, end-of-life policy, and reproductive health policy. Each of these policies must be consistent with the drafts provided in the application.
8. Within 30 days of the acquisition, RCCH Trios Health, LLC will submit to the Certificate of Need Program a copy of the charity care policy that has been reviewed and approved by the Charity Care Program within the Department of Health.
9. Trios Health will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health, or any subsequent policies reviewed and approved by the Department of Health. Trios Health will use reasonable efforts to provide charity care in an amount identified in the application or comparable to the average amount of charity care provided by hospitals in the Central Region – whichever is greater. The amount identified in the application was 0.86% of gross revenue and 3.26% of adjusted revenue. Currently, the regional average is 1.05% gross revenue and 3.34% of adjusted revenue. Trios Health will maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department requires these records to be available upon request.
10. Trios Health will maintain its participation in the Medicare and Medicaid program at a rate that is consistent with the payer mix in the Benton and Franklin County planning area. The reporting requirement for this condition will be captured in the quarterly financial statements required to be submitted to the Department of Health by Trios Health.
11. Trios Hospital will continue providing the essential services identified in the application for a minimum of ten years. These services are restated below:
  - Perinatal/Obstetrical Services, including C-Section and LDRP
  - Level 2 Special Care Nursery
  - Critical Care
  - Pediatric Care
  - 24-hour Emergency Care
  - Acute Dialysis Services
  - Diagnostic Services including cardiac catheterization lab
  - Endoscopy
  - Imaging
  - Laboratory
  - Pulmonary Function Services
  - Nuclear Medicine
  - Physical, Occupational, and Speech therapies
  - Respiratory Therapy
  - Sports Medicine
  - Stress Testing
  - Gastro-intestinal Laboratory

- Electrocardiography
- Electroencephalography
- Radioactive implants
- Inpatient and Outpatient Surgical Services
- Outpatient Imaging Services

**Approved Costs**

The approved capital expenditure for the purchase of Trios Health and the healthcare clinics and offices identified in the application is \$78,000,000. A breakdown of the costs, with the funding sources is below.

<b>Item</b>	<b>Amount</b>	<b>Percentage of Total</b>
Capital for Equipment	\$15,000,000	19.2%
Capital for MOB and Hospital Leases	\$63,000,000	80.8%
<b>Total Project Cost</b>	<b>\$78,000,000</b>	<b>100.0%</b>

## **CRITERIA DETERMINATIONS**

### **A. NEED (WAC 246-310-210)**

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that RCCH Trios Health, LLC has met the applicable need criteria in WAC 246-310-210.

- (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.*

In reviewing an application to acquire an existing healthcare facility, the department does not complete a numeric need methodology. The numeric need for existing beds or services is considered met. WAC 246-310-210 does not provide specific review criteria with which to evaluate how existing facilities or services would be sufficiently available or accessible to absorb existing and projected volumes, in the event the acquisition project is not approved. Therefore, to assess this sub-criterion, the department evaluates information from the application, as well as publically available hospital utilization and occupancy data from the hospitals serving the combined Benton and Franklin counties.

### **RCCH Trios Health, LLC**

RCCH Trios Health provided five years of inpatient admissions and days at Trios Hospital, which is summarized in the table below. [source: Application pp26-27]

**Table 1  
Trios Hospital  
Inpatient Admissions and Days 2014-2018**

	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Inpatient Admissions	5,658	6,559	6,356	6,061	6,189
Inpatient Days	17,650	19,984	19,142	18,744	19,139

Focusing on the hospital's overall utilization, RCCH Trios Health provide the following historical information for outpatient visits for year 2013 through 2017.

**Table 2  
Trios Hospital  
Outpatient Visits 2013-2017**

	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Outpatient Visits	84,453	92,863	101,284	111,149	116,471

In addition to the data above, RCCH Trios Health provided the following statements related to this sub-criterion specific to Trios Hospital. [source: Application, pp11-12]

*“RCCH Trios Health, LLC proposes to acquire substantially all of the healthcare assets and operations of Trios Hospital. The acquisition will be structured as a series of transaction including a Master Asset Purchase Agreement between RCCH Trios Health, LLC and the District (the "Master APA"), a new long term lease for the South ridge Campus main hospital building between RCCH Trios Health, LLC and Kennewick Holdings, LLC (the "Hospital Landlord") which will be entered into at closing (the "Hospital Lease"), a new long term lease for the Southridge Campus Medical Officer Building (the "Southridge MOB") between RCCH Trios Health, LLC and DOC-3730 Plaza Way MOB, LLC (the "MOB Landlord") which will be entered into at closing (the "MOB Lease"), and individual closing agreements between RCCH Trios Health, LLC and the material equipment lessors calling for the purchase or lease assumption of equipment leased by the District to operate Trios Hospital2, and a Community Care Agreement between the District and RCCH Trios Health,*

*LLC (the "CCA") providing for the District's continued support of services provided by RCCH Trios Health, LLC after the closing (collectively, the "Transaction"). Additionally, RCCH Trios Health, LLC will identify and assume responsibility for certain operating contracts of the District for Trios Hospital as part of the Transaction and as further described in the Plan (defined below).*

*The District is currently in Ch. 9 federal bankruptcy proceedings in the United States Bankruptcy Court Eastern District of Washington, In Re: Kennewick Public Hospital District, Debtor, Case No. 17-02025-9. On June 19, 2018, the District filed its "Fourth Amended Plan for the Adjustment of Debts Dated June 19, 2018" (the "Plan") which sets forth the plan for the payment and adjustment of all of the District's debts and which is facilitated by the Transaction. As part of the bankruptcy proceeding and the Transaction, the District will resolve its debts with the Hospital Landlord, the MOB Landlord and certain of the equipment lessors, as well as with numerous other creditors of the District. As a result of the Transaction and bankruptcy proceeding, the District will be adjusting or otherwise discharging nearly \$350M of debt.*

*The following documents that make up the Transaction are attached to this Application:*

- i. The Master Asset Purchase Agreement (Attachment 1);*
- ii. The Hospital Lease (Attachment 2);*
- iii. The MOB Lease (Attachment 3);*
- iv. The Community Care Agreement (CCA) (Attachment 4);*
- v. The Fourth Amended Plan for the Adjustment of Debts Dated June 19, 2018, with Exhibits A - D (Attachment 5); and*
- vi. The Confirmation Order (Attachment 6).*

*The CCA is an agreement between the District and RCCH Trios Health, LLC that will begin as of the closing and continue throughout the term of the Hospital Lease. Under the CCA, the District will use a portion of the regular property taxes collected by the District after closing of the Transaction to reimburse RCCH Trios Health, LLC for a portion of the cost it incurs to provide the services delineated under the CCA (the "Community Service Payment").*

*The CCA provides that a portion of the regular property taxes collected by the District after the closing of the Transaction (currently estimated to equal approximately \$1.3 million annually) will be reserved to be made available for disbursement by the District after the closing of the Transaction in the following order of priority (collectively, the "Permitted Expenses"): (i) reimbursement for payment of administrative claims in the Bankruptcy Case not paid or otherwise discharged by the District at the closing of the bankruptcy; (ii) payment of the District's operating expenses pursuant to a budget; (iii) indemnification claims, if any, by RCCH Trios Health, LLC and its affiliates pursuant to the Master APA, including obligations relating to the operation of Trios Hospital prior to the closing of the Transaction; and (iv) the Community Service Payment. No amount for the Community Service Payment is currently included in the projected revenue for this project because for the short term (1 - 3 years) it is uncertain whether the Permitted Expenses will exceed the amount of funds available so there will not be any Community Service Payments."*

*Note that at this time, there are no proposed changes to the current scope of services. As RCCH Trios Health, LLC assesses the market and the Trios Hospital facilities, it may elect to add some services in the future. RCCH Trios Health, LLC does not currently contemplate closing or reducing any services."*

## Public Comment

During the review of this project, two entities provided comments related to this sub-criterion. The comments are below.

### SEIU 1199NW [source: July 19, 2018, public comment]

*“Tri-Cities healthcare is undergoing significant changes. Just four years ago, there were three vibrant independent health systems providing the Tri-Cities communities with far-ranging access to a variety of services, in many venues, through different financial options. In July of 2014, Providence St. Joseph Health purchased Kadlec Health System. Currently, in July of 2018, RCCH is looking to purchase both of the remaining health systems in the Tri-Cities. If (when) these purchases are complete, all of the comprehensive health systems in Benton, Franklin and Walla Walla Counties will be owned by either Providence St. Joseph Health or RCCH.*

*Furthermore, throughout their application, RCCH makes no commitments regarding the scope of services, nor the staffing levels of services. They repeatedly cite that "at this time, there are no proposed changes to the current scope of services."*

*Our primary concern is always our patients, and we are concerned that they will not have the ability to access needed services that are well staffed and comprehensive. Through the experiences of our fellow union members, as well as sophisticated studies, there is a strong possibility that our patients will receive different services at higher prices likely provided through insufficient staffing.*

### Enforceable Conditions Are Necessary Because RCCH Fails To Provide Solid, Accessible Promises Regarding the Continued Existence Of Accessible, Affordable Health Care:

#### *A. Vital Health Services*

*Because RCCH has not adequately identified essential services or agreed to maintain those services at least at their historical levels, DOH should provide a conditional approval of the transaction in the following manner:*

- (i.) For at least ten years after the closing of the proposed transaction, RCCH must continue to provide at least the same level and type of essential services provided as of the date in which RCCH filed its certificate of need application (June 22, 2018), unless RCCH can demonstrate to DOH's satisfaction that such services are sufficiently accessible and affordable at alternative sites in the community prior to any change.*
- (ii.) In addition to the essential services identified by RCCH in its application materials, the term essential services includes, but is not necessarily limited to: (i) inpatient drug and alcohol dependency treatment, rehabilitation and detoxification services; (ii) any reproductive health service currently provided by the hospital, including but not limited to contraception, vasectomy, tubal ligation and termination of pregnancy; and (iii) any service regularly or disproportionately accessed by economically disadvantaged, uninsured, or underinsured patients.*

*The level of each essential service provided by the hospital shall be evaluated using the appropriate unit of measure (e.g., number of patient days, number of procedures, relative value units, number of treatments) used for reporting hospital and patient data to WA DOH.*

#### *D. Continued Existence of the Hospital*

*Within the Certificate of Need application, RCCH appears to be committed to keeping both hospitals open for at least 3 years. We are concerned that RCCH may significantly reduce or alter existing*

*service lines. While not as serious as a total closure of the Hospital, a significant loss of available beds at the existing hospital will detrimentally impact access to health care in the Tri-cities region. In addition, the union believes that, should RCCH ever decide to close the hospital, it should first provide written notice of its plans to DOH, provide DOH with information explaining its decision, and arrange and pay for an independent study of the possible health impacts of such a decision on the community.*

*DOH should adopt the following conditions to ensure that the hospital remains open and that they continue to operate a supply of available beds sufficient to meet the needs of an expanding Tri Cities region:*

- (i) For at least ten years after the closing of the proposed transaction, RCCH must keep Trios Health open.*
- (ii.) For at least ten years after the closing of the proposed transaction, RCCH must maintain at least the same number of available beds in the same service lines across Trios Health as of the date RCCH filed its CON application on June 22, 2018.*
- (iii.) After the ten-year period following the closing of the proposed transaction, if RCCH decides to close the Hospital or change the status of the Hospital as an acute care facility, RCCH must provide DOH at least 90 days written notice. Such notice must include an independent community needs assessment or health impact study, paid for by RCCH, that identifies and analyzes: (a) potential impacts of the proposed closure or status change on the Tri Cities region's health care delivery system and on access to affordable health care for the disadvantaged, the uninsured, and the underinsured; and (b) potential measures to mitigate any negative effects of such closure or status change."*

Kadlec Regional Medical Center [source: July 19, 2018, public comment]

"RCCH Trios Must Be Held Accountable For Making A Long-term Commitment To Operate Trios And To Continue Providing Services.

*RCCH Trios has made representations that it intends to continue providing the scope of services offered by Trios today. Within the draft Community Care Agreement, Trios and RCCH Trios have included terms for the "Operation of the Facilities," specifying that RCCH Trios would continue providing "services consistent with a general acute care hospital, including but not limited to the Services, all subject to RCCH's good faith business judgment". Kadlec is cautiously encouraged to see RCCH Trios expressing a commitment to maintain services. If the Department decides to approve the RCCH Trios CN application, we request that it impose, monitor, and enforce conditions that will require RCCH Trios to, on a long-term basis, (1) continue to operate Trios and (2) maintain Trios' current complement of services. In the event that RCCH Trios seeks to change its complement of services by reducing or discontinuing health care services, RCCH Trios should provide appropriate and reasonable notice to the Department and health care providers in the planning area so steps can be taken to ensure the community continues to have access to needed health care services and that providers are not unduly burdened or impacted by RCCH Trios' change in services."*

#### Rebuttal Comment

*RCCH Trios Health provided extensive rebuttal responses to the issues raised above. Excerpts from the rebuttal responses that focus on the two issues are below. [source: July 24, 2018, RCCH Trios Health rebuttal comments]*

"RCCH is committed to operating Trios Hospital and maintain its current services.

*Kadlec and SEIU both request that the Department impose a commitment on RCCH to operate Trios Hospital on a long-term basis and maintain Trios Hospital's current mix of services. While at first blush, such requests seem well intentioned, the practical realities of such commitments are that they are likely*

*unenforceable and serve to potentially destabilize the availability of healthcare services in Benton and Franklin Counties. The Department's authority to enforce a condition to operate a hospital, or a service, is limited to revoking the CN if there is a violation. If RCCH ever chose to cease operations, which is highly unlikely given the large financial resources expended to acquire and operate Trios Hospital for assets that have a single purpose, revoking the CN does nothing to ensure these essential services are available to the community. Under the Department's existing interpretation of the CN statute and regulations, if Trios Hospital were to cease operations, the CN would lapse of its own accord. Therefore, a condition to require a long-term commitment to operate Trios Hospital is superfluous and unnecessary.*

*With regard to the maintenance of certain service lines, RCCH has made a commitment to the District to operate Trios Hospital as a general acute care hospital, including emergency services, obstetric services, surgery services, diagnostic services and related ancillary services necessary for the operation of a licensed hospital, as well as related services of professional providers, all as determined in the exercise of RCCH's reasonable business judgment. It is RCCH's goal to be able to expand upon the services offered at Trios Hospital; however, whether a specific service such as cancer services or cardiology services makes sense to operate depends upon what the current community need for such services are, as well as which services are provided by other hospitals in the area (avoiding unnecessary duplication is a primary goal of the CN program). Attempting to divine what services are necessary in 2018 for any extended period of time is mere speculation.*

*The specific condition related to the provision of services requested by the SEIU do not comport with the conditional certificate of need authority in the statute and regulations. They are not directly related to any of the specific review criteria and would require the Department to create a monitoring and enforcement program or mechanism that does not exist and is not authorized by statute.”*

**Department Evaluation**

In order to evaluate the applicant’s ability to meet this sub-criterion, the department analyzed the reasonableness of the statements within the application. While Trios Hospital is located in Benton County, information provided in the application shows that the majority of its patients (89.6%) reside in either Benton County or adjacent Franklin County. As a result, the department completed an analysis of planning area discharge patterns, occupancy trends, and the current bed supply in Benton and Franklin counties.

There are three acute care hospitals, including Trios Hospital, operational in Benton County; there is one acute care hospital located in Franklin County. Information for all four hospitals is shown in Table 3 below.

**Table 3  
Benton or Franklin County Hospitals**

<b>Hospital Name</b>	<b>Address / City</b>	<b>County Location</b>	<b>DOH License</b>
Kadlec Regional Medical Center	888 Swift Blvd / Richland	Benton	HAC.FS.00000161
PMH Medical Center	723 Memorial St / Prosser	Benton	HAC.FS.00000046
Trios Hospital (Health) Applicant-two campuses	900 S. Auburn / Kennewick 3810 Plaza Way / Kennewick	Benton	HAC.FS.00000039
Lourdes Medical Center	520 North 4 <sup>th</sup> Avenue / Pasco	Franklin	HAC.FS.00000022

As shown in the table, all four hospitals are licensed by the Washington State Department of Health as acute care hospitals; all four will be discussed throughout this section of this evaluation. Below is a summary of each hospital.

Kadlec Regional Medical Center is a 270-bed acute care hospital that provides a wide range of acute care services, including open heart surgery and percutaneous cardiac intervention. Additional services, with dedicated beds, include:

- level II neonatal intensive care services – 12 beds
- level III neonatal intensive care services – 15 beds
- rehabilitation services – 12 beds

PMH Medical Center is a 25-bed critical access hospital that provides acute care services. None of the acute care beds are dedicated to particular services.

Trios Hospital (Health) is the applicant hospital and the subject of this review. It is a 111 bed acute care hospital that provides a wide range of acute care services. Services with dedicated beds include:

- level II neonatal intensive care services – 10 beds

Lourdes Medical Center is a critical access hospital (CAH) that provides acute care services. As a CAH, Lourdes Medical Center operates 25 acute care beds and has an addition 10 beds dedicated to rehabilitation services. Services with dedicated beds at the hospital include:

- rehabilitation services – 10 beds

Even though Lourdes Medical Center continues to license all 95 of its acute care beds that were licensed prior to its CAH designation, for the purpose of this review, the hospital is counted at 35 beds.

To evaluate this sub-criterion, the department reviews historical CHARS data for all hospitals in the same planning area as the hospital being purchased. This review includes historical number of beds at each hospital, number of patient discharges, and percentage of the total patient discharges. The review also includes patient in- and out-migration to planning area hospitals and current occupancy of all hospitals in the planning area. The review for historical years 2013 through 2017 is below.

RCCH Trios Health states that 89.6% of Trios Hospital’s patients reside in Benton or Franklin County and provided a table showing that a percentage of patients come from Oregon counties of Umatilla and Morrow. To evaluate this information, the department reviewed historical data for all four of the hospitals in Benton and Franklin counties. Hospital inpatient days include all services, such as inpatient psychiatric services, level II and level III neonatal intensive care services, and rehabilitation services. Since Kadlec Regional Medical Center is the only provider of elective open heart surgery and elective cardiac catheterization services in the two counties, the data is also inclusive of days associated with those services. [source: CHARS Data 2013-2017 reported by the four hospitals]

**Table 4  
Benton and Franklin County Resident Discharges  
from Benton or Franklin County Hospitals for Historical Years 2013-2017**

<b>Benton or Franklin Residents Discharged From:</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Kadlec Regional Medical Center [Benton]	62.9%	63.7%	60.8%	63.8%	63.8%
Trios Hospital (Health) [Benton]	26.5%	29.2%	30.3%	27.2%	26.2%
Lourdes Medical Center [Franklin]	8.5%	6.8%	7.1%	8.1%	8.6%
PMH Medical Center [Benton]	2.1%	1.8%	2.3%	2.6%	3.0%
<b>Total Percentages</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Though Benton and Franklin County residents make up the majority of discharges from Benton and Franklin County hospitals, the hospitals have also historically been a resource for residents of adjacent

counties. The tables below shows the patient discharges for each hospital in Benton and Franklin County for year 2017. [source: 2017 CHARS Data]

**Table 5  
Kadlec Regional Medical Center  
2017 Discharges by Patient County**

<b>Patient County</b>	<b>Number of Discharges</b>	<b>% of Total Discharges</b>
Benton	10,390	56.9%
Franklin	4,428	24.5%
Other Counties	3,429	18.9%
<b>Total</b>	<b>18,247</b>	<b>100.0%</b>

**Table 6  
Trios Hospital (Health)  
2017 Discharges by Patient County**

<b>Patient County</b>	<b>Number of Discharges</b>	<b>% of Total Discharges</b>
Benton	4,693	69.4%
Franklin	1,401	20.7%
Other Counties	664	9.8%
<b>Total</b>	<b>6,758</b>	<b>100.0%</b>

**Table 7  
Lourdes Medical Center  
2017 Discharges by Patient County**

<b>Patient County</b>	<b>Number of Discharges</b>	<b>% of Total Discharges</b>
Benton	857	37.2%
Franklin	1,139	49.4%
Other Counties	309	13.4%
<b>Total</b>	<b>2,305</b>	<b>100.0%</b>

**Table 8  
PMH Medical Center  
2017 Discharges by Patient County**

<b>Patient County</b>	<b>Number of Discharges</b>	<b>% of Total Discharges</b>
Benton	669	45.4%
Franklin	18	1.2%
Other Counties	786	53.3%
<b>Total</b>	<b>1,473</b>	<b>100.0%</b>

For Tables 5, 6, 7, and 8 above, “*Other Counties*” includes Washington State counties other than Benton and Franklin and any out of state counties. The discharge data provided in four tables demonstrate that the majority of Benton and Franklin County residents seek healthcare services in Benton and Franklin counties. Table 6 also substantiates the applicant’s claim that the majority of its patients are from Benton and Franklin counties.

In order to assess whether the other hospitals in the planning area would be sufficiently available and accessible to the residents of Benton and Franklin counties and surrounding areas, the department completed an analysis of the existing supply of beds at each hospital and average daily census. The average daily census data was obtained from each hospital’s 2018 license hospital application submitted in late year 2017. The data is based on year 2017. The ideal occupancy for each hospital is determined by the 1987 State Health Plan.

**Table 9**  
**2017 Benton and Franklin County Hospitals Calculated Occupancy**

	# of Licensed Beds	Average Daily Census	Calculated Occupancy	1987 SHP Ideal Occupancy	Calculated # of Available Beds
Kadlec Regional Medical Center	270	197	72.9%	70%	0
PMH Medical Center	25	*10	40.0%	60%	5
Trios Hospital (Health)	111	60	54.5%	65%	12
Lourdes Medical Center	**25	17	68.0%	60%	0
<b>Total Planning Area</b>	<b>431</b>	<b>284</b>	<b>65.9%</b>	<b>N/A<sup>4</sup></b>	<b>17</b>

\*=PMH Medical Center did not provide its average daily census in its 2017 license application. In the year 2014 application, the hospital identified an average daily census of 9.6; year 2015 was 9.6; and 2016 was also 9.6. It is reasonable to assume an average daily census of 9.6 for 2017, which is rounded to 10.

\*\*=Lourdes Medical Center is a 25-bed critical access hospital that continues to license, but not operate, 95 acute care beds.

As shown in Table 9 above, two of the four Benton and Franklin County hospitals are operating with occupancy levels above the standard set out in the 1987 State Health Plan. Kadlec Regional Medical Center’s high occupancy may be attributed, in part, to its breadth and depth of services at the hospital. As a critical access hospital, Lourdes Medical Center’s occupancy standard is higher than expected.

For the remaining two hospitals—PMH Medical Center and Trios Hospital—both are operating with occupancy levels below the standard in the 1987 State Health Plan. For PMH Medical Center, an average daily census of 10 for a critical access hospital is consistent with other critical access hospital censuses within Washington State.

Focusing on Trios Hospital’s occupancy of 54.5%, the department is unable to determine whether the low average daily census and occupancy is the result of its poor financial health. This question is raised because the department is unable to compare historical data with 2017 data. Trios Hospital did not identify an average daily census in its hospital license application for years 2014, 2015 and 2016.<sup>5</sup>

In the event that the 111 beds at Trios Hospital were no longer available to Benton and Franklin counties and surrounding area residents, the planning area occupancy would increase dramatically within the remaining beds, shown below using 2017 volumes.

<sup>4</sup> Occupancy is calculated at the facility level, not the planning area level for planning purposes.

<sup>5</sup> Each hospital’s average daily census is collected in the annual license application, however, omission of the data does not result in denial of the license

**Table 10**  
**Benton and Franklin County Planning Area**  
**Beds and Occupancy Minus Trios Hospital Beds**

Benton and Franklin Planning Area Bed Count, Minus Trios Hospital Beds	320
Benton and Franklin Planning Area Calculated Average Daily Census	284
Planning Area Calculated Occupancy	88.8%

Though there are alternative sources of care within the planning area, it appears that if Trios Hospital was no longer available and accessible to Benton and Franklin counties and surrounding area residents, it would not be possible for existing hospitals to absorb even the historical volumes of Trios Hospital, much less any increase in volumes as a result of population growth.

Kadlec Regional Medical Center provided extensive public and rebuttal comments during this review. None of the comments submitted by the hospital include a statement or an inference that Kadlec Regional Medical Center would have the capacity to absorb patient volumes from Trios Hospital if it closed. Given that Kadlec Regional Medical Center is the largest hospital facility in the two county area, coupled with the department calculated utilization shown in Table 9, the department concludes that Kadlec Regional Medical Center could not absorb the patient volumes with its current 270 acute care beds.

Both SEIU 1199NW and Kadlec Regional Medical Center provided comments related to this sub-criterion and also suggested conditions that should be attached to any approval of this project. Below is the department’s evaluation of the comments by topic.

Scope of Services or Continue Providing Services

Both SEIU 1199NW and Kadlec Regional Medical Center assert that the healthcare services currently provided by Trios Hospital are essential to the community and should be continued. Based on the department’s review of services currently provided by the hospital and the hospital’s market share, the department concurs with this assertion. To ensure continued access to necessary healthcare services, if this project is approved, the department would attach a condition requiring Trios Hospital to maintain the services currently offered at the hospital for a minimum of 10 years.

Long Term Commitment to Operate Trios Hospital and Long Term Commitment to Operate Both Campuses at Trios Hospital

Both SEIU 1199NW and Kadlec Regional Medical Center suggest that the department require Trios Hospital to remain in operation. SEIU 1199NW suggests that the condition require the hospital to operate both campuses for a minimum of three years. Initially this type of condition may seem reasonable because different services are provided at each campus. For example the Auburn campus, with 37 acute care beds, including the 10 level II neonatal beds, provides women and children services. Closure of this campus would mean loss of these services and loss of 37 acute care beds in the planning area. However, the department is unable to require a hospital to remain in operation. If, for whatever reason, Trios Hospital closes one of its campuses, the department does not have the influence to require it to remain open. On the other hand, if Trios Hospital intended to close a campus and relocate a number of beds from one campus to the other, that project requires prior Certificate of Need review, including opportunity for public comment.

As a result, the department cannot condition a hospital to remain in continuous operation for a period of time. The condition requiring the hospital to maintain essential services assumes that the hospital will

remain in operation for ten years. Further, if during this ten year time RCCH desires to cease providing one or more of these services, WAC 246-310-570(1)(d) requires RCCH to submit an application to amend the Certificate of Need.

Based on the above information, the department concludes that continued operation of Trios Hospital is necessary. RCCH Trios Health **meets this sub-criterion provided it agrees to the conditions identified in the conclusion section of this evaluation.**

(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 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.<sup>6</sup> With the passage of the Affordable Care Act, the amount of charity care is expected to decrease, but not disappear.

### **RCCH Trios Health, LLC**

RCCH Trios Health states it will adopt the policies currently in place at Trios Hospital and provided copies of the policies. Since the policies have not yet been adopted, they are marked "DRAFT." The policies are listed below. [source: July 6, 2018, screening response, Exhibits 7A, 8A, 9A, 10A, and 11A]

- Admissions Policy – Implementation Date – March 2014
- Non-Discrimination Policy – Implementation Date – March 2014
- Charity Care Policy – Last reviewed on September 2009
- End of Life Policy – Implementation Date – March 2014
- Reproductive Health Policy – Implementation Date – March 2014

Trios Hospital is currently Medicare and Medicaid certified. RCCH Trios Health provided the hospital's current revenue payer mix and the expected payer mix following the proposed transaction. The payer mix is not expected to change as a result of this transaction, as shown below. [source: Application, p14]

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<sup>6</sup> WAC 246-453-010(4)

**Table 11  
Payer Mix Before and After Transaction**

	<b>Hospital District Ownership</b>	<b>RCCH Trios Health Ownership</b>
<b>Payer Source</b>	<b>Trios Hospital</b>	
Medicare	39.0%	39.0%
Medicaid	24.3%	24.3%
Workers Compensation	2.6%	2.6%
Other Government (L&I, etc.)	0.7%	0.7%
Commercial	33.3%	33.3%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>

In addition to the policies and payer mix information, RCCH Trios Health provided the following information related to uncompensated care provided by Trios Hospital. [source: Application, p17, pp19-20]

*“In addition, the District operates Trios Hospital with a Department of Health (DOH) approved charity care policy. RCCH Trios Health, LLC will adopt the existing Trios Hospital charity care policy. In preparing the financials for this application, RCCH Trios Health, LLC budgeted for Trios Hospital to provide charity care at the most recent three-year regional average. Trios Hospital has historically and will continue to operate with a DOH approved charity care policy and will provide charity care in full compliance with applicable state law and with its approved policies. Trios Hospital will use reasonable efforts to provide charity care in an amount comparable to or exceeding the amount of charity care historically provided by the District and will maintain records demonstrating its compliance with its charity care policies.*

*The District's charity care over the past three years is provided in Table 8.*

**Applicant’s Table 8  
Trios Health  
Historical Charity Care, 2015-2017**

	<b>2015</b>	<b>2016</b>	<b>2017</b>
<i>Dollar Amount</i>	\$3,018,675	\$2,999,362	\$2,181,352
<i>% of Total Patient Services Revenue</i>	0.62%	0.59%	0.43%
<i>% of Net Revenue</i>	1.70%	1.69%	1.36%

*RCCH Trios Health, LLC will provide charity care in compliance with all Washington state and federal law. RCCH Trios Health, LLC will adopt the existing Trios Health charity care policy. RCCH Trios Health will use its reasonable best efforts to provide charity care in an amount consistent with the District's historic practices and the regional average. For hospital charity care reporting purposes, DOH divides Washington State into five regions. Trios Hospital is located in the Central Washington Region. According to 2014-2016 charity care data produced by DOH (the most recent data that is currently available), the three-year charity care average for the Central Washington Region was 1.05% of total revenue and 2.66% of adjusted revenue. During this same timeframe, the three-year percentage of charity care for Trios Health was 0.91% of total revenue and 2.34% of adjusted revenue. For the pro forma financials, charity care, as a percentage of total revenue, has been based on the most recent three year, 2014 - 2016, regional average.*

Table 9 details the projected charity care for 2018-2021.”

**Applicant’s Table 9  
Trios Health  
Projected Charity Care, 2018-2021**

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<i>Dollar Amount</i>	\$5,416,766	\$5,565,412	\$5,718,260	\$5,875,434
<i>% of Total Patient Services Revenue</i>	1.05%	1.05%	1.05%	1.05%
<i>% of Net Revenue</i>	3.34%	3.34%	3.34%	3.34%

**Public Comment**

Both SEIU 1199NW and Kadlec Regional Medical Center submitted comments related to this sub-criterion. The comments are restated below.

Kadlec Regional Medical Center [source: July 19, 2018, public comment]

“RCCH Trios Must Be Held Accountable For Continuing Trios’ Participation In The Medicaid And Medicare Programs.

*RCCH Trios also has made representations that it will maintain participation in the Medicaid and Medicare programs. These patients include the most financially vulnerable and elderly members of the community, so attention must be afforded to ensuring their needs are addressed. These patients should not be marginalized or adversely affected by changes in ownership of the health care facilities in which they seek care. Kadlec is cautiously encouraged to see RCCH Trios expressing a commitment to continue caring for Medicare and Medicaid patients. However, RCCH Trios has provided a generic statement of commitment that does not go far enough in allaying concerns about the type of health care provider that RCCH Trios will be and the payor mix that will be reflected within its facilities. In a community with three hospitals, all providers need to ensure that they are doing their proportionate share of caring for Medicaid and Medicare patients. If two of the three hospitals in Benton and Franklin Counties are acquired by the same for-profit provider, then particular attention must be paid to the historic and proposed payor mix of these hospitals and the planning area. Therefore, if the Department decides to approve the RCCH Trios CN application, we request that it impose, monitor, and enforce conditions that will require RCCH Trios to, on a long-term basis, (1) to continue Trios’ participation in the Medicaid and Medicare programs and (2) to care for Medicaid and Medicare patients at a rate that is consistent with the payor mix in the planning area.”*

“The History Of RCCH In The State Of Washington Raises Significant Concerns About Its Commitment To Serving All Residents Of The Community, Especially Those Who Are Financially Vulnerable And In Need of Charity Care

*The history of RCCH’s sole hospital in Washington raises serious concerns about RCCH’s commitment to serving all residents in the communities it serves, especially those who are financially vulnerable and in need of charity care. This commitment is a key element in the Department’s evaluation of whether RCCH Trios’ CN application satisfies the CN review criteria related to the evaluation of need.*

*In order to be approved, RCCH Trios’ CN application to acquire Trios must satisfy all of the applicable CN review criteria relating to need set forth in WAC 246-310-210 (“Determination of Need”). The following need criterion is of paramount importance in the Department’s review of RCCH Trios’ application:*

*“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. “*

*...Capital Medical Center ("Capital") in Olympia is owned by Capella HealthCare, LLC and RCCH. As previously noted, on September 21, 2017, the Attorney General of Washington filed a Complaint for Injunctive and Other Relief under the Consumer Protection Act ("Complaint") against Capital. The Complaint alleges:*

*1.2 Capital undermined the purpose of the Charity Care Act, RCW 70.170, and violated the Washington Consumer Protection Act, RCW 19.86, when it pressured thousands of its low-income patients to pay for their treatment upfront and prevented them from accessing charity care from at least 2012 until 2016.*

*The Complaint further alleges:*

*1.11 Capital's practices deceived low-income patients about their liability for medical expenses, misled patients about their payment and financial assistance options, and unfairly prevented them from accessing care. Without information about and access to charity care, Capital's low income patients paid for medical expenses they should not have been responsible for, took on medical credit cards, incurred medical debts, and deferred medical care.*

*1.12 These practices caused Capital to provide charity care at one of the lowest rates in the Southwest Washington Region<sup>7</sup> and the State of Washington. In 2014 Southwest Washington Region hospitals provided an average of 5.93 percent of their adjusted revenue in charity care. In contrast, Capital provided just 0.37 percent of its adjusted revenue in charity care that year. This trend continued in 2015, when Southwest Washington Region hospitals provided an average of 3.18 percent of their adjusted revenue in charity care and Capital provided only 0.44 percent.*

*In both years, Capital provided the lowest rate of charity care in the Southwest Washington Region and in the State of Washington.*

*Kadlec recognizes the Attorney General's Complaint and the Office of the Attorney General's press release contain allegations. In its CN application, RCCH Trios states that "[t]he matter is on-going, and trial is expected to take place sometime in 2019" and that Capital "intends to defend the matter vigorously." Of course, Capital (and RCCH, its owner) are entitled to "vigorously" defend themselves. However, we presume the Attorney General commenced the action only after conducting an extensive investigation, as is supported by the evidence presented in the Complaint. Accordingly, we believe it is appropriate for the Department to take the Attorney General's action (and Capital's, Capella's, and RCCH's responses to the action) into account when evaluating RCCH Trios' CN application.*

*The Attorney General's action is not the first time that concerns have been raised about Capital's charity care practices. In November 2009, the Department issued CN #1410 to Capital authorizing it to establish an elective percutaneous coronary interventions ("PCI") program. The Department approved the application with three conditions, which Capital accepted; these included:*

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<sup>7</sup> DOH added footnote: Capital Medical Center is located in Thurston County, within the Southwest Region. Trios Hospital is in Benton County, which is part of the Central Region.

*“Capital Medical Center will provide charity care in compliance with the charity care policies reviewed and approved by the Department of Health. Capital Medical Center will use reasonable efforts to provide charity care in an amount comparable to or exceeding the regional average amount of charity care provided by hospitals in the Southwest Washington Region. Currently, this amount is 2.4% of gross revenue and 6.16% of adjusted revenue. Capital Medical Center will maintain records documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies.”*

*Providence Health & Services - Washington dba Providence St. Peter Hospital ("PSPH") commenced an adjudicative proceeding challenging the issuance of CN #1410 to Capital. The Department, Capital, and PSPH agreed to a settlement, pursuant to which Capital retained its CN. As part of the settlement, Capital agreed to "fulfill its ongoing obligation to provide charity care by using reasonable efforts to provide an amount of charity care comparable to or exceeding a percentage of the regional average amount of charity care provided by hospitals in the Southwest Washington Region." The Stipulation and Agreed Order implementing the settlement states: "Capital recognizes that its failure to meet the requirements of this stipulation and agreed order constitute cause for suspension or revocation of CN #1410." Ultimately, Capital failed to comply with the charity care commitments made by it in the Stipulation and Agreed Order. Accordingly, on September 19, 2014, the Department issued a "Notice of Suspension of CN #1410" to Capital. The Notice states:*

*[The charity care] data indicates that from 2010 to 2012 Capital failed to make reasonable efforts to meet the charity care requirements of the Agreed Order. Under Paragraph 8 of the Agreed Order, this failure is grounds for the Department to suspend or revoke CN # 1410. Accordingly, the Department hereby suspends CN # 1410.*

*On October 17, 2014, Capital requested an adjudicative proceeding to contest the suspension, which, ultimately, led to the Health Law Judge approving a revised Stipulation for Dismissal that outlined new settlement terms. The settlement included the following terms:*

- 5. CMC [Capital] will provide not less than the charity care average by June 2017 for the proceeding [sic] 12 months, and each June thereafter, for all hospitals in Thurston, Mason, Grays Harbor, and Lewis Counties.*
- 6. By September 1 of each year, if CMC has failed to meet the requirement in Paragraph 5, CMC will pay an amount calculated by the formula in Attachment 2 to this Stipulation to one or more local organizations that provides medical care to indigent persons. The organizations must be unaffiliated with CMC in terms of ownership or governance and be approved by the Department. The Department will consult with Providence St. Peter Hospital prior to approving a recipient organization.*

*On November 17, 2017, Providence was notified that Capital - during its very first reconciliation period under the terms of the Order and Stipulation - had failed to meet the charity care requirements. For the reporting period of June 2016 - May 2017, the charity percentage for Capital was a mere 0.27%. As of July 2018, the Department is continuing to work with Capital to complete the first reconciliation. Overall, Capital failed to provide charity care at a level anywhere close to the targets in the Order and Stipulation. We do not know whether the Department has yet evaluated Capital's compliance with the charity care requirements in the settlement's second reconciliation period of June 2017 - May 2018. However, the available data indicates that Capital's charity care as a percentage of total patient service revenue may have decreased from 0.27% in 2016 to 0.22% in 2017. In the draft Community Care Agreement proposed by RCCH Trios and Trios, RCCH Trios makes a*

commitment to "provide charity care consistent with applicable State law." However, the Attorney General's recent legal action and the Department's suspension of CN #1410 raise troubling questions about Capital's commitment to providing charity care. Given RCCH's ownership of Capital, the history of Capital's charity care issues is something that the Department must take into account when assessing RCCH Trios' representations in the draft Community Care Agreement regarding its post-acquisition operation of Trios and when evaluating whether RCCH Trios' CN application satisfies the mandatory review criteria related to charity care and accessibility for underserved patient populations.

SEIU 1199NW [source: July 19, 2018, public comment]

"RCCH plans to send our patients to collections, and only commits to regional averages of charity care for three years:

*A hospital's charity care contribution is one of its most important obligations to its community. Thus, the legislature has required DOH to determine whether Trios "meets or exceeds the regional average level of charity care." RCW 70.38.115(2)(j). When reviewing the certificate of need application, DOH must ensure that RCCH's proposed charity care policies and application materials will not reduce access to charity care. See RCW 70.170.060(1).*

*The charity care policy submitted by RCCH highlights the use of third party revenue recovery entities including collections agencies. According to this policy, patients may be sent to collections if "payments are missed, there is some period of inactivity on the account, and there is no satisfactory contact with the patient." We know, as patient advocates and as patients ourselves that using third party revenue recovery agencies, such as collections agencies, can induct incredible financial harm and deter patients from accessing care in the future. Unfortunately, RCCH provides no commitments to patient-centered charity care.*

*Further, as RCCH describes in their application, their only other operating entity in Washington State was in violation of our state's charity care laws and is engaged in a lawsuit by the Attorney General's Office.*

*Our primary concern is always our patients, and we are concerned that patients will experience retaliation for many real life reasons for "payments [that] are missed, there is some period of inactivity on the account, and there is no satisfactory contact with the patient," including homelessness. We want all of our patients, including the disadvantaged, the uninsured, and the underinsured, to confidently access high quality patient care here at Trios Health.*

#### **B. Charity Care**

*In order to ensure that this sale does not restrict access to affordable healthcare to the disadvantaged, the uninsured, and the underinsured, DOH should place the following reasonable conditions upon RCCH's charity care policies and proposals:*

*(i.) For as long as RCCH owns or operates the Hospital, it must, on an annual basis, incur charity care expenses (calculated as estimated charity care cost as a percentage of total operating revenue) that equals or exceeds the median level of charity care expenses at comparable hospitals. The median shall be calculated from data reported to the Washington Department of Health in the annual hospital report. If the hospital spends less than the average among regional hospitals in a given year, RCCH must provide the shortfall amount in addition to the expected annual charity care amount during the following year. That total amount of charity care provided (expected and shortfall), shall be submitted to the*

*Washington Department of Health as one number to be then calculated into the regional average for the following year.*

*C. Medicaid and Medicare*

*As a community provider of hospital care, RCCH must continue to provide care without discrimination based on ability to pay or payment source and must continue fully serving Medicare and Medicaid patients. Failure to meet these historical levels for Medicare and Medicaid will result in the loss of access to affordable care for some eligible patients and will demonstrate a lack of commitment "to providing health care to the disadvantaged, the uninsured, and the underinsured." RCW 70.45.080(4).*

*Furthermore, RCCH must not consider any shortfall in payment by Medicare or Medicaid to be charity care expenditure."*

Rebuttal Comment

RCCH Trios Health provided the following rebuttal comments in response to the comments submitted by both Kadlec Regional Medical Center and SEUI 1199NW. [source: July 24, 2018, RCCH Trios Health rebuttal comments]

*"Medicare and Medicaid will continue to make-up a substantial portion of the Trios Hospital payor mix.*

*As stated in the Application, RCCH fully intends for Trios Hospital to continue as a Medicare and Medicaid participating provider. As described in the Application materials, Medicare and Medicaid combined account for over 50% of Trios Hospital's business. Unless there is some drastic alteration of the healthcare payment mechanisms on the state and/or federal level, no general acute care hospital could reasonably be expected to survive without participating in Medicare and Medicaid. Fixing the exact payor mix for those payors, however, is a more difficult proposition. Much of that depends on demographics and shifting populations, as well as federal and state policy. Assuming no material shift or change in Medicare payment policy, we would expect that the percentage of Medicare patients may in fact grow because of aging of the population.*

*Third-party payor contracts did not survive the bankruptcy proceeding.*

*SEIU has further requested that the Department condition the potential grant of a CN on RCCH assuming all of the District's existing third-party agreements. Again, such a request significantly exceeds the Department's authority and is not related to the specific review criteria. Equally, if not more, importantly, the issue of the survivability of contracts (including payor agreements) was a subject of the bankruptcy and specifically resolved by the bankruptcy proceeding. Therefore, the Bankruptcy Court has already determined the treatment of those agreements and preempts any action related to such contracts by the Department.*

*RCCH's charity care policy is consistent with Washington State law*

*RCCH has committed to adopting the District's and Trios Hospital's existing, Department approved, charity care policy. As the Department is well aware, all hospitals throughout the state will be amending their charity care policies to comply with recent changes to the Charity Care Statute enacted by the Washington State legislature. As the Department is also well aware, any change to a hospital's charity care policy must be approved by the Department.*

*RCCH anticipates that it will submit a new charity care policy at some point in 2018 for Department approval to address the modification required by the recent changes in law. RCCH will both adopt and implement its charity care policy in a manner that fully complies with Washington state law.*

*SEIU makes certain objections to features of the District's existing policy, i.e., the use of collection agencies. We simply point out that those features are part of the District's existing policy that the Department has reviewed and approved. SEIU ignores the fact that virtually every hospital in the state resorts to the use of collection agencies in certain circumstances and that doing so does not violate applicable law.*

*Regarding the level of charity care to be provided, RCCH fully anticipates that the Department will request a condition consistent with its common practice requiring that RCCH use reasonable efforts to provide charity care at a level consistent with the regional average. Washington State law does not require a certain amount of charity care, rather the Charity Care Statute imposes requirements related to charity care policies and how they are implemented, not the level of charity care. RCCH will comply with state law and will make every reasonable effort to provide charity care at levels consistent with Trios Hospital's history and with the regional average, all as defined by the Department and its regulations. It does not make sense, and in fact would violate legal principles related to due process and equal protection, to impose unique charity care requirements on individual facilities without any uniformity, especially given the fact that there already exists a state-wide reporting system and uniform requirements.*

*Comments regarding Capital Medical Center are meant as a distraction*

*Kadlec and SEIU both attack the commitment of RCCH to serve all residents in the community and its commitment to charity care based on the ongoing litigation at Capital Medical Center ("CMC"). These attacks are misdirected, used to tarnish the applicant, and fail to appreciate the history of RCCH's operations in Washington. These are similar arguments made by Kadlec to contest RCCH's application concerning the acquisition of Lourdes Medical Center and Lourdes Counseling Center.*

*RCCH feels compelled to respond to these concerns related to CMC, even though the concerns have no applicability to this pending Application and were previously addressed in our rebuttal comments related to the RCCH Lourdes conversion application.*

*Regarding the CMC lawsuit, in 2016, the Washington State Attorney General ("AG") began an investigation into CMC's charity care program, policies and procedures. RCCH and CMC cooperated with the AG in the investigation. CMC and RCCH had a good faith belief that they were on the path to a settlement that might have included a corrective action plan for alleged violations of the state charity care law, as well as monetary penalties. Independently, during 2016, CMC reviewed all of its charity care policies and procedures and made changes necessary to bring CMC's policies and practices into conformity with the AG's interpretation of the charity care law. Despite these good faith efforts on the part of CMC and the AG, the AG chose to file a lawsuit, alleging violations of the state Consumer Protection Act (CPA) based on failure to follow the AG's interpretation of the charity care law. The alleged violations in the lawsuit involve conduct from 2012 until 2016.*

*The matter is on-going, and trial is expected to take place sometime in 2019. CMC intends to defend the matter vigorously. In the interim, CMC and RCCH will continue to monitor their practices to ensure they are performing their obligations, at a minimum, in compliance with state law. RCCH remains open to settlement possibilities with the AG if such should arise. RCCH is committed to providing charity care to patients in all communities served by RCCH, and to do so in a manner that conforms with best practices as well as Washington State law.*

*The focus solely on the lawsuit with the AG ignores the innovation, high quality care, and commitment to the community provided by CMC. Located in Olympia, CMC has a history of serving state employees, including through the Health Care Authority's innovative value-based accountable care*

*product, UMP+ for the UW Medicine Accountable Care Network. Since CMC and UW Medicine ACN began working together, the quality of care delivered at CMC has been continuously improving. For example, CMC is a four-star Medicare hospital, the first hospital in the South Sound to earn a Gold Seal of Approval® for hip replacement, knee replacement and spine surgery from The Joint Commission, recipient of the 2017 WSHA Award for Quality and the BlueCross/Blue Shield Blue Distinction Center+ hospital for Knee & Hip Replacement and Spine.*

*In addition, access to care within the community has steadily grown, including bringing additional primary care to the community through a collaboration between CMC and the UW Neighborhood Clinics. The materials submitted by Kadlec and the SEIU describing charity care ignores the consistent, high quality delivery of care in support of community needs that CMC provides. They also fail to recognize that as a tax paying, for-profit entity, RCCH Trios Health will provide millions of dollars in public benefit in the form of property taxes, B&O taxes, Federal Income Tax, and sales and use taxes.*

*Finally, we note that Providence itself has recently been sued over charity care issues: 'Hofstader v. Emergency Physicians Services, P.S., Providence Holy Family Hospital and Providence Health and Services.' The complaint states, among other things that:*

*Plaintiff is informed and believes, and thereon alleges, that Defendants have engaged, and continue to engage, in a pattern and practice of collecting or seeking to collect from patients without first affirmatively screening them to determine whether they qualify for charity care based on their income.*

*Hofstader First Amended Complaint, Paragraph 6, p 3.*

*This factual allegation is very similar to the factual allegations the AG has made regarding CMC's practices. RCCH recognizes that the complaint contains allegations. RCCH also assumes that Providence will contest the complaint. To the best of RCCH's knowledge, the action has not yet been resolved. However, we presume the complainant conducted an investigation and has a good faith belief that the facts alleged in the complaint are true in order to avoid sanctions from the court for filing a frivolous action.*

*We raise the existence of this lawsuit to demonstrate that many hospital operators may be alleged to have issues in complying with the requirements of the Washington charity care law, including Providence. But this fact alone is not overly relevant to the review of the Application, let alone dispositive.*

#### Miscellaneous

*It should also be noted that in the absence of a CN reviewable transaction, Trios Hospital (or Kadlec for that matter) is not obligated to continue to: (1) provide the same level and scope of services; (2) provide the same amount of charity care and community benefit; and (3) participate in the Medicare and Medicaid programs. Given the District's current circumstances, if this Application is not approved and the District's transaction with RCCH is not consummated, Trios Hospital will be forced to close, the community will lose one third of its available hospital options, and over 1,000 individuals will lose their employment."*

#### Department Evaluation

Within the application, RCCH Trios Health stated it would adopt the following policies currently in place Trios Hospital and provided drafts of each of the policies. While the hospital has two campuses, it is operated under a single hospital license. The policies are used at both campuses.

- Admission Policy

- Non-discrimination Policy
- Charity Care Policy
- End of Life Policy
- Reproductive Health Policy

The draft Admission Policy outlines the process RCCH Trios Health will use to admit patients into Trios Hospital. The Admission Policy include the following language:

*“The purpose of this policy is to establish clear guidelines for the hospital admission process based on age, race, color, creed, ethnicity, religion, national origin, marital status, sex, sexual orientation, gender identity or expression, disability, veteran or military status. (KGH003824 - Nondiscrimination Policy)”*

The Admission Policy is used in conjunction with the Non-Discrimination Policy. The draft Non-Discrimination Policy includes the following language:

- A. *RCCH Trios Health is dedicated to providing services to patients and welcoming visitors in a manner that respects, protects, and promotes patient rights.*
1. *Hospital Personnel will treat all patients and visitors receiving services from or participating in other programs of RCCH Trios Health and its affiliated clinics with equality in a welcoming manner that is free from discrimination based on age, race, color, creed, ethnicity, religion, national origin, marital status, sex, sexual orientation, gender identity or expression, disability, veteran or military status, or any other basis prohibited by federal, state, or local law.*
  2. *Hospital Personnel will inform patients of the availability of and make reasonable accommodations for patients consistent with federal and state requirements. For example, language interpretation services will be made available for non-English speaking patients and sign language interpretation will be made available for hearing impaired patients.*
  3. *Hospital Personnel will afford visitation rights to patients free from discrimination based on age, race, color, creed, ethnicity, religion, national origin, marital status, sex, sexual orientation, gender identity or expression, disability, veteran or military status, or any other basis prohibited by federal, state, or local law and will ensure that visitors receive equal visitation privileges consistent with patient preferences.*
  4. *Any person who believes that he, she, or another person has been subjected to discrimination which is not permitted by this Policy, may file a complaint using RCCH Trios Health's complaint and grievance procedure.*
  5. *Hospital Personnel are prohibited from retaliating against any person who opposes, complains about, or reports discrimination, files a complaint, or cooperates in an investigation of discrimination or other proceeding under federal, state, or local anti-discrimination law.*

The draft Charity Care Policy includes roles and responsibilities for both the hospital and the patient related to charity care. The hospital’s roles and responsibilities include informing the patient about charity care, identifying the process one must use to obtain charity care, and providing the process Trios Hospital would use to determine charity care eligibility. Patient roles and responsibilities outlined in the draft policy include documentation that must be provided to the hospital to obtain charity care and the percentages of Federal Poverty Guidelines used by hospitals to assist in determining eligibility.

The draft End of Life Policy includes guidelines for withholding and withdrawing life-sustaining treatments. The policy also provides the philosophy and general principles of Trios Hospital, includes

definitions of key terms within the policy, and outlines roles and responsibilities for the patient, patient’s family, and medical staff related to end of life. The policy provides the information necessary for a patient to make informed choices regarding end of life decisions.

The draft Reproductive Health Policy provided in the application provides a comprehensive, but not all inclusive, listing of reproductive health services provided at Trios Hospital. Trios Hospital provides general obstetric services and birthing services, including level II neonatal intensive care services. The hospital also offers contraception and pre-contraception counseling, fertility services, sexually transmitted disease screening and treatment, and pregnancy termination services.<sup>8</sup> Given that Trios Hospital is the only non-secular hospital in Benton and Franklin counties, many of the reproductive health services listed can only be obtained at Trios Hospital. The draft policy also identifies the mandatory education required for staff of the maternity center.

Since all policies are in draft format, if this project is approved, the department would attach conditions requiring that RCCH Trios Health provide copies of all final policies within 30 days of the change of ownership. Specific to the Charity Care Policy, the condition would specify that the policy be approved by the Department of Health’s Hospital Charity Care and Financial Data office.

Charity Care Percentage Requirement

For charity care reporting purposes, Washington State is divided into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. Trios Hospital is located in Benton County, within the Central Region. Currently there are 21 hospitals operating within the region. In this section of the evaluation, the department compares historical three-year average of charity care provided by the hospitals currently operating in the planning area. For the three-years reviewed, three of the 21 hospitals did not report charity care for year 2014. The three hospitals are Quincey Valley Hospital, Sunnyside Community Hospital, and Confluence Wenatchee Valley Hospital. All 21 hospitals reported data for years 2015 and 2016.

Table 12 compares the historical three-year (2014-2016) average of charity care provided by the hospitals currently operating in the Central Region, Trios Hospital’s historical charity care, and the projected amounts of charity care at Trios Hospital.

**Table 12  
Charity Care Comparison**

	<b>Percentage of Total Revenue</b>	<b>Percentage of Adjusted Revenue</b>
Central Region Historical Average <sup>9</sup>	1.08%	2.73%
Historical Average – Trios Hospital	0.94%	2.30%
Projected Average –Trios Hospital	1.05%	2.86%

As shown above, the three year historical average of charity care provided by Trios Hospital is below the regional average. Although not shown in the table above, year 2014 charity care provided by Trios Hospital

<sup>8</sup> The policy also includes ‘opt out’ language for hospital staff, which states: “As per RCW 9.02.150, RCCH Trios Health does not mandate that any provider or staff member participate in the termination of a pregnancy. Only those providers and staff who are willing and desire to participate should do so. If an employee does not want to participate in the act, he or she must follow the process outlined in the RCCH Trios Health Employee Handbook, Care that Conflicts with Values.”

<sup>9</sup> As of the writing of this evaluation, 2016 is the most recent year for which there is charity care data.

was above the regional average, however for years 2015 and 2016, the hospital reported significantly less charity care than in previous years.

RCCH Trios Health projects that following the change of ownership the hospital would provide charity care at levels above the regional average as a percentage of both total revenues and adjusted revenues. Within the application, the applicant states it intends to “provide charity care consistent with Washington State law and the history of the district.”

RCCH Trios Health also provided the following information related to charity care in its financial statement assumptions. [source: Application, Exhibit 12-Assumptions]

*“Charity: Increased to the three year regional average (2014-2016) of 1.05%. The District's recent charity care is lower than it has historically been and it is believed that this is due to turnover in business office and CFO (with charity care being recorded incorrectly, not using charity care tools or pursuing charity care applications). We will do all possible to identify charity patients and ensure accurate recording of charity care and in compliance with state law.”*

The applicant states that Trios Hospital has provided charity care at or above the regional average for historical years prior to 2014. For this project, the department reviewed charity care data reported by hospitals in the Central Region for years 2011, 2012, and 2013. A summary of that review is below.

**Table 13  
Charity Care Comparison  
Central Washington Region and Trios Hospital<sup>10</sup>**

<b>Reporting Year</b>	<b>Data Reported</b>	<b>Percentage of Total Revenue</b>	<b>Percentage of Adjusted Revenue</b>
2011	Central Region Historical Average	2.36%	5.46%
2011	Trios Hospital	2.61%	5.96%
2012	Central Region Historical Average <sup>11</sup>	2.49%	5.77%
2012	Trios Hospital	2.76%	6.49%
2013	Central Region Historical Average <sup>12</sup>	2.18%	4.93%
2013	Trios Hospital	2.46%	5.02%

Table 13 above substantiates RCCH Trios Health’s assertion that it has provided charity care above the regional averages in the past. The department will not attempt to substantiate why the hospital’s reported charity care is lower for years 2015 and 2016.

Both SEIU 1199NW and Kadlec Regional Medical Center provided comments related to this sub-criterion and also suggested conditions that should be attached to any approval of this project. Below is the department’s evaluation of the comments by topic.

Medicare and Medicaid Participation

If this project is approved, both SEIU 1199NW and Kadlec Regional Medical Center assert that the department require Trios Hospital to continue participation in the Medicare and Medicaid programs. RCCH Trios Health states that the majority of its revenues are a combination of Medicare and Medicaid

<sup>10</sup> The department acknowledges that in year 2011 through 2013, the hospital was known as Kennewick General Hospital.

<sup>11</sup> Quincy Valley Hospital did not report data for year 2012.

<sup>12</sup> Quincy Valley Hospital and Wenatchee Valley Hospital did not report data for year 2013.

and for that reason it would have to continue participation in both programs. The department concurs that participation in both Medicare and Medicaid programs is essential to this approval because it ensures all residents of the service area would have access to healthcare services. However, in past reviews of this type, the department has not specifically attached a condition requiring continued participation in the Medicare and Medicaid programs. Nothing in the documents indicates that Trios Hospital would not continue its participation.

Kadlec Regional Medical Center also asserts that the department attach a condition requiring Trios Hospital to maintain participation in the Medicare and Medicaid programs at a rate that is consistent with the payer mix in the planning area. Given that Kadlec Regional Medical Center is the largest hospital and has the greatest depth and breadth of services in the two county planning area, the concerns raised by them seem logical. If Trios Hospital elected to continue participate in the Medicare and Medicaid programs at a lower rate than the planning area, Kadlec Regional Medical Center could be negatively impacted. As a result, this condition is reasonable. The department will include a condition requiring Trios Hospital to maintain its participation in the Medicare and Medicaid program at a rate that is consistent with the payer mix in the planning area. The reporting requirement for this condition will be captured in the quarterly financial statements required to be submitted to the Department of Health by each hospital.

#### Charity Care Requirement

Both SEIU 1199NW and Kadlec Regional Medical Center expressed concerns related to charity care. SEIU 1199NW's concerns related to wording in the charity care policy. For all CN applications for hospital projects, the department attaches a condition requiring the hospital to provide a copy of the Charity Care Policy that has been reviewed and approved by the Charity Care Program within Department of Health. If this application is approved, it will include this specific type of condition.

Kadlec Regional Medical Center's concern focuses on the parent of RCCH Trios Health—Capella Healthcare, LLC (Capella) and its history of providing charity care in Washington State. Capella owns and operations Capital Medical Center, an acute care hospital in Thurston County. As stated in Kadlec Regional Medical Center's public comment, the historical charity care provided by Capital Medical Center is significantly lower than both the regional average (Southwest Region) and the average of the other hospital operating in Thurston County—Providence St. Peter Hospital. The concerns raised in this review by Kadlec Regional Medical Center are reasonable.

For all CN applications for hospital projects, the department attaches a standard condition requiring the hospital to use reasonable efforts to provide a percentage of charity care consistent with the regional average. A second standard condition requires the hospital to submit annual budgets to the Department of Health as required under WAC 246-454-030, that includes budgeted charity care of at least the amount identified in the application or comparable to the hospitals in the region. Given the history of Capella-owned Capital Medical Center, the department concurs that additional assurances for Trios Hospital are necessary if this project is approved. For these reasons the department would attach three conditions related to charity care.

- A condition requiring the hospital to provide a copy of the Charity Care Policy approved by the Department of Health's Charity Care Office.
- A condition requiring Trios Hospital to make reasonable efforts to provide charity care at a level consistent with the most recent three-year average of charity care within the region or the levels proposed in the applications, whichever is greater.
- A condition requiring Trios Hospital to maintain records of charity care applications received and the dollar amount of charity care discounts granted at Trios Hospital. The department would require that these records be available upon request.

Based on the above information, the department concludes that RCCH Trios Health **meets this sub-criterion provided it agrees to the conditions identified in the conclusion section of this evaluation.**

(3) The applicant has substantiated any of the following 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)**

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that RCCH Trios Health, LLC has met the applicable financial feasibility criteria in WAC 246-310-220.

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

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

**RCCH Trios Health, LLC**

RCCH Trios Health provided the following assumptions that were used to determine the projected number of discharges, patient days, and occupancy at Trios Health. [source: Application, Exhibit 12]

- **Volume (patient days):** Adjusted for regional population growth of market (one of the highest growth rates in the nation) and assumed population growth of 2.1% per year. Note - outpatient volumes are project to grow faster than inpatient due to industry shift in cases from inpatient to outpatient.
- **Admissions:** were also assumed to increase approximately 2.0% from 2017 and each year thereafter through 2021.
- **Admission by Payer:** The percentage of admissions by payer was based on 2017 actual and is held constant 2018 through 2021.
- **Average length of stay (ALOS):** was assumed to remain at 3.09, which is based on 2017 actual ALOS.
- **Revenue by Payer** (detailed in the table below) was based upon 2017 actual and is held constant (as a percentage of total revenue for) 2018-2021:

***Estimated Revenue by Payer***

<b><i>Payer</i></b>	<b><i>% of Total Revenue</i></b>
<i>Medicare</i>	39.0%
<i>Medicaid</i>	24.3%
<i>Workers Compensation</i>	2.6%
<i>Other Government</i>	0.7%
<i>Commercial</i>	33.3%
<b><i>Total</i></b>	<b><i>100.0%</i></b>

Using the assumptions stated above, RCCH Trios Health projected the number of inpatient admissions, patient days, average length of stay, and occupancy percentages at Trios Health. The projections shown below begin with year calendar year 2018. [source: Application, pp27-28]

**Table 14**  
**Trios Hospital**  
**Projections for Years 2018-2021**

	<b>CY 2018</b>	<b>CY 2019</b>	<b>CY 2020</b>	<b>CY2021</b>
Total Licensed Beds*	111	111	111	111
Total Admissions	6,189	6,318	6,451	6,586
Total Patient Days	19,139	19,539	19,951	20,369
Average Length of Stay	3.09	3.09	3.09	3.09
Occupancy Percentage	47.2%	48.2%	49.2%	50.3%

\*111 licensed beds includes 10 beds dedicated to level II neonatal intensive care services (special care nursery)

The assumptions RCCH Trios Health used to project revenue, expenses, and net income for Trios Hospital for projection years 2018 through 2021 are below. [source: Application, Exhibit 12]

- **Gross revenue:** is both inpatient and outpatient revenue.
- **Charges:** assume current (2018) charges; there are no rate increase in the charges.
- **Contractual:** Increase in contractals due to increase in Medicaid contractual based on loss of Certified Public Expenditure (CPE) program (public hospital districts are eligible for cost based reimbursement under the CPE program; RCCH Trios Health, LLC as a for-profit private entity will not be eligible for the CPE regular, Medicaid Fee For Service (FFS) rates. Trios Hospital will become a FFS Medicaid hospital on closing with the assumed, lower reimbursement. Contractuals assumed using 100% of FFS payment, with no increase for Quality Improvement Bonus, and assumes Trios Hospital participation as of day of closing.
- **Bad Debt:** Bad debt was assumed to be 2.48% of total revenue. This is lower than the District's recent historic average which was higher than other similar hospitals. Trios has had collection issues over past few years (turnover and layoffs in financial services at the District). RCCH is confident that bad debt expense will decrease as policies are more consistently implemented and RCCH's resources are made available.
- **Charity:** Increased to the three year regional average (2014-2016) of 1.05%. The District's recent charity care is lower than it has historically been and it is believed that this is due to turnover in business office and CFO (with charity care being recorded incorrectly, not using charity care tools or pursuing charity care applications). We will do all possible to identify charity patients and ensure accurate recording of charity care and in compliance with state law.
- **Other Operating Revenue:** This consists of non- patient revenue like cafeteria, gift shop, etc.
- **Tax Revenue:** No tax revenue are assumed in pro forma as it has not been completely determined how it will be used in the future. If tax revenue does become available via the Community Care Agreement, it will increase the net revenue. It is not anticipated that there would be any revenue under the Community Care Agreement for at least three years.
- **Salaries and Wages:** Salaries and wages are based on current CBAs. The salaries and wages are assumed to be lower in 2018-2021 (compared to 2017) because recently completed reduction in force by the District had not yet hit the financials in full, while severance obligations had hit the financial statements.
- **Benefits:** Assumed to be 18.4% in the projection years. This is lower than the current benefit rate as RCCH will be able to access its self-insured benefits program
- **Professional Fees:** The District has had expensive contracts with third parties and high usage of agency staffing along with excessive turnover due to the bankruptcy. We have projected that these expenses should come into line with RCCH's company wide experience.

- **Supply Expense:** Projecting efficiencies based on the use of RCCH's national contracts (that include over 2,000 hospitals under HPG (purchasing group) and believe supply cost will be cut dramatically based on experience with similar hospitals).
- **Purchased Services (utility):** Annual increase of 2.5% assumed due to increase in utilization.
- **Purchased Services (other):** New contracts will be developed that are expected to reduce the costs for these services (through national contracts).
- **Depreciation and Amortization:** Significant decrease in this line item due to new lease structure. Under new leases, there is no required purchase option, no interest on hospital and MOB (traditional lease), therefore, that portion of depreciation and interest is eliminated.
- **Rentals & Leases:** The MOB lease has been renegotiated with Lessor at a significantly lower cost. Note - not all of the MOB rent from the MOB Lease is included in the pro forma because not all of the MOB is attributable to Trios Hospital.
- **Insurance:** RCCH is self-insured and RCCH insurance costs are assumed for this line item. This will result in lower insurance costs than Trios Hospital currently experiences.
- **Licenses and Taxes:** This line item includes property taxes and B&O taxes. The PHD does not pay these taxes currently put RCCH Trios Health, LLC will have this tax obligations.
- **Interest:** No interest expense with the new lease structure and planned purchase of equipment leases.
- **Other Direct Expenses:** This line item includes: miscellaneous non-operating fees, such as membership fees/ dues, subscriptions, travel expenses and lodging, education, etc.
- **Allocated Expense:** Allocation of our corporate service center overhead (management fee) based on hospital's representative percent of net revenue.
- **Federal Income Taxes:** RCCH pays Federal Tax at a consolidated corporate level and \$0 projected for RCCH Trios Health LLC.
- **Extraordinary Item (Lease of Hospital) - Hospital Lease is paid at a percent of free cash flow only, thus why listed at the bottom.**

Based on the assumptions described above, RCCH Trios Health provided actual (2017), annualized (2018), and projected (2019-2021) revenues, expenses, and net income for Trios Hospital. A summary of the information is shown below in Table 15. [source: Application, Exhibit 12]

**Table 15**  
**Trios Hospital**  
**Actual (Annualized) Revenues and Expenses-Years 2017-2021**

	Actual	Annualized	Projected		
	2017	2018	2019	2020	2021
Net Revenue	\$167,536,526	\$168,022,253	\$172,633,070	\$177,374,269	\$182,249,627
Total Expenses	\$196,592,015	\$167,096,088	\$170,346,625	\$175,010,338	\$179,148,378
<b>Net Profit or (Loss)</b>	<b>(\$29,055,489)</b>	<b>\$926,165</b>	<b>\$2,286,445</b>	<b>\$2,363,931</b>	<b>\$3,101,249</b>

The 'Net Revenue' line item is gross inpatient and outpatient hospital revenue. The net revenue also includes deductions for contractual allowances, bad debt, and charity care.

The 'Total Expenses' line item includes all expenses related to hospital operations, including all staff salaries/wages, depreciation, and interest expenses. The expenses also include a line item identified as 'Allocated Expense' which is allocated costs as described above.

Public Comment

None

Rebuttal Comment

None

**Department Evaluation**

To evaluate this sub-criterion, the department first reviewed the assumptions used by RCCH Trios Health to determine the projected number of admissions, patient days, and occupancy of Trios Hospital under new ownership. Part of the review typically includes a comparison of historical and projected admissions, patient days and occupancy. For this review, the department compared historical years 2015 through 2017, annualized year 2018, and projected years 2019 through 2021.

**Table 16  
Historical and Projected  
Trios Hospital Patient Days and Occupancy Percentage**

	<b>Trios Hospital and (2018) Annualized</b>				<b>Trios Hospital Projected</b>		
	<b>CY2015</b>	<b>CY2016</b>	<b>CY2017</b>	<b>CY2018</b>	<b>CY2019</b>	<b>CY2020</b>	<b>CY2021</b>
Total Licensed Beds	111	111	111	111	111	111	111
Total Discharges	6,559	6,356	6,061	6,189	6,318	6,451	6,586
Total Patient Days	19,984	19,142	18,744	19,139	19,539	19,951	20,369
Average Length of Stay	3.05	3.01	3.09	3.09	3.09	3.09	3.09
Occupancy Percentage	49.3%	47.2%	46.3%	47.2%	48.2%	49.2%	50.3%

When compared to historical data (years 2015-2017) provided within the application, the department notes that patient days have decreased while Trios Health was owned by the hospital district. This is consistent with year-end financial data. The reasons for this are not known. For projection years, RCCH Trios Health took what they described as a “conservative approach,” and only inflated admissions by 2.0% for year 2019 and each year thereafter. The assumed average length of stay is 3.09 days consistent with historical year 2017. These assumptions are reasonable.

RCCH Trios Health based its revenue and expenses for Trios Hospital on the assumptions referenced above. Projected year 2019 shows a net loss in of \$29,055,489. RCCH Trios Health expects this net loss based on a number of factors, which includes, in part:

- No assumed rate increase in charges from 2018;
- Increase in charity care based on regional average;
- No tax revenue is assumed as identified in the Community Care Agreement for years 2019 through 2021;
- Allocated costs are included based on the hospital’s representative percent of net revenue.

RCCH Trios Health provided four draft agreements for this project, of the four, two agreements have costs associated with them. Since all four the agreements were identified in detail in the project description section of this evaluation, they will not be discussed in detail here. The four draft agreements are:

- Master Asset Purchase Agreement [source: Application, Attachment 1]
- Hospital Facility Lease [source: Application, Attachment 2]
- MOB (Medical Office Building) Lease [source: Application, Attachment 3]
- Community Care Agreement [source: Application, Attachment 4]

Only the Hospital Facility Lease and the MOB Lease have costs associated with them. The costs are identified in the lease are substantiated in the pro forma financial statements.

To assist the program in its evaluation of this sub-criterion, staff from the Department of Health’s HFCC Program also provided a financial analysis. To determine whether RCCH Trios Health would meet its immediate and long-range capital costs, the HFCC Program reviewed RCCH Trios Health’s historical and projected financial statements. The information is shown below. [HFCC Program analysis, p2]

*“I have also reviewed various ratios’ that can give a snapshot of the financial health of RCCH and Trios as of 2017. Also detailed are the three years following completion of the project. Statewide 2016 ratios<sup>13</sup> are included as a comparison and are calculated from all community hospitals in Washington State whose fiscal year ended in that year. The data is collected by the Washington State Dept. of Health Community Health Systems section of the Health Systems Quality Assurance division. On the following page is a table showing the results. The A means it is better if the number is above the State number and B means it is better if the number is below the state number.”*

RCCH Trios Health LLC					2018	2019	2020	2021
Ratio Category	Trend	State-16	RCCH-17	Trios-17	CONyr1	CONyr2	CONyr3	CONyr4
Long Term Debt to Equity	B	0.495	6.474	(13.288)	88.972	26.528	15.118	9.616
Current Assets/Current Liabilities	A	2.810	1.462	0.878	2.029	2.064	2.075	2.087
Assets Funded by Liabilities	B	0.406	0.820	1.048	0.990	0.969	0.947	0.919
Operating Expense/Operating Revenue	B	0.973	1.021	1.191	0.985	0.965	0.964	0.964
Debt Service Coverage	A	4.475	1.231	0.094				
Long Term Debt to Equity	Long Term Debt/Equity							
Current Assets/Current Liabilities	Current Assets/Current Liabilities							
Assets Funded by Liabilities	Current Liabilities+Long term Debt/Assets							
Operating Expense/Operating Revenue	Operating Expense/Operating Revenue							
Debt Service Coverage	Net Profit+Depr and Interest Exp/Current Mat. LTD and Interest Exp							

After reviewing the ratios above, staff from the department’s HFCC Program provided the following information. [source: HFCC Program analysis, p3]

*“All of the current-year ratios for RCCH are outside the preferred ranges. The projected ratios for the hospital after purchase are also outside the preferred ranges, with the exception of operating expense to operating revenue and debt service coverage. Operating expense to operating revenue demonstrates an improving trend and is within the preferred range the second and subsequent years. Debt service coverage is not calculated because no interest expense or current maturities of long-term debt will be assigned to this new LLC. The remaining three ratios are all outside the preferred range, but all demonstrate continuous and significant improvement in the projection period. The fact that a number of the ratios are not particularly strong is more an indicator that the hospital may not have capacity to incur much new debt in the future, however the projections on which they are based include significantly restructured leases for the Southridge hospital and medical office building, and outright purchase of the current equipment (as opposed to continuing existing leases) that are intended to greatly reduce the operating expenses of the LLC. Unless significant amounts of borrowing are necessary in the near future, it appears that RCCH should have the ability to complete the purchase of Trios and remain financially viable.*

*The debt-related ratios presented in the pro-forma financial information for this project are sufficiently out of range that they would likely not be considered appropriate for establishment of a new healthcare facility. As noted earlier in this document and in the application, this is a different circumstance. In this application, the income-related ratios are near or within the preferred range, and all ratios represent significant improvement over the current financial position of the existing*

<sup>13</sup> Statewide financial reporting for 2017 is not sufficiently complete as of the date of this report

*operator as well as continuing progress toward the preferred ranges. Because completion of this purchase is necessary to maintain basic and essential patient services for the residents of the planning area, we conclude that approval of this project is warranted.*

*Review of the financial and utilization information show that the immediate and long-range capital expenditure as well as the operating costs can be met. This criterion is satisfied.”*

Based on the information provided in the application and the financial analysis provided by the department’s HFCC Program, the department concludes that Trios Hospital, under new ownership, will be financially viable, but expects to operate with an undesirably high debt to equity ratio that could prevent RCCH Trios Health from incurring additional debt in the short term.

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.

**RCCH Trios Health, LLC**

The capital expenditure associated with the purchase of Trios Hospital and the public hospital district’s ownership percentage of a CN approved surgery center, and a variety of healthcare clinics and offices is \$78,000,000. A breakdown of the costs are shown below. [source: Application, p14]

**Table 17  
Estimated Capital Expenditure**

<b>Item</b>	<b>Amount</b>	<b>Percentage of Total</b>
Capital for Equipment	\$15,000,000	19.2%
Capital for MOB and Hospital Leases	\$63,000,000	80.8%
<b>Total Project Cost</b>	<b>\$78,000,000</b>	<b>100.0%</b>

RCCH Trios Health provided the following explanation for the process used to determine the capital costs for the transaction. [source: Application, p14]

*“In determining the amount of capital attributable to the Hospital and MOB Leases, the applicant had to work backwards. Because the duration and rent structure make a substantial portion of the potential payments under the Hospital and MOB Leases contingent and uncertain, following GAAP principles to value the leases would therefore result in an unreasonably low allocation of capital expenditure to them. Therefore, we first determined a total enterprise value for the operations of Trios Hospital, and then, following GAAP purchase price allocation methodologies, subtracted from that the known capital expense for the equipment. It is that difference that we then attributed to the leases. There is a de minimis (i.e., \$100.00) cash payment to the District for the Transaction, but the remainder of the purchase consideration consists of RCCH assuming the new leases, purchasing the equipment, and assuming certain of the ongoing operating expenses and agreements, including satisfying related deficiencies.”*

There are no traditional “start-up costs,” because Trios Hospital is already operational. However, RCCH Trios Health identified another \$15,000,000 of working capital following the transaction. Below is the information provided by the applicant regarding the working capital. [source: Application, pp24-25]

*“RCCH will be assuming certain agreed payables and ongoing liabilities as well as the accounts receivable existing at closing. (See the MAPA and the Plan.) Additionally, as part of assuming the agreed contracts, RCCH will be responsible for curing certain past due amounts related to those agreed contracts. For purposes of this application, we are defining the projected, required “Working Capital” as Cash + Accounts Receivable - the Agreed Payables - Required Cure Payments - normalized level of Operating Expenses. RCCH projects that the amount of cash that it will need to fund towards Working Capital will be \$15,000,000.*

*As with the capital expenditure, the source of the cash for the Working Capital is RCCH's cash reserves, as demonstrated by RCCH's consolidated Balance Sheet and Financial Statement. See Attachment 7 to this Application.”*

RCCH provided the following information regarding the transaction’s impact on costs and charges for healthcare services. [source: Application, pp33-34]

- *Operating costs should stabilize or decrease over time as part of the RCCH system.*
- *Costs to patients of Trios Hospital should be neutral.*
- *Costs to patients in the community should be beneficial in that Trios is a relatively lower cost provider compared to other area hospitals.*

**Public Comment**

None

**Rebuttal Comment**

None

**Department Evaluation**

In the financial review, the HFCC Program confirmed that the rates proposed by RCCH Trios Health for Trios Hospital are similar to Washington statewide averages, shown below. [source: HFCC analysis p]

**Table 18  
Trios Hospital Calculated Rates from HFCC Analysis**

<b>Trios</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Rate per Various Items</b>	<b>CONyr1</b>	<b>CONyr2</b>	<b>CONyr3</b>	<b>CONyr4</b>
Admissions	6,189	6,324	6,457	6,592
Patient Days	19,139	19,541	19,951	20,370
Average Length of Stay	3.09	3.09	3.09	3.09
Gross Revenue	515,882,513	530,039,214	544,596,224	559,565,143
Deductions From Revenue	353,547,246	363,249,189	373,225,474	383,484,050
Net Patient Billing	162,335,267	166,790,025	171,370,750	176,081,093
Other Operating Revenue	5,686,985	5,843,046	6,003,519	6,168,534
Net Operating Revenue	168,022,252	172,633,071	177,374,269	182,249,627
Operating Expense	165,552,478	166,535,883	171,070,453	175,732,232
Operating Profit	2,469,774	6,097,188	6,303,816	6,517,395
Net Profit	926,166	2,286,446	2,363,931	3,101,249
Operating Revenue per Admission	\$ 27,149	\$ 27,298	\$ 27,472	\$ 27,646
Operating Expense per Admission	\$ 26,749	\$ 26,334	\$ 26,495	\$ 26,657
Net Profit per Admission	\$ 150	\$ 362	\$ 366	\$ 470
Operating Revenue per Patient Day	\$ 8,779	\$ 8,834	\$ 8,890	\$ 8,947
Operating Expense per Patient Day	\$ 8,650	\$ 8,522	\$ 8,575	\$ 8,627
Net Profit per Patient Day	\$ 48	\$ 117	\$ 118	\$ 152

RCCH Trios Health stated under WAC 246-310-220(1) that the payer mix is not expected to change as a result of this project. Further, RCCH Trios Health stated that all admission and patient day assumptions are based on 2017 figures.

Based on the above information, the department concludes that RCCH Trios Health’s purchase of Trios Hospital would probably not have an unreasonable impact on the costs and charges for healthcare services in Benton and Franklin counties. **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.

**RCCH Trios Health, LLC**

The capital expenditure associated with the purchase of Trios Hospital and the public hospital district’s ownership percentage of a CN approved surgery center, and a variety of healthcare clinics and offices is \$78,000,000. [source: Application, p7 and pp25-26]

In addition to the capital expenditure above, RCCH Trios Health provided the following statements related to working capital. [source: Application, p24-25]

*“RCCH will be assuming certain agreed payables and ongoing liabilities as well as the accounts receivable existing at closing. (See the MAPA and the Plan.) Additionally, as part of assuming the agreed contracts, RCCH will be responsible for curing certain past due amounts related to those agreed contracts. For purposes of this application, we are defining the projected, required “Working Capital” as Cash+ Accounts Receivable - the Agreed Payables - Required Cure*

*Payments - normalized level of Operating Expenses. RCCH projects that the amount of cash that it will need to fund towards Working Capital will be \$15,000,000.”*

RCCH Trios Health provided a table showing a breakdown of the financing sources. [source: Application, pp25-26] The table is replicated below.

**Table 19  
Capital Cost and Funding Sources**

<b>Funding Source</b>	<b>Amount</b>	<b>Percentage of Total</b>
Accumulated Reserves	\$15,000,000	19.2%
Other – Accounting Entry	\$63,000,000	80.8%
<b>Total Project Cost</b>	<b>\$78,000,000</b>	<b>100.0%</b>

Regarding the sources of financing for the capital expenditure and the working capital, RCCH Trios Health provided the following statements. [source: Application, p15 and pp25-26]

*“The only cash required at closing for the capital expenditure is the \$15,000,000 for the equipment. There is no cash expenditure for the leases at the close of the Transaction other than an ordinary lease deposit. The capital attributable to the leases is an accounting entry for an assumed liability as described in the preceding section. The source of the required cash for the capital expenditure is RCCH's cash reserves, as demonstrated by RCCH's consolidated Balance Sheet and Financial Statement. See Attachment 7 to this Application.”*

*“All required financing with come from Capella Health, LLC and RCCH reserves. The applicant, RCCH Trios Health, LLC is a newly formed entity without any financial history. As such, no audited financials have yet been prepared. Capella Healthcare, LLC and RCCH have consolidated financial statements. RCCH's most recent audited Balance Sheet and Financial Statements are included as Attachment 7.”*

Public Comment

None

Rebuttal Comment

None

Department Evaluation

Within its analysis, HFCC Program provided a summary of the year 2017 balance sheet from the RCCH Trios Health’s application. [source: HFCC Program analysis, p2]

<b>RCCH 2017</b>			
From application			
Assets		Liabilities	
Current	383,600,000	Current	262,400,000
Board Designated	20,000,000	Long Term Debt	1,424,200,000
Property/Plant/Equipment	951,500,000	Other	150,900,000
Other	702,400,000	Equity	220,000,000
<b>Total</b>	<b>2,057,500,000</b>	<b>Total</b>	<b>2,057,500,000</b>

After reviewing the balance sheet for RCCH Trios Health, the HFCC Program provided the following statements:

*“RCCH’s 2017 balance sheet shows its assets are sufficient to fund this project from a cash reserves. The bulk of the price of this transaction is reflected only in balance sheet entries as RCCH assumes the leases for the hospital and medical office building. While RCCH has significant debt, this purchase does not incur any additional debt, nor does it significantly deplete RCCH’s reserves.”*

If this project is approved, the department would attach a condition requiring RCCH Trios Health to fund the project consistent with the funding description in the application. With this condition, the department concludes **this sub-criterion is met.**

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

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department concludes that RCCH Trios Health, LLC has 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 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.

**RCCH Trios Health, LLC**

RCCH Trios Health provided the following statements related to this sub-criterion. [source: Application, p28]

*“No change in hospital staffing is proposed as a result of this project. RCCH Trios Health, LLC is committed to hiring all employees in good standing at the time of acquisition. To that end, RCCH in coordination with the District has successfully negotiated a new Collective Bargaining Agreement (CBA) with the UFCW for the registered nurses at Trios Hospital to go into effect on closing of the Transaction. Additionally, RCCH has been engaged in negotiations with the SEIU/OPEIU unit for a new CBA and is currently in the process of scheduling additional bargaining sessions to resume negotiations in the near future.”*

RCCH Trios Health also provided a staff table and explanation of job titles currently used at Trios Hospital. The table is shown on the following page. [source: July 6, 2018, screening response, p3]

**Table 20  
Trios Hospital – Current Staffing**

<b>Type of Staff</b>	<b>Job Title Includes</b>	<b>Year 2018 and Projected</b>
Administrative	Administrative, Chief Medical Officer, Managers, Practice Administrator	40
Nursing / Nursing Assistant	Clinical Specialist, LPNs, Medical Assistants, Nurse Assistants, RNs	275
Physician / Provider	Includes ARNPs, Certified Nurse Midwife, Physician Assistants, CRNA, Physicians, Medical Residents	103
Support Staff	Accounting, Administrative Assistants, Support Analysts, Case Managers, Educators, Lab Assistants, Dietary, Compliance, Department Coordinators, Environmental Services, EMR, IT, HR, marketing Patient Account Representatives and Financial Counselors, Receptionist Schedulers, Telecommunications, Transcription, and Unit Secretaries	301
Tech / Professional	Anesthesia, Tech, Cardiopulmonary Aide, Equipment Tech, Radiology Tech, EEG Techs, EKG Techs, Pharmacists and Techs, Physical Therapists and Aides, Occupational Therapists and Techs, Respiratory Therapy, Speech Pathologists, Telemetry Techs, Central Sterile Techs	140
<b>TOTAL ALL FTES</b>		<b>859</b>

Public Comment

SEIU 1199NW provided the following comments related to this sub-criterion. [source: July 19, 2018, SEIU 1199NW public comment, pp6-7]

SEIU 1199NW

“Staffing and Employment

*With the ultimate aim of ensuring quality patient care, several of the legal standards applicable to the proposed deal touch upon staffing and employment concerns. Pursuant to WAC 246-310-230, DOH must determine that the proposed deal "fosters an acceptable or improved quality of health care." An explicit basis for making such a determination is that "a **sufficient supply of qualified staff** for the project, including both health personnel and management personnel, are available or can be recruited." WAC 246-310-230(1)(emphasis added).*

*As this legal standard recognizes, the ability of a hospital to deliver high quality patient care depends not only on the physical plant and equipment of the hospital, but also, and even more directly, on the caregivers and support personnel who staff the hospital. In order to deliver high quality care, a hospital must be staffed with an adequate number of qualified, capable staff.*

*DOH should require the following condition:*

- (i.) In order to ensure that the Hospitals [sic] continue to provide high quality patient care and are able to recruit and retain sufficient qualified staff to provide that care, RCCH must:
 
  - (a) commit to staffing the Hospitals [sic] with adequate numbers of qualified caregivers and support personnel;*
  - (b) honor all existing collective bargaining agreements with employees and where there is no CBA in place, commit to bargaining in good faith;*
  - (c) offer employment to all current employees at current salaries, wages, and seniority levels adjusted to meet competitive market wages and cost of living adjustments, including but**

*not limited to the terms of retirement, paid leave, health and welfare, profit-sharing, and other benefit plans; and*  
*(d) honor accrued benefit levels for all employees at the same rate of past contracts.”*

#### Rebuttal Comment

RCCH Trios Health provided the following rebuttal comments related to this sub-criterion. [source: July 24, 2018, RCCH Trios Health rebuttal comments]

*“The SEIU makes several intrusive and unprecedented requests for the Department to issue conditions in an apparent attempt to exercise authority over RCCH's rights and obligations under various employment and labor laws. These requests exceed the scope of the Department's authority and are not directly related to any review criteria. Such conditions would unreasonably interfere with RCCH's ability to effectively operate and manage Trios Hospital and would put Trios Hospital at competitive disadvantage to other providers.”*

#### Department Evaluation

This section of the evaluation focuses on staffing of the hospital. RCCH Trios Health identified the staff by type and states it anticipates no change in staff of Trios Hospital under the new ownership. As the new owner, RCCH Trios Health intends to maintain some Collective Bargaining Agreements for the nursing staff. Other agreements will be negotiated once the new ownership is effective. Other than renegotiated agreements, RCCH Trios Health does not anticipate changes in staffing, physician privileges, or any other staffing-related status at Trios Health following the transaction.

SEIU 1199NW suggests several conditions related to this sub-criterion. The conditions would require RCCH Trios Health to:

- Commit to staffing the hospital with adequate numbers of caregivers and personnel;
- Honor all collective bargaining agreement with employees;
- Enter into collective bargaining agreements with staff where no agreement is current in place;
- Offer employment to all current employees at current salaries, wages, and seniority levels; and
- Honor accrued benefit levels for all employees at the same rate of past contracts

Statements in the application indicate RCCH Trios Health’s commitment to staffing of Trios Hospital as suggested by SEI 1199NW. However, the remaining conditions identified by SEIU 1199NW are beyond the scope of this Certificate of Need review. The department cannot condition a project beyond the review criteria identified in laws and rules.

Information within the application demonstrates that Trios Hospital is a well-established provider of healthcare services in Benton and Franklin counties. The department is not aware of any staff shortage issues at Trios Hospital. Based on the above information provided by the applicant, the department concludes that RCCH Trios Health has the ability and expertise to recruit and retain a sufficient supply of qualified staff for this project if necessary. **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.

### **RCCH Trios Health, LLC**

*“While no new working relationships are contemplated as a direct result of this project, Trios Hospital will, following the change of ownership, begin to evaluate ways to strengthen and grow existing relationships to assure community needs continue to be addressed.*

*By becoming a part of the RCCH System, Trios Hospital will have to access to a network of clinical and operations experience.*

*Additionally, UW Medicine and RCCH recently announced the creation of a public-private partnership to own and operate community hospitals in Washington, Alaska and Idaho. RCCH -UW Medicine Healthcare Holdings, LLC will own and operate community hospitals and other healthcare entities. RCCH will operate and manage these facilities and UW Medicine will provide clinical and quality expertise. Both UW Medicine and RCCH will be equity owners of this new LLC with each having representation on the LLC Board and Quality Committee. Trios Hospital will be one of the first community hospitals owned by the RCCH - UW Medicine Healthcare Holdings, LLC.*

*RCCH has proven expertise in operating community hospitals. UW Medicine provides expertise in patient safety and quality improvement. Helping hospitals throughout the region improve their quality and safety is part of UW Medicine's overall mission to improve the health of the public.*

*Trios Hospital will retain its identity and name but will be further branded as "A UW Medicine Community Health Partner."*

*RCCH - UW Medicine Healthcare Holdings, LLC and Trios Hospital will benefit from and leverage UW Medicine's work to achieve the "Triple Aim" of improving the patient experience of care (including quality and satisfaction), improving the health of populations, and reducing the per capita cost of healthcare.”*

[source: Application, pp28-29]

### **Public Comment**

None

### **Rebuttal Comment**

None

### **Department Evaluation**

Trios Hospital is currently operational and has established ancillary and support agreements. RCCH Trios Health provided four draft agreements for this project, of the four, two agreements are relevant to this sub-criterion. Since all four the agreements were identified in detail in the project description section of this evaluation, they will not be discussed in detail here. The four draft agreements are:

- Master Asset Purchase Agreement [source: Application, Attachment 1]
- Hospital Facility Lease [source: Application, Attachment 2]
- MOB (Medical Office Building) Lease [source: Application, Attachment 3]
- Community Care Agreement [source: Application, Attachment 4]

The two agreements relevant to this sub-criterion are the Master Asset Purchase Agreement and the Community Care Agreement. The draft Master Asset Purchase Agreement states, among other

information, that ancillary service agreements will continue following the transaction. The draft Community Care Agreement discusses in detail the operations of the hospital once the facility is owned by RCCH Trios Health.

Based on the information reviewed in the application, the department concludes that there is reasonable assurance that RCCH Trios Health will to maintain the necessary relationships with ancillary and support services at Trios Hospital following the transaction. No information was submitted to suggest ancillary and support agreements would not continue. Therefore, the department concludes these relationships will continue to be sufficient following the change of ownership. **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 and Medicaid certified. 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.

### **RCCH Trios Health, LLC**

RCCH Trios Health provided the following statement, related to whether they have ever had a facility be decertified from Medicare or Medicaid, be convicted related to incompetency to operate a hospital, be denied a license, have a license revoked, voluntarily withdrawn from Medicare or Medicaid while decertification was pending, or whether there are any ongoing investigations related to the operation of any of their healthcare facilities. [source: Application, p30]

*"RCCH and Capella Healthcare, LLC have not been subject to any of the above actions, except as described below.*

*In 2016, the Washington State Office of the Attorney General (AG) began an investigation into Capital Medical Center (CMC), a subsidiary of RCCH and Capella Healthcare, LLC, regarding CM C's charity care program, policies and procedures. RCCH and CMC cooperated with the AG in the investigation. CMC and RCCH had a good faith belief that they were on the path to a settlement that might have included a corrective action plan for alleged violations of the state charity care law, as well as monetary penalties. Independently, during 2016, CMC reviewed all of its charity care policies and procedures and made changes necessary to bring CMC's policies and practices into conformity with the AG's interpretation of the charity care law. Despite these good faith efforts on the part of CMC and the AG, the AG chose to file a lawsuit, alleging violations of the state Consumer Protection Act based on failure to follow the AG's interpretation of the charity care law. The alleged violations in the lawsuit involve conduct from 2012 until 2016.*

*The matter is on-going, and trial is expected to take place sometime in 2019. CMC intends to defend the matter vigorously. In the interim, CMC and RCCH will continue to monitor their practices to ensure they are performing their obligations, at a minimum, in compliance with state law. RCCH remains open to settlement possibilities with the AG if such should arise. RCCH is committed to providing charity care to those in all communities served by RCCH, and to do so in a manner that conforms with best practices as well as Washington State law."*

### Public Comment

During the review of this project, Kadlec Regional Medical Center provided comments related to an ongoing complaint against a Capella-owned hospital in Washington State known as ‘Capital Medical Center.’ Specifically, on September 21, 2017, the Attorney General of Washington filed a "Complaint for Injunctive and Other Relief under the Consumer Protection Act" ("Complaint") against Capital Medical Center. The Complaint focuses on Capital Medical Center’s charity care processes for year 2012 through year 2016.

Generally, this type of complaint would be addressed in this sub-criterion. However, since it was extensively reviewed and addressed under WAC 246-310-210(2) of this evaluation, it will not be repeated in this section. The conditions identified in the ‘conclusion’ section of this evaluation address the concerns raised related to charity care at Trios Hospital.

### Rebuttal Comment

Since the comments were addressed in WAC 246-310-210(2) of this evaluation, the rebuttal comments were also included. As with the public comments, rebuttal comments related to this sub-criterion will not be repeated in this section.

### Department Evaluation

As 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.<sup>14</sup> To accomplish this task, the department reviewed the quality of care compliance history for all healthcare facilities owned, operated, or managed by Capella in Washington State. The department also reviewed the compliance history of a random selection of facilities owned by, operated by, or affiliated with RCCH and Capella outside of Washington State.

RCCH is based out of Brentwood, TN, and operates several healthcare facilities and services nationwide through a number of subsidiaries. Its Washington facilities are operated under the Capella subsidiary. [source: Application, Exhibit 3]

The current sole Capella facility in Washington State is Capital Medical Center located in Olympia, within Thurston County. Using the department’s internal database, the department reviewed survey data for Capital Medical Center. Since 2015, CMC has had one survey which did not result in significant non-compliance issues. [source: Department of Health Office of Investigation and Inspection]

RCCH and its affiliates operate all across the United States. The department randomly selected RCCH and RCCH-affiliated facilities in Montana, Arizona, Alabama, and Texas to review for their compliance with state and federal standards, shown on the following page.

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<sup>14</sup> WAC 246-310-230(5)

**Table 21  
RCCH and Affiliated Facilities Outside of Washington**

<b>Facility Name</b>	<b>State</b>	<b>Joint Commission?</b>	<b>State Enforcement Action since 2015?</b>
Community Medical Center	MT	yes	no
Canyon Vista Medical Center	AZ	yes	yes
Shoals Hospital	AL	yes	no
Eliza Coffee Memorial Hospital	AL	yes	no
Paris Regional Medical Center	TX	yes	no <sup>15</sup>

As shown above, out-of-state RCCH facilities have demonstrated compliance with applicable state and federal regulations. The one example of enforcement action in Arizona was resolved and the facility paid a \$1,750 civil penalty. No evidence on any of the state licensing websites indicated that any of the above facilities have ever been closed or decertified from participation in Medicare or Medicaid as a result of compliance issues.

Based on the above information, the department concludes that RCCH Trios Health demonstrated reasonable assurance that Trios Hospital 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.

**RCCH Trios Health, LLC**

*“Trios Health has provided health care services to the residents of Benton and Franklin Counties and the Tri -Cities area for more than 50 years. This history has resulted in well-established working relationships with the other health care providers and community organizations. RCCH Trios Health, LLC, RCCH and UW Medicine all expect to maintain and expand those existing relationships.”* [source: Application, p28]

**Public Comment**

None

**Rebuttal Comment**

None

**Department Evaluation**

Information provided in the application provide a valuable perspective related to this sub-criterion. Both Kadlec Regional Medical Center and SEIU 1199NW focused their comments on the continued operation of Trios Hospital and the hospital’s participation in the community. Neither entity suggested that continued

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<sup>15</sup> The Texas Enforcement Action lookup only retains enforcement action for the last year. No enforcement actions noted in the last year.

operation of the hospital would result in unwarranted fragmentation of healthcare services in Benton and Franklin counties.

Information within the application demonstrates that Trios Hospital, under RCCH Trios Health ownership, will continue to operate with the necessary relationships that will foster continuity in the provision of health care services in the two-county planning area.

Based on the information provided in the application, the department concludes there is reasonable assurance that this project will continue to promote continuity in the provision of health care services in the community under RCCH Trios Health's ownership. **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.

#### Department Evaluation

This sub-criterion is evaluated in sub-section (3) above, and is **met**.

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

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

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

To determine if a proposed project is the best alternative, in terms of cost, efficiency, or effectiveness, the department takes a multi-step approach. First the department determines if the application has met the other criteria of WAC 246-310-210 thru 230. If the project has failed to meet one or more of these criteria then the project cannot be considered to be the best alternative in terms of cost, efficiency, or effectiveness as a result the application would fail this sub-criterion.

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, the department then 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. The adopted superiority criteria are objective measures used to compare competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility type superiority criteria as directed by WAC 246-310-200(2)(a)(i), then the department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

## **RCCH Trios Health, LLC**

### **Step One:**

The applicant met the applicable review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

### **Step Two:**

The hospital district determined that only one other option could be considered viable. This option—do nothing—was thoroughly evaluated before submission of the application. The following statements relate to the ‘do nothing’ option. [source: Application, pp31-34]

### **Do Nothing**

- Would result in closure of the hospital and dissolution of the district.
- Would result in loss of needed services in the community.
- Would result in loss of over 1,000 jobs to members of the community.
- Costs to patients in the Tri-Cities would like increase given the unavailability of services and the loss of a lower cost provider in the area.

RCCH Trios Health provided an overview of the events that led to submission of this application. [source: Application, pp31-34]

*“The District's debt burden is unsustainable and without access to the traditional capital markets it became clear that a sale was the only viable option to avoid closure of the facility. The District met with a number of prospective acquirers but other than RCCH the debt burden and need for a Chapter 9 bankruptcy in order to consummate a sale resulted in no other interested parties coming forward. No action would have resulted in the closure of Trios Hospital.*

*Into the mid-2000s, the District's sole hospital was located in a facility built in the 1950s that was space constrained and in need of significant improvements. The District determined that significant expansion and improvements would be needed to remain competitive and retain market share. Based on a 2010 feasibility study which projected ongoing revenue growth, the District decided to build a new hospital in the rapidly growing area of Southridge and maintain its existing facility with limited ongoing operations. In 2014, the District completed construction of the new full-service hospital and completed an adjoining medical office building shortly thereafter (the Southridge Campus).*

*The District's interest and rental expense increased faster than originally forecast. Within a few years of opening the South ridge Campus, the District's cash flows were materially less than originally forecast and by 2016, the District began funding negative operational cash flows by deferring payments to its vendors. By early 2017, the District ceased making payments on its obligations under certain of its equipment financings and under the hospital and MOB leases.*

*At that time, the District engaged Quorum Health Resources to perform an operational assessment and identify operational improvements to be phased in over the course of 2017. The District's Board also began considering various financial restructuring alternatives. In early 2017, the District began working with its largest creditors to open negotiations regarding potential restructuring options. The District's efforts, however, were met with unwillingness on the part of key creditors to provide the financial accommodations necessary to restructure the District's debt. The lack of creditor interest in an out-of-court restructuring, coupled with the District's*

*unsustainable and increasing debt service, convinced the District that an out-of-court restructuring was impracticable. In addition, several of the District's creditors were attempting to obtain a preferential transfer from the District through pending and threatened litigation.*

*Consequently, after considering all available options, the District determined that its burdensome long-term debt obligations were impeding its ability to implement and continue {DWB1704497.DOCX;9/14348.049005/} making the financial and operational improvements identified by Quorum. In June 2017, the Board held a public meeting and unanimously passed a resolution authorizing the District to file the bankruptcy petition which would provide relief from creditor collection actions to provide the District with time to effect a plan of adjustment of the District's debts. See Exhibit 14. The District assessed whether it was more feasible to use the Chapter 9 case to affect a plan that would rationalize the District's debt structure so that it could satisfy, to the extent possible, its obligations to creditors and that would enable it to continue its operations or seek to sell its assets to an appropriate third-party purchaser under a plan.*

*As the bankruptcy proceeding progressed, the District's debt burden was unsustainable, and it became clear that a sale was the only viable option to avoid closure of the facility. At the time the District sought proposals from prospective buyers, the District had 2 - 4 days of cash on hand and was behind on making payments to most of its creditors. The District sought proposals to acquire the hospital, met with a number of possible buyers and ultimately signed letters of intent with RCCH, MultiCare and Astria. Due to the debt burden and need for a Chapter 9 bankruptcy to consummate a sale, RCCH was the only party interested in pursuing a transaction. As the proposed transaction has progressed, the District's financial position has worsened. As of the time that this application was prepared, the District's days of cash on hand dropped further to 0 - 2. If the District does not complete the transaction with RCCH shortly, it will have no choice but to close the hospital.*

*On June 18, 2018, the District met and voted to approve moving forward the Plan. On June 20, 2018, the bankruptcy court held a hearing on the Plan and approved the Plan pursuant to the terms of the Confirmation Order. See Attachment 6. The Transaction and sale to RCCH is an integral part of the Plan and Confirmation Order. The Board of Commissioners for the District will meet again on July 25, 2018 to provide final approve for the Transaction. Minutes and/or an appropriate resolution documenting that action will be available after that meeting.”*

**Public Comment**

None

**Rebuttal Comment**

None

**Department Evaluation**

It is clear from the information provided in the application that Trios Hospital is in financial dire straits and without a capital infusion, the hospital will close. None of the hospitals operating in Benton and Franklin counties provided comments suggesting that closure of the hospital would be preferable to this application for a change of ownership.

Information provided in the application demonstrate that RCCH Trios Health intends to at least maintain the same level of care at Trios Hospital. The alternatives analyses from the applicant supports that a “do nothing” option was appropriately rejected by the hospital district when it began looking for alternatives to status quo.

The department's HFCC program provided the following analysis under this sub-criterion.

*"The project proposed in this application represents the purchase of a hospital and related services owned by a public hospital district that has restructured under the protection of Chapter 9 bankruptcy, a unique situation among reviews by this program. Had the district not sought bankruptcy protection and arranged a sale of the hospital, it would not be able to continue to operate it. Operation of the hospital on an ongoing basis by the district after bankruptcy was not financially feasible. Trios Health would have had to cease operations. The only alternative to this project was "do nothing." The applicant provided a matrix analyzing the impacts of both options. That matrix can be summarized simply – the "do nothing" option would result in closure of the hospital and associated services. That closure would remove a significant portion of the planning area's acute care capacity, a significant number of healthcare jobs, reduce competition in the area, and reduce the availability of healthcare services in the area. The purchase of the hospital should enable RCCH Trios Health to avoid those negative consequences.*

*Staff is satisfied that the applicant's assertions are reasonable and this purchase is an appropriate option. This criterion is satisfied.*" [source: HFCC Program analyses, pp4-5]

The department did not identify any alternative that was superior in terms of cost, efficiency, or effectiveness that is available or practicable. Furthermore, the department is not aware of any competing bids for the purchase of Trios Hospital.

Taking all of this into account, the department concurs that the requested projects is reasonable and the best available options for the planning area and surrounding communities. **This sub-criterion is met.**

Step Three:

RCCH Trios Health's application to purchase Trios Hospital is not competing with any other project. This step does not apply.

**The sub-criterion under WAC 246-310-240(1) is met.**

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

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

Department Evaluation

There is no construction associated with this project – this sub-criterion is not applicable.

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

Department Evaluation

There is no construction associated with this project – this sub-criterion is not applicable.

(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.

**RCCH Trios Health, LLC**

RCCH Trios Health provided the following comments related to staff efficiency and productivity. [source: Application, p35]

*“Initially, no changes in staff efficiency or productivity are anticipated as the most significant change that will result from this project will be the reduction in the debt for Trios Hospital. Longer term, however, Trios Hospital anticipates that it will be able to achieve additional economies of scale as it becomes part of a larger and more regional delivery system.”*

RCCH Trios Health provided the following comments to demonstrate that the project would promote system efficiency. [source: Application, p35]

*“As noted in response to Question #3, initially, no changes are anticipated that would result in system efficiency (aside from the debt reduction). That said, over time, system efficiencies are anticipated as Trios Hospital is fully integrated into the larger RCCH system.”*

Public Comment

None

Rebuttal Comment

None

Department Evaluation

As a part of its analysis, HFCC provided the following statement related to this sub-criterion:

*“As noted in item 1 of Cost Containment, staff is satisfied that RCCH’s acquisition of Trios Health should not have an unreasonable impact of the costs and charges to the public of providing services by other persons. Staff is satisfied the project is appropriate and needed. This criterion is satisfied.”*  
[source: HFCC Program analyses, p5]

As stated under the analysis of WAC 246-310-220(2), this department does not expect this project would have an unreasonable impact on costs and charges for healthcare services in the planning area. **The sub-criterion under WAC 246-310-240(3) is met.**