



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

January 2, 2019

Mark Dedomenico, MD  
Chief Executive Officer  
PRO Sports Club  
4455—148<sup>th</sup> Avenue NE  
Bellevue, WA 98007

CERTIFIED MAIL # 7014 2120 0002 7627 2179

CN Application: #18-15

Dear Dr. Mark Dedomenico:

We have completed review of the Certificate of Need application submitted by Professional Recreation Organization, Inc., d/b/a PRO Sports Club (PRO Sports Club). The application proposes the establishment of an ambulatory surgery center in Bellevue, within King County. Enclosed is a written evaluation of the application.

For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Professional Recreation Organization, Inc., d/b/a PRO Sports Club agrees to the following in its entirety.

**Project Description:**

This certificate approves the construction of a three operating room ambulatory surgery center in Bellevue, within East King County. The surgery center will serve patients ages 10 and older who are appropriate candidates for outpatient surgery. Services provided will include ENT, general surgery such as digestive; gynecology; orthopedic; pain management; plastic surgery; podiatry; respiratory such as minimally invasive thoracic procedures; vascular surgery and vascular access, and urology.

**Conditions:**

1. Professional Recreation Organization, Inc., d/b/a PRO Sports Club agrees with the project description as stated above. Professional Recreation Organization, Inc., d/b/a PRO Sports Club 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. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain Medicare and Medicaid certification, regardless of ownership.

3. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain licensure as an ambulatory surgical facility under WAC 246-330, regardless of ownership.
4. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted nondiscrimination policy. The adopted policy must be consistent with the draft provided in the application.
5. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted patient rights and responsibilities policy. The adopted policy must be consistent with the draft provided in the application.
6. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted admission policy. The adopted policy must be consistent with the draft provided in the application.
7. Prior to providing ambulatory surgery services at Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted charity care policy and application form. The adopted policy and application form must be consistent with the draft provided in the application.
8. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will provide charity care in compliance with the charity care policy reviewed and approved by the Department of Health. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will use reasonable efforts to provide charity care at 1.72% for gross revenue and 4.76% for adjusted revenue as identified in the application or the regional average, whichever is greater. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain records of the charity care amount provided by documenting the amount of charity care it provides and demonstrating compliance with Professional Recreation Organization, Inc., d/b/a PRO Sports Club charity care policy.
9. Percutaneous Coronary Interventions (PCI) as defined in WAC 246-310-705 will not be performed at Professional Recreation Organization, Inc., d/b/a PRO Sports Club ASF

10. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will not advertise or promote its ASF in a way that would lead the public and medical community to reasonably conclude that access to the ASF is limited to Pro Sports members only.

**Approved Capital Expenditure:**

The capital expenditure associated with this project is \$10,083,138.

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

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

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

Mailing Address:

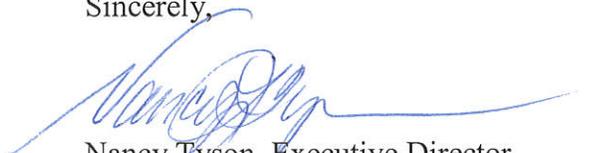
Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

Physical Address:

Department of Health  
Certificate of Need Program  
111 Israel Road SE  
Tumwater, WA 98501

If you have any questions, or would like to arrange for a meeting to discuss our decision, please contact the Certificate of Need Program at (360) 236-2955.

Sincerely,



Nancy Tyson, Executive Director  
Health Facilities and Certificate of Need

Enclosure

# **EVALUATION DATED JANUARY 2, 2019 FOR THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY PROFESSIONAL RECREATION ORGANIZATION, INC., d/b/a PRO SPORTS CLUB PROPOSING TO CONSTRUCT A THREE OPERATING ROOM AMBULATORY SURGERY CENTER<sup>1</sup> IN BELLEVUE WITHIN EAST KING COUNTY**

## **APPLICANT DESCRIPTION**

Professional Recreation Organization, Inc., d/b/a PRO Sports Club (PRO Sports Club) is located at 4455 –148<sup>th</sup> Avenue NE, Bellevue [98007] and it is registered with the Washington Secretary of State Office as a profit corporation with UBI #600541508. [Source: <https://www.sos.wa.gov/corps/>] Public information at the Washington State Department of Revenue states that PRO Sports Club registered trade names are 20/20 Lifestyles Institute, P.R.O Racquet and Health Club; PRO Sport Club, PRO Sports, Club, and Rose Hill Auto Sales. [[https://secure.dor.wa.gov/gteunauth/\\_/#6](https://secure.dor.wa.gov/gteunauth/_/#6)]

PRO Sports Club operates a medical spa that is accredited by the Accreditation Association for Ambulatory Health Care (AAAHC<sup>2</sup>) as an office base healthcare provider. PRO Sports Club also operate two health clubs located at 501 Eastlake Ave E, Seattle [98109], and 9911 Willows Road #100 Redmond [98052]. As a wholly owned for profit corporation Mark Dedomenico, M.D. is the owner of PRO Sports Club and the club leadership team members are Dick Knight (President) and Gordon Cohen, M.D. the Chief Medical Officer. [Source: Application page 10]

## **PROJECT DESCRIPTION**

Within this application, PRO Sports Club proposes to construct a three operating room<sup>3</sup> freestanding<sup>4</sup> ASF in Bellevue, within East King County planning area. The multi-specialty ASF will provide surgery to patients age 10 years and older who are not expected to require hospitalization and can be served in an outpatient surgery setting. Surgical procedures to be provided at the ASF will include ENT, general surgery such as digestive; gynecology; orthopedic; pain management; plastic surgery; podiatry; respiratory such as minimally invasive thoracic procedures; vascular surgery and vascular access, and urology. All physicians who meet PRO Sports Club credentialing requirements will be able to use the ASF.

PRO Sports Club will be located at 4455—148th Avenue NE, Bellevue [98007] within King County secondary health services planning area. If this project is approved, the existing medical spa and the two health clubs owned and operated by PRO Sports Club will not be part of the ASF. [Source: February 25, 2018 screening response page 1] PRO Sports Club anticipates the ASF will be

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<sup>1</sup> For Certificate of Need purposes, ambulatory surgery facility (ASF) and ambulatory surgery center (ASC) have the same meaning.

<sup>2</sup> The Accreditation Association for Ambulatory Health Care is a private, non-profit organization that accredits more than 6,000 organizations, including ambulatory surgery centers, community health centers, medical and dental group practices, medical home practices, and managed care organizations. The AAAHC develops standards to advance and promote patient safety, quality care, and value for ambulatory health care through a peer-based accreditation process, education, and research.

<sup>3</sup> WAC 246-330-010(29) defines “operating room” to mean “*a room intended for invasive procedures.*”

<sup>4</sup> WAC 246-330-010(20) defines “Invasive medical procedure” to mean “*a procedure involving puncture or incision of the skin or insertion of an instrument or foreign material into the body including, but not limited to, percutaneous aspirations, biopsies, cardiac and vascular catheterizations, endoscopies, angioplasties, and implantations. Excluded are venipuncture and intravenous therapy.*”

operational by January 2019. Under this timeline, year 2019 is PRO Sports Club first full calendar year of operation and year 2021 is year three. [Source: Application, page 13, and April 27, 2017, screening responses, Exhibit 17B]

The estimated capital expenditure for the proposed ASF is \$10,083,138. Of this amount, approximately 29.03% is associated with land improvement, 29.0% is for building construction; 23.62% is for fixed and moveable equipment, and 18.34% is associated with architect/engineer fees, consulting fees, supervision and inspection, and sales tax. [Source: application page 33]

### **APPLICABILITY OF CERTIFICATE OF NEED LAW**

This application is subject to review as the construction, development, or other establishment of a new healthcare facility under Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

### **EVALUATION CRITERIA**

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

*“Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.*

- (a) In the use of criteria for making the required determinations the department shall consider:*
- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
  - (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
  - (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project”*

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

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

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

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the criteria found in WAC 246-310-210 (need); 246-310-220 (financial feasibility); 246-310-230 (structure and process of care); 246-310-240 (cost containment).<sup>5</sup> Additionally, WAC 246-310-270 (ambulatory surgery) contains service or facility specific criteria for ASF projects and must be used to make the required determinations for applicable criteria in WAC 246-310-210.

**TYPE OF REVIEW**

During this review period, the department received two applications both proposing to establish ambulatory surgery centers in east King County. The applications were from Virginia Mason Medical Center and PRO Sports Club. Both Virginia Mason Medical Center and PRO Sports Club applications were scheduled to be reviewed concurrently under the regular timeline outlined in WAC 246-310-160. However, during the course of the department’s review, it became apparent that significant information was missing from the PRO Sports Club application. As a result, the department elected to separate the review of PRO Sports Club’s application from Virginia Mason Medical Center application in order to declare a Pivotal Unresolved Issue (PUI)<sup>6</sup> on the PRO Sports Club application. Separating the two applications allows the department to issue a timely decision on the Virginia Mason’s application. For these reasons, the Virginia Mason Medical Center application will not be discussed any further throughout this evaluation. The review timeline for PRO Sports Club application is summarized below.

**APPLICATION CHRONOLOGY**

<b>Action</b>	<b>PRO Sports Club</b>
Letter of Intent Submitted	November 13, 2017
Application Submitted	December 15, 2017
Department’s Pre-review Activities including <ul style="list-style-type: none"> <li>• DOH 1<sup>st</sup> Screening Letter</li> <li>• Applicant’s 1st Screening Responses Received</li> <li>• DOH 2<sup>nd</sup> Screening Letter</li> <li>• Applicant’s 2<sup>nd</sup> Screening Responses Received</li> </ul>	January 10, 2018 February 23, 2018 March 16, 2018 April 27, 2018
Beginning of Review	May 7, 2018
End of Public Comment <ul style="list-style-type: none"> <li>• Public hearing conducted</li> <li>• Public comments accepted through the end of public comment</li> <li>• Rebuttal Comments Received</li> </ul>	N/A <sup>7</sup> June 11, 2018 June 26, 2018
Department's Anticipated Decision Date	August 10, 2018

<sup>5</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); and WAC 246-310-240 (3).

<sup>6</sup>The pivotal unresolved issue (PUI) process allows the department to re-open the application record and make one more request for additional information from the person submitting the application. If this process is used, the timeline for making a decision is extended.

<sup>7</sup> No public hearing was requested or conducted

Action	PRO Sports Club
Department Declares Pivotal Unresolved Issue (PUI) <sup>8</sup>	August 30, 2018
End Public Comments on PUI Documents	September 21, 2018
Rebuttal Comments Submitted for PUI Document	October 5, 2018
Department's Anticipated Decision Date	November 19, 2018
Department's Anticipated Decision Date with 30-day Extension	December 19, 2018
Department's Anticipated Decision Date with 60-day Extension	January 18, 2019
Department's Actual Decision Date	January 2, 2019

### **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.*

During the review of this project, the thirteen people below requested interested persons status to project proposed by PRO Sports Club.

- Virginia Mason
- Evergreen Health
- Overlake Medical and Clinics/Overlake Surgery Center
- Proliance Surgeons
- Redmond Surgery Center
- Seattle Children’s Hospital
- Swedish Health Services

<sup>8</sup> On August 30, 2018, the department declared Pivotal Unresolved Issue (PUI) regarding this application. The PUI was declared to give PRO Sports Club the opportunity to clarify statements in the application, and to provide responses to public comments, and provide clarification to the documentation it provided in response to the public comments.

- MultiCare Health System
- Providence Health & Services
- Frank Fox
- Elena Zana
- Health Facilities & Development
- Emily Studebaker

Below are the interested person under WAC 246-310-010(34) and affected person under WAC 246-310-010(2).

Virginia Mason Medical Center

Virginia Mason Medical Center is an acute care hospital located in Bellevue. The department recently approved a five operating room ASF application submitted by Virginia Mason. Virginia Mason Medical Center sought and received interested person status under WAC 246-310-010(34). Additionally, Virginia Mason Medical Center submitted written comments to the department so it qualifies as an affected person under WAC 246-310-010(2).

Evergreen Health

Evergreen Health is an acute care hospital located in Kirkland. The hospital owns and operates Evergreen Surgical ASF a 2-operating room CN approved facility located within east King County. Evergreen Health sought and received interested person status under WAC 246-310-010(34). Additionally, Evergreen Health submitted written comments to the department so it qualifies as an affected person under WAC 246-310-010(2).

Overlake Medical Clinic/Overlake Surgery Center

Overlake Surgery Center is owned and operated by Overlake Medical Center, an acute care Hospital located in Bellevue within east King County. Overlake Surgery Center is a 4-opertaing room CN approved facility. Overlake Surgery Center sought and received interested person status under WAC 246-310-010(34). Additionally, Overlake Surgery Center submitted written comments to the department so it qualifies as an affected person under WAC 246-310-010(2).

Proliance Surgeons, Inc., P.S.

Proliance Surgeons, Inc., P.S owns or operates Proliance Eastside Surgery Center a CN approved 4-operating room facility located in Kirkland within east King County. Proliance Surgeons, Inc., P.S sought and received interested person status under WAC 246-310-010(34) Additionally, Proliance Surgeons, Inc., P.S submitted written comments to the department so it qualifies as an affected person under WAC 246-310-010(2).

Redmond Surgery Center

Redmond Surgery Center is owned and operated by Proliance Surgeons, Inc., P.S. Redmond Surgery Center is a 3-operating room CN approved facility. Redmond Surgery Center sought and received interested person status under WAC 246-310-010(34). Additionally, Redmond Surgery Center submit written comments to the department so it qualifies as an affected person under WAC 246-310-010(2).

Seattle Children's Hospital

Seattle Children's Hospital is an acute care hospital that specializes in providing healthcare services to children and adolescents. The hospital is located in Seattle, but operates Seattle Children's Bellevue ASF under the hospital license. Seattle Children's Bellevue ASF is located within east King County. Seattle Children's sought and received interested person status under WAC 246-310-010(34). Additionally, Seattle Children's submitted written comments so it qualifies as an affected person under WAC 246-310-010(2).

#### Swedish Health & Service

Swedish Health & Services operates an acute care hospital in east King County. Swedish Health & Services sought and received interested person status under WAC 246-310-010(34). However, Swedish did not submit written comments so it does not qualify as an affected person under WAC 246-310-010(2).

#### MultiCare Health System

MultiCare Health System is not located in east King County nor does it operate a healthcare facility in the planning area. Therefore, MultiCare Health System does not qualify as an interested person under WAC 246-310-010(34). MultiCare does not qualify as an affected person under WAC 246-310-010(2).

#### Providence Health & Services

Providence Health & Services is not located in east King County nor does it operate a healthcare facility in the planning area. Therefore, Providence Health & Services does not qualify as an interested person under WAC 246-310-010(34). Providence Health & Services does not qualify as an affected person under WAC 246-310-010(2).

#### Frank Fox

Frank Fox owns Health Trends, a consultation firm hired by applicants to prepare and submit Certificate of Need applications on their behalf. Frank Fox is a representative of PRO Sports Club. He requested interested person status and to be informed of the department's decision. Under the definition of an "interested person" in WAC 246-310-010(34) he qualifies as an interested person because he resides in King County. However, he did not provide independent written or oral comment on this application. Therefore, He does not meet the definition of an "affected person" under WAC 246-310-010(2).

#### Elena Zana

Ms. Elena Zana is an attorney with Ogden Murphy Wallace, PLLC. She requested interested person status and asked to be informed of the department's decision. Ms. Zana's office is located in King County, so the department assumes that she lives and works in King County. Therefore she meets the definition of an "interested person" under WAC 246-310-010(34). However, Ms. Zana did not provide public comments on this project; therefore, she does not qualify as an "affected person" for this application under WAC 246-310-010(2).

#### Health Facilities Planning & Development

Health Facilities Planning & Development (HFPD) located in King County, is a consultation firm hired by applicants to prepare and submit Certificate of Need applications on their behalf. Health Facilities Planning & Development is a representative of Virginia Mason. Health Facilities

Planning & Development requested interested person status and to be informed of the department's decision. Health Facilities Planning & Development does meet the definition of an "interested person" under WAC 246-310-010(34). However, HFPD did not provide independent written or oral comment on this application. Therefore, it does not meet the definition of an "affected person" under WAC 246-310-010(2).

### Emily Studebaker

Ms. Emily Studebaker is an attorney with Studebaker Nault, PLLC She requested interested person status and asked to be informed of the department's decision. Ms. Studebaker's office is located in King County, so the department assumes that she lives and works in King County. Therefore she meets the definition of an "interested person" under WAC 246-310-010(34). However, she did not provide public comments on this project; therefore, Emily Studebaker does not qualify as an "affected person" for this application under WAC 246-310-010(2).

### **SOURCE INFORMATION REVIEWED**

- PRO Sports Club Certificate of Need application submitted December 15, 2017
- PRO Sports Club 1<sup>st</sup> screening responses received February 25, 2018
- PRO Sports Club 2<sup>nd</sup> screening responses received April 27, 2018
- Public Comments received by received by 5:00 p.m. on June 11, 2018
- Rebuttal Comments Received by 5:00 p.m. June 26, 2018
- Pivotal Unresolved Issue (PUI) response received by 5:00 p.m. on August 30, 2018
- PUI Public Comments received by 5:00 p.m. on September 21, 2018
- PUI Rebuttal Comments received by 5:00 p.m. October 5, 2018
- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission, Nursing Quality Assurance Commission, and Health Systems Quality Assurance Customer Service Center
- DOH Provider Credential Search website [www.doh.wa.gov/pcs](http://www.doh.wa.gov/pcs)
- Historical charity care data for years 2014, 2015, and 2016 obtained from the Department of Health Office of Charity Care and Hospital Financial Data.
- Year 2016 Annual Ambulatory Surgery Provider Survey for Surgical Procedures Performed during Calendar Year 2015 for hospitals, ambulatory surgery centers, or ambulatory surgical facilities located in East King County.
- Year 2016 Claritas population data received in year 2015
- Washington State Department of Ecology King County ZIP code map prepared by GIS Technical Services and released August 3, 2006.
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- The Accreditation Association for Ambulatory Health Care website: [www.aaahc.org](http://www.aaahc.org)
- Washington State Secretary of State website: [www.sos.wa.gov](http://www.sos.wa.gov)
- Washington State Department of Revenue website: [www.dor.wa.gov](http://www.dor.wa.gov)
- Certificate of Need historical files

### **Pivotal Unresolved Issue**

On August 22, 2018, the department declared PUI on PRO Sports Club application. The department declared the PUI because public comments stated the way PRO Sports Club structured does not allow it to comply with Washington corporate practice of medicine doctrine. The

comments also stated that it appeared PRO Sports Club will not provide charity care at the ASF. In addition, the comments by Overlake Medical Center doubted whether PRO Sports Club have a proper patients transfer agreement between itself and the hospital. Overlake Medical Center stated that it does not provide pediatric patient care and PRO Sports Club stated it will provide care to patients 10 years and older.

### PRO Sports Club PUI Response

*“In response to the question about the ownership and control of the applicant, we assure the Department that we are not amending the certificate of need (“CN”) application nor are we proposing to change the identity of the applicant. The applicant continues to be PRO Sports Club. As is further detailed below, the information submitted regarding PRO Medical was for informational purposes only to provide background on how physicians on the proposed PRO Sports ASF medical staff may be organized. Detail about the organizational structures of physicians who may have privileges at an open staff ASF, however, is not necessary for review of the CN application, nor does it impact the identity of the CN applicant.*

*There are two categories of physicians discussed in the CN application (see PRO Sports Club CN Application, p. 8). The first category is surgeons being recruited by PRO Sports Club to perform surgeries at PRO Sports Club ambulatory surgery facility (“PRO Sports ASF”). The applicant anticipates this group of physicians to include orthopedic surgeons, ENTs, general surgeons, urologists, etc. The applicant has been in discussions with numerous physicians who desire to perform surgery at PRO Sports ASF and several desire to join the medical staff once PRO Sports ASF is approved. These surgeons may continue in private practice in the community or may elect to join PRO Medical or another group practice and will not be employed by PRO Sports Club. The second category of physicians is physicians who are currently employed by PRO Sports Club who provide services in the weight management program and medical spa, most of whom are not anticipated to be credentialed at PRO Sports ASF.<sup>2</sup> As discussed below, the applicant believes that PRO Sports Club, as a physician-owned and controlled entity, does not violate the corporate practice of medicine doctrine by employing the physicians who work in the weight management program and the medical spa. To prevent further delay in the CN review process, however, PRO Sports Club is moving the employed medical spa physicians to a professional entity owned by Dr. Dedomenico”. [Source: PRO Sports Club PUI response received August 30, 2018, page 2-3]*

*“No change in applicant has been proposed. The Department raised a question about PRO Medical, PC and whether we propose to amend the identity of the applicant. We do not. PRO Sports Club continues to be the applicant. As further described below, the CN application contemplates an open medical staff and PRO Sports Club has been recruiting physicians who desire to perform surgery at the new PRO Sports ASF if the CN application is approved. Such physicians may continue to practice with their current medical groups or may want to join a new medical group once PRO Sports ASF opens. We had planned to wait to form a new medical group until after the CN was issued. However, to assure the Department that a separate physician entity would be established if requested by the recruited surgeons and if the CN were issued, we submitted information on the newly established medical group, PRO Medical, PC. If the CN is awarded, the recruited surgeons will have the option to remain with their existing medical groups, create a new medical group or join PRO Medical.*

*As we indicated in our rebuttal comments, information about the medical groups whose professional staff (the surgeons) choose to practice at PRO Sports ASF is not a required element of an ASF CN application. The information provided about PRO Medical was for informational purposes only”. [Source: PRO Sports Club PUI response received August 30, 2018, page 3]*

*“No Corporate Practice Issue. As indicated above, PRO Sports Club currently employs physicians who provide non-surgical services at the Club's weight management program and medical spa. Most of these physicians will not have active staff privileges at PRO Sports ASF. The surgeons who are being recruited to perform surgery at PRO Sports ASF will practice through their existing group practices, establish a new group practice or may join PRO Medical, but they will not be employed by PRO Sports Club.*

*Proliance correctly asserts in its public comment that Washington's corporate practice of medicine (“CPOM”) doctrine “prohibits a non-physician from interfering with the professional judgment of a physician by prohibiting non-physician owned and controlled corporations from employing physicians.” That is completely consistent with PRO Sports Club's activities to date. PRO Sports Club currently employs physicians in its medical spa who oversee the 20/20 exercise and weight loss program, offer cosmetic and anti-aging treatments such as botox injections, laser hair removal and related types of services. As indicated in our rebuttal comments, there is no non-physician who either owns or controls PRO Sports Club. It is not in dispute that PRO Sports Club is wholly-owned and controlled by a licensed physician, Dr. Dedomenico, and consequently, there is no improper non-physician influence or control over the medical spa physicians who are currently employed by PRO Sports Club”. [Source: PRO Sports Club PUI response received August 30, 2018, page 3]*

#### Proliance Surgeons PUI Public Comments

*“Contrary to arguments advanced by PRO Sports Club, the corporate structure through which it renders professional medical services violates Washington's corporate practice of medicine doctrine. This is evidenced by PRO Sports Club's own admissions in its Certificate of Need Application #18-15 (the “Application”) and records filed by with the Washington Secretary of State. Moreover, in an effort to address its violation of the doctrine and bring itself into compliance with Washington law, PRO Sports Club undertook a corporate reorganization on June 13, 2018. This corporate reorganization makes inaccurate certain information in the Application, including the nature and identity of the Applicant and the data included in the pro forma financials for the proposed project”. [Source: Proliance PUI public comments response received September 21, 2018, page 1]*

#### Redmond Surgery Center PUI Public Comments

*“PRO Sports Club suggests its ownership by Mark Dedomenico, M.D. permits it to avoid application of the corporate practice of medicine doctrine. This is not accurate. A nonprofessional corporation is prohibited from rendering professional medical services in Washington, irrespective of whether it is owned by a physician. As Washington courts have made abundantly clear, in order to avoid application of the doctrine, a corporation cannot render professional medical services unless it is a professional corporation and it meets specific requirements set forth in the Act. PRO Sports Club is not a professional corporation, and it does not meet these requirements. Therefore, its employment of physicians to render professional medical services is unlawful”. [Source: Redmond Surgery Center PUI public comments response received September 21, 2018, page 3]*

### PRO Sports Club PUI Rebuttal Comments

*“PRO Sports Club operates in compliance with law and continues to be the applicant for the project. The ongoing allegations by Proliance Surgeons, including its most recent fabrication that PRO Sports Club underwent a corporate reorganization, are unsubstantiated and a thinly veiled attempt to protect its market share and prevent competition in the Eastside market. Proliance urges the Certificate of Need program to adopt an overly restrictive interpretation of the corporate practice of medicine doctrine (the "CPOM") that deems illegal any employment of physicians by an entity other than a physician-owned professional services corporation. Such interpretation is not only inconsistent with the law but also contrary to the way many professional medical services are delivered and should be rejected by the Department”.* [Source: PRO SPORTS Club PUI rebuttal response received October 5, 2018, page 2]

*“Without any change to the PRO Sports Club organization, there can be no corporate reorganization. Proliance appears to be attempting to confuse the situation by arguing that Dr. Dedomenico’s creation of a new legal entity (PRO Medical, PC) somehow constitutes a "corporate reorganization" of PRO Sports Club, however the two are not connected. As shown in Exhibit 1 to the PUI Submission, PRO Sports Club and PRO Medical, PC have the same owner (Dr. Dedomenico) but are completely separate legal entities. PRO Medical is not a subsidiary of or otherwise related to PRO Sports Club. Dr. Dedomenico is free to establish different entities for different business purposes and that does not change the applicant, PRO Sports Club, nor constitute a corporate reorganization of PRO Sports Club. As was indicated in the PUI Submission, PRO Medical was established as an option available for future medical staff members of the proposed ASF if such physicians want to join a new group instead of remaining with their current practices. So that there is no confusion, this means that PRO Sports Club’s ASF will be open to any surgeons who meet its credentialing requirements, irrespective of whether they practice at PRO Medical, PC, or with any other physician group”.* [Source: PRO SPORTS Club PUI rebuttal response received October 5, 2018, page 2]

### Department Evaluation

Within the application, PRO Sports Club stated it is a for profit business wholly owned by Dr. Dedomenico. Proliance Surgeons stated that the ownership structure of PRO Sports Club, is against the Washington corporate practice of medicine doctrine. In the application, PRO Sports Club identified Dr. Mark Dedomenico and subsequent information submitted to the department related to the ASF ownership, continue to identify Dr. Dedomenico as the applicant and owner of PRO Sports Club. Proliance Surgeons stated that because PRO Sports Club provided a corporate registration document with its PUI comments that this means the applicant has changed.

However, the department noted that in response to questions about its ownership and control structure, PRO Sports Club, stated that Dr. Dedomenico is the owner of both PRO Sports Club and PRO Medical, PC. In its review of publicly available information at the Washington Secretary of State website, the department confirmed that both PRO Sports Club and PRO Medical, PC are owned by Dr. Dedomenico. The department also note that PRO Sports Club stated in its comments that the information it submitted regarding the formation of PRO Medical, PC was for informational purposes only and to show background information about how physicians for the proposed ASF medical staff can be organized. PRO Sports Club however did not say why the background information is necessary. Furthermore, PRO Sports Club stated that providing this

information is not necessary for the review of this application and nor does it impact the identity of the applicant. [Source: PRO Sports Club PUI response received August 30, 2018, page 2-3]

The department review of the statues does not show whether a corporate entity wholly owned by a physician, as is the case for PRO Sports Club, violates the CPOM doctrine. Therefore, the department agrees with PRO Sports Club that providing a copy of PRO Medical, PC registration is not necessary for the review of this application and nor does it impact the identity of the applicant. As it stated within the application, both PRO Sports Club and PRO Medical, PC are owned by Dr. Dedomenico. As it relates to this application, the department note that the applicant remain the same regardless of documentation submitted and have not changed. The department concludes the applicant has not changed and that documentation provided by the applicant does not show that the applicant has changed.

### **CONCLUSIONS**

For the reasons stated in this evaluation, the application submitted by Professional Recreation Organization, Inc., d/b/a PRO Sports Club proposing to construct an ambulatory surgery center in Bellevue, within East King County is consistent with the applicable criteria of the Certificate of Need Program, provided Professional Recreation Organization, Inc., d/b/a PRO Sports Club agrees to the following in its entirety.

### **Project Description:**

This certificate approves the construction of a three operating room ambulatory surgery center in Bellevue, within East King County. The surgery center will serve patients ages 10 and older who are appropriate candidates for outpatient surgery. Services provided will include ENT, general surgery such as digestive; gynecology; orthopedic; pain management; plastic surgery; podiatry; respiratory such as minimally invasive thoracic procedures; vascular surgery and vascular access, and urology.

### **Conditions:**

1. Professional Recreation Organization, Inc., d/b/a PRO Sports Club agrees with the project description as stated above. Professional Recreation Organization, Inc., d/b/a PRO Sports Club 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. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain Medicare and Medicaid certification, regardless of ownership.
3. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain licensure as an ambulatory surgical facility under WAC 246-330, regardless of ownership.
4. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted nondiscrimination policy. The adopted policy must be consistent with the draft provided in the application.

5. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted patient rights and responsibilities policy. The adopted policy must be consistent with the draft provided in the application.
6. Prior to providing ambulatory surgery services, Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted admission policy. The adopted policy must be consistent with the draft provided in the application.
7. Prior to providing ambulatory surgery services at Professional Recreation Organization, Inc., d/b/a PRO Sports Club shall provide to the Certificate of Need Program a copy of the adopted charity care policy and application form. The adopted policy and application form must be consistent with the draft provided in the application.
8. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will provide charity care in compliance with the charity care policy reviewed and approved by the Department of Health. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will use reasonable efforts to provide charity care at 1.72% for gross revenue and 4.76% for adjusted revenue as identified in the application or the regional average, whichever is greater. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will maintain records of the charity care amount provided by documenting the amount of charity care it provides and demonstrating compliance with Professional Recreation Organization, Inc., d/b/a PRO Sports Club charity care policy.
9. Percutaneous Coronary Interventions (PCI) as defined in WAC 246-310-705 will not be performed at Professional Recreation Organization, Inc., d/b/a PRO Sports Club ASF
10. Professional Recreation Organization, Inc., d/b/a PRO Sports Club will not advertise or promote its ASF in a way that would lead the public and medical community to reasonably conclude that access to the ASF is limited to Pro Sports members only.

**Approved Capital Expenditure:**

The capital expenditure associated with this project is \$10,083,138.

## **CRITERIA DETERMINATIONS**

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

Based on the source information reviewed and the applicant agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that Professional Recreation Organization, Inc., dba PRO Sports Club met the 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.*

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

The Department of Health’s Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270(9) for determining the need for additional ASFs in Washington State. The numeric methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient ORs in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 secondary health services planning areas and estimates OR need in a planning area using multiple steps as defined in WAC 246-310-270(9). This methodology relies on a variety of assumptions and initially determines existing capacity of dedicated outpatient and mixed-use operating room in the planning area, subtracts this capacity from the forecast number of surgeries expected in the planning area in the target year, and examines the difference to determine:

- (a) Whether a surplus or shortage of ORs is predicted to exist in the target year; and
- (b) If a shortage of ORs is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.

Data used to make these projections specifically exclude special purpose rooms, endoscopy and procedures rooms.

#### **PRO Sports Club Numeric Methodology**

*“Please see **Exhibit 11** for the step-by-step methodology and supporting documentation regarding surgical volumes and number of ORs, by facility.*

*Please see **Exhibit 4** for a complete list of the current supply of CN-approved operating rooms in the Planning Area. There are 76 CN-approved ORs in the East King Planning Area, including 38 inpatient/mixed use ORs and 38 CN-approved outpatient ORs. Furthermore, while licensed, non-CN-approved outpatient ORs have been identified (see **Exhibit 4**) and their outpatient surgery volumes included in the methodology to determine planning area surgery use rates, their ORs have not been included in the count of ORs within the forecast need model. The methodology also excludes GI/endoscopy ORs, thus, the number of such ORs and the procedure volumes from these facilities are also excluded from the methodology.*

*After identifying planning area inpatient/mixed use and outpatient surgical capacity, surgery volumes by licensed surgery center were obtained from the five sources cited below:*

- (1) When available, data from the Department's 2017 Annual Ambulatory Surgery Survey for Surgical Procedures Performed during CY2016 3 ("Survey") was utilized.
- (2) The Department's 2016 Annual Ambulatory Surgery Survey for Surgical Procedures Performed during CY2015.
- (3) Appendix A of Department's August 2017 Review of CN17-14 and CN17-15
- (4) Appendix A of Department's March 2017 Review of CN16-38.
- (5) Department's April 29, 2016 Decision. CN#1573.

Based on the estimated inpatient and outpatient surgery cases for 2016 and the East King planning area 2016 population 10 years and older (i.e. the intended patient population), the surgical use rate was calculated at 154.82 surgeries per 1,000 population age 10 years and older (**Exhibit 11** )”. [Source: Application page 19 - 20]

“...**The model shows projected net need of 12.6 outpatient ORs in East King Planning Area in 2021.** This analysis provides strong quantitative support for approval of this CN application”. [Source: Application page 23]

**Department’s Numeric Methodology and Review**

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

For ASF planning areas, the state health plan identifies 21 East King County zip codes.<sup>9</sup> When the 21 zip codes are charted on the Department of Ecology King County zip code map, inclusion of another 11 zip codes appears reasonable based on the geographic location of the zip codes. Table 1 below shows the zip codes and associated cities for the 32 zip codes associated with East King County. [Source: 1980 SHP and Washington State Department of Ecology King County zip code map prepared by GIS Technical Services and released August 3, 2006]

**Table 1  
East King County Planning Area Zip Codes**

<b>Zip Code</b>	<b>City by Zip Code</b>
98004	Bellevue
98005	Bellevue
98006	Bellevue
98007	Bellevue/Eastgate
98008	Bellevue
98009	Bellevue
98011	Black Diamond
98014	Carnation
98019	Duvall

<sup>9</sup> Included in the SHP zip codes for East King County is zip 98026, for a total of 22 zip codes. 98026 is the city of Edmonds within Snohomish County and will not be included in the East King County zip codes.

98024	Fall City
98027	Issaquah
98028	Kenmore/Bothell
98029	Issaquah
98033	Redmond/Totem Lake
98034	Kirkland
98039	Medina
98040	Mercer Island
98045	North Bend
98050	Preston
98052	Redmond/Avondale
98053	Redmond
98065	Snoqualmie
98068	Snoqualmie Pass
98072	Woodinville
98073	Redmond
98074	Sammamish/Redmond
98075	Sammamish
98077	Woodinville
98083	Kirkland
98174	Seattle
98224	Baring
98288	Skykomish

According to the department’s historical records, there are 48 planning area providers including the applicants – with OR capacity. Of the 48 providers, four are hospitals and 44 are ASFs. Below, Table 2 shows a listing of the four hospitals. [Source: CN historic files and DOH ILRS database]

**Table 2  
East King County Planning Area Hospitals**

<b>Hospitals</b>	<b>City/Zip</b>
Evergreen Health	Kirkland/98034
Overlake Hospital Medical Center	Bellevue/98004
Snoqualmie Valley Hospital	Snoqualmie/98065
Swedish Medical Center – Issaquah	Issaquah/98029

[Source: ILRS]

For the four hospitals, all known OR capacity and inpatient/mixed-use procedures are included in the methodology calculations for the planning area.

Because there is no mandatory reporting requirement for utilization of ASFs or hospital ORs, the department sends an annual utilization survey to all hospitals and known ASFs in the state. When this application was submitted in December 2017, the most recent utilization survey was mailed in June 2017 and it collected data for year 2016, however not all providers submitted responses. The data provided in the utilization survey is used, if available. Of the four hospitals

located in the planning area, Evergreen Health is the only hospital providing survey response the other three hospitals did not completed and submit the 2016 Annual Ambulatory Surgery Provider Survey. Table 3, below, contains a listing of the 44 ASFs in the planning area.

**Table 3**  
**East King County Planning Area Ambulatory Surgery Centers**

<b>Ambulatory Surgery Centers</b>	<b>City/Zip</b>
Aesthetic Facial Plastic Surgery	Bellevue/98004
Aesthetic Physicians dba Sono Bello	Bellevue/98004
Allure Laser Center	Kirkland/98033
Anderson Sobel Cosmetic Surgery	Bellevue/98004
Athenix Body Sculpting Institute	Bellevue/98005
Aysel Sanderson, MD	Kirkland/98033
Bellevue Plastic Surgery Center	Bellevue/98004
Bellevue Spine Specialists	Bellevue/98005
Bellevue Surgery Center	Bellevue/98009
Bel-Red ASC	Bellevue/98004
Center for Plastic Surgery	Bellevue/98004
Cosmetic Surgery and Dermatology of Issaquah	Issaquah/98027
Eastside Endoscopy Center-Bellevue site*	Bellevue/98004
Eastside Endoscopy Center-Issaquah site*	Issaquah/98027
Eastside Surgery Center	Issaquah/98027
Egrari Plastic Surgery Center	Bellevue/98004
Evergreen Endoscopy Center*	Kirkland/98034
Evergreen Surgical Clinic ASC	Kirkland/98034 <sup>10</sup>
Gaboriau Center	Sammamish/98074
Group Health Cooperative Bellevue Endoscopy	Bellevue/98004
John H. Brunsman, MD	Redmond/98073
Naficy Plastic Surgery and Rejuvenation Center	Bellevue/98004
Northwest Center for Aesthetic Plastic Surgery	Bellevue/98004
Northwest Laser and Surgery Center	Bellevue/98005
Northwest Nasal Sinus Center	Kirkland/98033
Overlake Reproductive Health, Inc.	Bellevue/98004
Overlake Surgery Center	Bellevue/98004
Pacific Cataract and Laser Institute-Bellevue	Bellevue/98004
Plastic Surgery Northwest	Kirkland/98034
Proliance Eastside Surgery Center	Kirkland/98034
Proliance Highlands Surgery Center	Issaquah/98029
Redmond Ambulatory Surgery Center, LLC	Redmond 98034
Remington Plastic Surgery Center	Kirkland/98034
Retina Surgery Center	Bellevue/98004
Sammamish Center for Facial Plastic Surgery	Sammamish/98074
Seattle Children's-Bellevue	Bellevue/98004
SoGab Surgery Center	Kirkland/98033

<sup>10</sup> Evergreen Surgical ASC relinquished its CN on 2/3/2017

<b>Ambulatory Surgery Centers</b>	<b>City/Zip</b>
Stern Center for Aesthetic Surgery	Bellevue/98004
Virginia Mason-Bellevue Endoscopy*	Bellevue/98004
Virginia Mason-Issaquah Endoscopy*	Issaquah/98027
Washington Institute Orthopedic Center	Kirkland/98034
Washington Urology Associates-Bellevue	Bellevue/98004
Washington Urology Associates-Kirkland	Kirkland/98034
Yarrow Bay Plastic Surgery Center	Kirkland/98033

[Source: ILRS]

Of the 44 ASFs shown above, four are endoscopy facilities (designated with an asterisk). The numeric methodology deliberately excludes the OR capacity and procedures from the numeric methodology.<sup>11</sup> As a result, the ORs and procedures of the four facilities will not be counted in the numeric methodology.<sup>12</sup>

For the remaining 39 ASFs, 27 are located within a solo or group practice (considered a Certificate of Need-exempt ASF) and the use of these ASFs is restricted to physicians that are employees or members of the clinical practices that operate the facilities. Therefore, these 27 facilities do not meet the ASF definition in WAC 246-310-010. For Certificate of Need-exempt ASFs the number of surgeries, but not ORs, is included in the methodology for the planning area.

The remaining twelve ASFs are Certificate of Need-approved facilities.<sup>13</sup> For the twelve ASF's the OR capacity and utilization is counted in the numeric methodology. [Sources: Application Exhibit 11]

In summary, data will be used for 27 Certificate of Need-exempt ASFs and twelve Certificate of Need-approved ASFs. If a facility does not complete and return a utilization survey, then the other data source that can be used is the department's internal database known as the Integrated Licensing and Regulatory System (ILRS). Per WAC 246-330-100(2), licensed ambulatory surgical facilities must submit to the department an annual update form. The data provided in the annual update includes the number of ORs and the approximate number of procedures performed at the facility during the year. This data is updated in ILRS as it is received. The department uses the listed number of surgical procedures and multiplies that number by 50 minutes which is the default minutes per outpatient surgery as identified under WAC 246-310-270(9)(b)(iii).

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<sup>11</sup> WAC 246-310-270(9)(iv).

<sup>12</sup> Five facilities are: Eastside Endoscopy-Bellevue; Eastside Endoscopy-Issaquah; Evergreen Endoscopy Center; Virginia Mason-Bellevue; and Virginia Mason-Issaquah.

<sup>13</sup> Bel-Red Ambulatory Surgical Facility [CN #1485]; Eastside Surgery Center [CN #1462]; Evergreen Surgical Center [under Evergreen Health HAC license]; Evergreen Health Ambulatory Surgical Care [CN #1549]; Northwest Nasal Sinus Center [CN #1250]; Overlake Surgery Center [CN #1192]; Proliance Eastside Surgery Center [CN #1342]; Proliance Highlands Surgery Center [CN #1567]; Redmond Ambulatory Surgery Center, LLC [CN #1573]; Retina Surgery Center [CN #1603]; and Seattle Children's ASC [CN # 1395]. On October 9, 2018, the department approved the application submitted by Virginia Mason Medical Center to establish 5 ORs.

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

**Table 4  
Department’s Methodology Assumptions and Data**

<b>Assumption</b>	<b>Data Used</b>
Planning Area	East King County
Population Estimates and Forecasts	Age Group: 10+ Claritas Population Data released year 2016: Year 2016 – 542,162 Year 2021 – 608,339
Use Rate	Divide calculated surgical cases by 2021 population results in the service area use rate of 132.648/1,000 population
Year 2015 Total Number of Surgical Cases	24,516 – Inpatient or Mixed-Use; 56,179 – Outpatient 80,695 – Total Cases
Percent of surgery: ambulatory vs. inpatient	Based on DOH survey and ILRS data: 69.62% ambulatory (outpatient); 30.38% inpatient
Average minutes per case	Based on DOH survey and ILRS Data: Outpatient cases: 58.92 minutes Inpatient cases: 109.31 minutes
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule)
Existing providers/ORs	Based on listing of East King County Providers: 44 dedicated outpatient ORs 42 mixed use ORs
<b>Department’s Methodology Results</b>	<b>Numeric Need for an additional 11.04 outpatient ORs</b>

Based on the information in the table above, the department’s application of the numeric methodology indicates a need for 11.04 outpatient ORs in year 2021. When comparing PRO Sports Club need methodology with the department’s methodology, there are differences in the data points and the differences are discussed below. The department received public comments about PRO Sports Club project below are the comments.

**Public Comments**

Overlake Medical Center

Overlake Surgery Center is currently under-utilized and has significant capacity to accommodate additional ambulatory surgical cases. All of the types of procedural specialties that PRO Sports Club anticipates it will provide are currently privileged and credentialed at Overlake Surgery Center. Given the available existing capacity at Overlake Surgery Center

and the types of procedures proposed by PRO Sports Club, the proposed project will results in an unnecessary duplication of services. [Source: Overlake Medical Center public comments received June 11, 2018, page 1]

*“Overlake asserts there is no numeric need as a result of the aforementioned methodology flaws. WAC 246-310-270(4) allows applicants to request approval for dedicated outpatient capacity, absent numeric need by demonstrating ‘extra ordinary’ circumstances exist in the Planning Area. PRO Sports did not request and did not provide any data or arguments citing an extraordinary circumstance”.* [Source: Overlake Medical Center public comments received June 11, 2018, page 4]

#### Overlake Surgery Center

*“The need methodology does not take into account the current capacity that is still available in any of the current surgical facilities in East King. Instead it relies on a dated need calculation that excludes many OR’s and doesn't include any volume for OR's that will be opening in the near future such as the Redmond Surgery Center due to open this summer”.* [Source: Overlake Surgery Center public comments received May 22, 2018, page 1]

*“The need methodology only counts in supply the surgical volume reported in the ASC Survey’s. By doing this no surgical volume was counted for the new Redmond center, not the availability of time at the OSC. OSC has 5 ORs and 2 procedure rooms that are significantly underutilized”.* [Source: Overlake Surgery Center public comments received May 22, 2018, page 2]

#### Redmond Surgery Center

*“The need methodology does not take into account the current capacity that is still available in any of the current surgical facilities in East King. Instead it relies on a dated need calculation that excludes many OR’s and doesn’t include any volume for OR’s that will be opening in the near future such as the Redmond Surgery Center due to open this summer”.* [Source: Redmond Surgery Center public comments received May 14, 2018, page 1]

*“The need methodology only counts in supply the surgical volume reported in the ASC Survey’s. By doing this no surgical volume was counted for the new Redmond center, not the availability of time at the OSC. OSC has 5 ORs and 2 procedure rooms that are significantly underutilized”.* [Source: Redmond Surgery Center public comments received May 14, 2018, page 2]

#### Proliance Surgeons

*“The applicant has failed to demonstrate that the proposed services are not already accessible to patients in the East King Secondary Health Services Area. ...It is widely known that significant capacity already exists in several of the certificate of need ambulatory surgical facilities in East King Secondary Health Services Area. Yet, in its effort to substantiate need for additional outpatient operating rooms in the health planning area, the applicant relies only on a dated need calculation that excludes this existing excess capacity and also fails to account for certificate of need approved operating rooms that will be opening during the proposed ASC's forecast period”.* [Source: Proliance Surgeons public comments received June 8, 2018, page 2]

In response to the public comments above, PRO Sports Club provided the rebuttal comments below.

### PRO Sports Club rebuttal comments

*“There is projected need in the East King Planning Area for 12.6 additional outpatient ORs. This means there is net need for approval of both PRO Sports Club's 3-OR facility and Virginia Mason's 3-OR facility, if these applications meet other CN review criteria”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 4]

Both Overlake and Evergreen challenged the department's methodology which has been upheld in Washington Supreme Court. *“However, the dispositive point is that the 270(9) methodology is the applicable legal standard. Whether these other providers think it should be the standard is irrelevant. The regulation establishes how the Department will determine need for proposed ambulatory surgical facilities”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 7]

*“Overlake argues that the result of the Department's methodology is wrong, and that this is demonstrated by the “available existing capacity” at Overtake Surgery Center. Notably, Proliance does not make this argument about Proliance Surgery Center or Proliance Highlands Surgery Center. Nor could it. Whatever difficulties Overlake Surgery Center may be experiencing presumably are specific to Overtake Surgery Center, and have nothing whatsoever to do with the planning area as a whole. However, this is all beside the point: need must be evaluated pursuant to 270(9), and there is no dispute that PRO Sports Club's proposed ORs are needed under that standard.*

*Redmond Surgery Center states that it is concerned that a competing ASF might be approved in the planning area before, or soon after, Redmond Surgery Center opens. But Redmond Surgery Center should not be concerned as its ORs already are taken into account in the Department's need methodology. All four of its ORs are included in existing capacity, and even accounting for these four new ORs, there is still a need for another 12.6 ORs in the planning area”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 8]

### Department Evaluation

Public comments by Overlake Medical Center and Overlake Surgery Center state that PRO Sports Club has not demonstrated demand for its project and there is a significant supply of ORs in planning area. The department disagrees with Overlake Medical Center and Overlake Surgery Center statements and notes that the net need shown in the mythology accounted for the ORs at both facilities ASFs. Therefore, the department agree with PRO Sports Club statements that when the two providers ORs are counted in the mythology, there is still need for additional ORs in the planning area.

Overlake Medical Center, Redmond Surgery Center; and Proliance suggested that the department's ASF need methodology is flawed in two ways. First it states that the need method does not take into consideration volumes at newly approved ASFs. Secondly, they stated the methodology includes the volume of procedures from exempt ASFs but does not include the number of ORs. The department's application of the methodology does count the procedures from exempt ASFs to calculate the planning area use rate. However it does not include the exempt ASFs ORs in capacity, because these ORs are not available to all residents in the

planning area. The department's approach to the methodology has previously been challenged through the judicial process and was upheld.<sup>14</sup> Therefore this issue will not be revisited.

The department does not agree with Overlake Medical Center, Redmond Surgery Center; and Proliance comments that their facilities are unaccounted for in the methodology. The department used information from the ILRS database supplied by Overlake Medical Center, Redmond Surgery Center; and Proliance in their applications concerning the number of ORs and volumes in the department's methodology. The department's need methodology relies on providers in the planning area completing and returning facility use surveys. If a provider does not return a completed survey, the department uses the previous years submitted data, or the department uses other sources of data such as the department's in-house database program ILRS to get the data its uses to determine need. Based on its assertion that the department's methodology is flawed, Overlake Medical Center, stated WAC 246-310-270(4) allows applicants to request approval for dedicated outpatient capacity when need is not demonstrated. The department disagrees with Overlake Medical Center, assertions that there is no need because the methodology shows need additional ORS for the planning area. When both the department's methodology and an applicant application demonstrates need, there is no need for the applicant to request an exception under WAC 246-310-270(4).

Seattle Children's stated that PRO Sports Club did not describe the types of pediatric surgeries that it will provide. The department notes that PRO Sports Club is proposing to establishing a multi-specialty surgery center and within its application, the applicant listed the types of surgical procedures that it will provide and that any physician meeting credentialing criteria can use the facility. The department reviewed the applicant's proposed anticipated procedures and agree that the applicant described the proposed services it will provide. The department agrees with PRO Sports Club PUI comments that as the physicians it employs become credentialed to use the ASF, it expected pediatric cases and volume may expand beyond those listed in Exhibit 4.

If this project is approved year 2019 would be PRO Sports Club first full year of operation as Certificate of Need-approved facility. PRO Sports Club submitted a copy of its methodology which is similar to the department. However, the department noted some differences in the population data used by the applicant. PRO Sports Club application was submitted in December 2017, therefore, the population data to be used is the most recently available population data. In this case, the most recently available data is year 2016 date. The department will use that population data. A review of PRO Sports Club's methodology shows that it used year 2016 population. For the planning area year 2016 population 10 years and older, the applicant stated the population is 552,579. As previously stated within this application, PRO Sports Club's third year of operation is year 2021, the department's planning area population during the applicant third year of operation is 608,339. As a result, there are differences in the number of surgical cases and the calculated use rates by PRO Sports Club and the department.

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<sup>14</sup> Overlake Hospital Association and Overlake Hospital Medical Center, a Washington nonprofit corporation; and King County Public Hospital District No. 2 d/b/a Evergreen Healthcare, a Washington Public Hospital District v Department of Health of the State of Washington, and Swedish Health Services. No. 82728-1 filed September 23, 2010.

In addition, the department used 80,695 surgical cases for year 2016, whereas PRO Sports Club used 86,904. The department assumed a use rate of 132.648/1,000, whereas PRO Sports Club assumed a use rate of 154.82/1,000. Despite the differences between the department and PRO Sports Club need data, need for additional ORs is projected for the planning area. The results of the department need methodology shows need for 11.04 dedicated outpatients ORs. PRO Sports Club showed need for 12.60 ORs. Both need projections shows an OR need sufficient for the PRO Sports Club project.

The department concludes **this sub-criterion is met.**

WAC 246-310-270(6)

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

#### PRO Sports Club

*“PRO Sports Club proposes to establish an ASF, with three operating rooms, in the East King County planning area. The ASF would occupy 10,423 square feet of space within the comprehensive Medical Center currently being built by PRO Sports Club on its Bellevue campus”.* [Sources: Application page 13]

#### Public Comment

None

#### Rebuttal Comment

None

#### Department’s Evaluation

PRO Sports Club proposes to construct a three operating room free standing ambulatory surgery center. Documents provided in the application include updated single line drawings which show three operating room. [Sources: February 25, 2018, supplemental information page 5, Exhibit 5a] Based on the information and the documents reviewed, **the department concludes this sub-criterion is met.**

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

To evaluate this sub-criterion, the department evaluates an applicant’s admission policies, willingness to serve Medicare and Medicaid patients, and to serve patients that cannot afford to pay for services. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the planning area would have access to the proposed services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

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

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

A facility’s charity care policy should show a willingness of a provider to provide services to patients who do not have private insurance, do not qualify for Medicare, do not qualify for Medicaid or are under insured. With the passage of the Affordable Care Act in 2010, the amount of charity care decreased over time. However, with recent federal legislative changes affecting the ACA, it is uncertain whether this trend will continue. Specific to ASFs, WAC 246-310-270(7) requires that ASFs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed project.

**PRO Sports Club**

*“Please see **Exhibit 13** (admission policy), as well as **Exhibit 14** (nondiscrimination policy) and **Exhibit 15** (patient rights and responsibilities policy)”*. [Source: Application page 31]

*“Please see enclosed **Exhibit 13a**, a revised Admission Policy, which states as follows:*

*“An ASA III patient will be categorized as a patient with severe disease that limits activity but is not incapacitating. This will be under the discretion of the provider. Patients that are stable ASA III who are candidates for an elective outpatient surgery will be treated at this facility in addition to ASA I & II. If at any time, a patient has to be transferred to an in-patient facility, based on the patient's physician decision, the Patient Transfer Agreement will be initiated, and the process described in that Agreement will be followed”*. [Sources: February 25, 2018, supplemental information page 6]

*“An updated Table 2 – “Table 2a” - is provided below. It includes revised payer mix figures as a percentage of total cases. Charity care as a payer class has been removed. The percentages would be the same for payer mix as a percentage of gross revenues.* [Sources: February 25, 2018, supplemental information page 2]

**Table 2a (Reproduced)**  
**PRO Sports Club ASC. Projected Payer Mix, as Percentage of Total Cases.**

<b>Payer Class</b>	<b>% of Total Cases</b>
<i>Commercial Insurance</i>	<i>65.8%</i>
<i>Medicare</i>	<i>18.7%</i>
<i>Medicaid</i>	<i>5.2%</i>
<i>Health Care Service Contractor</i>	<i>6.7%</i>
<i>HMO</i>	<i>1.0%</i>

<b>Payer Class</b>	<b>% of Total Cases</b>
<i>Self-pay</i>	<i>1.7%</i>
<i>Other gov't sponsored patient &amp; L &amp; I</i>	<i>0.9%</i>
<b>Total</b>	<b>100.0%</b>

*“PRO Sports Club is committed to meeting community and regional health needs. The PRO Sports Club ASF will provide charity care consistent with the PRO Sports Club Charity Care Policy, included as **Exhibit 12**. Further, our financial pro forma forecast provided in **Exhibit 17** allocates 1.5% of gross revenues to be provided for charity care, a figure which is above the King County Regional charity care average (less Harborview Medical Center). Based on the Department of Health charity care data, the average allocation of charity care in King County (less Harborview Medical Center) from 2013 to 2015 was 1.29%”. [Source: Application page 30]*

*“It should be noted that King County charity care percentage figures have consistently declined over 2013-2015, the result of the implementation of the Affordable Care Act”. [Source: Application page 31]*

During the review of this project, the department received public comments related to this sub-criterion. The comments and PRO Sports Club rebuttal to the comments are below.

#### Public Comments

##### Overlake Medical Center

*“PRO Sports estimates that 1.5% of cases will be charity care, which is higher than the regional average. Yet the policy provided in the application states that they will provide coverage up to 100% of the Federal Poverty Level, which is significantly lower than other regional healthcare providers...*

*Additionally, their policy stipulates that charity care will be provided when the physician “elects to see the patient.” Given the “club” nature of the organization, and a lack of information provided about Pro Sports members, Overlake is concerned that patients meeting charity care criteria will not be able to access care at the facility”. [Source: Overlake Medical Center public comments received June 11, 2018, page 2]*

##### Seattle Children’s

*“PRO claims that it will serve Medicaid patients and has assumed a payer mix with 5.2% Medicaid. Seattle Children’s Hospital ASC in Bellevue serves a patient population that is 40% Medicaid. Even if PRO had assumed an appropriate level of Medicaid, it is not clear how Medicaid patients will secure access to the PRO ASC seeing that the PRO ASC is located in a private membership club”. [Source: Seattle Children’s public comments received June 8, 2018, page 2]*

##### Evergreen Health

*“Evergreen Health believes PRO Sports Club’s estimated payer mix is unrealistically low for Medicaid and Medicare and not representative of the community that would likely seek care at an ASC in East King County. It is quite unlikely that this ASC will truly serve the Medicaid*

*and Charity Care populations, particularly in view of the fact that PRO Sports Club is a premier, high-cost, membership-only fitness club.*

*It seems highly unlikely that PRO Sports Club will market itself to, and actually attract, those with incomes up to 138% of the federal poverty levels. It is also highly unlikely that it will attract the overall Medicare population, and not just those 65 years and older with high incomes".* [Source: Seattle Children's public comments received June 8, 2018, page 1]

#### Virginia Mason

*"Presumably, like most private gyms and health clubs, members of PS must pay dues or membership fees and there are staff members at the door checking identification to ensure only dues-paying members are accessing the facility. The nature of this facility raises significant concerns about patient access, including for low income or charity care patients".* [Source: Virginia Mason public comments received June 8, 2018, page 2]

*"Even if PS responds that any person is welcome to their ASC without paying membership dues, how are medically indigent and those requiring uncompensated care going to become aware of this proposed ASC's existence? Will PS advertise throughout East King that it welcomes low income, non-dues paying people into the ASC located within the private health club? Does it currently provide charitable memberships to the club and to the services offered at the club at no cost to low income residents?"* [Source: Virginia Mason public comments received June 8, 2018, page 4]

#### PRO Sport rebuttal comments

*"Several public comments raised concerns regarding PRO's proposed payer mix, questioning whether PRO will effectively serve the Medicaid and Medicare patient population. For instance, Evergreen Health's spokesperson states: "PRO Sports Club's estimated payer mix is unrealistically low for Medicaid and Medicare and not representative of the community that would likely seek care at an ASC in East King County.*

*These concerns are unfounded and wrong. PRO's proposed payer mix is very comparable to other ASCs/ASFs in the Planning Area. ...PRO is projecting a higher Medicaid percentage than 6 of 7 of the East King ASCs/ ASFs who have gained CN approval since 2016. In fact, some providers, including Evergreen Health, who criticized our payer mix in public comments had lower Medicaid percentages in their respective ASC/ASF CN-approved applications than what PRO is anticipating for its project".* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 9]

*We have consistently stated throughout our application that PRO is committed to meeting community and regional health needs, ensuring low-income, racial and ethnic minorities, handicapped, and other under-served groups will have access to health services provided at PRO's proposed facility.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 10]

*"....The proposed ambulatory surgical facility will be completely distinct, with its own operational structure. **The proposed PRO facility will be open to ALL patients, regardless of membership-status in other PRO operations or activities.***

*There were also concerns how or even whether PRO will market and attract non-club members to its ASF. These concerns are unfounded and not based on evidence. PRO has considerable marketing experience and expertise that will compliment and further our goal of increasing awareness and access to our ASF, once CN-approved and operational.*

*PRO has a long and ongoing history of radio and television marketing as well as print advertising. These advertisements reach all people irrespective of their insurance status or income. PRO has every intention of doing the exact same thing with the proposed ASF. Therefore, all people within eyeshot of our TV and print ads, or ear shot of our radio ads, including Medicare, Medicaid, and charity care patients, will know about and be able to access our services".* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 11]

*Please see Exhibit 6A for a revised Charity Care Policy that includes all of the information identified above. In Exhibit 6B, we have also included a draft Charity Care/Financial Assistance Application we would plan to utilize with our Charity Care Policy.* [Source: PRO Sport Club PUI response received August 30, 2018, page 10]

### **Department Evaluation**

The admission policy provided by PRO Sports Club outlined the process and criteria the applicant will use to admit patients for treatment and ensures that patients receive appropriate care. Within the admission policy, the surgical patient admission criteria describes the types of patients suitable for surgeries at the ASF. Since the ASF is not providing services, this admission policy is considered a draft. PRO Sports Club also provided a copy of its nondiscrimination policy and patient rights and responsibilities policy. Because the ASF is not providing services, these policies are also considered drafts.

PRO Sports Club does not currently provide services to Medicare and Medicaid patients. Information within the application states that if this project is approved, the ASF will seek state licensure and will be certified by the Centers for Medicare and Medicaid Services. A review of the information provided in the application shows that it expects reimbursements from Medicare and Medicaid. [Source: Application page 10, and April 27, 2018 screening responses, Exhibit 17B]

Many of the public comments received by the department focused on the structure of PRO Sports Club. The comments stated that as a membership only health club, approval of this project will limit patient access, including for low income persons or charity care patients. In its response to the comments PRO Sports Club states, *"The proposed ambulatory surgical facility will be completely distinct, with its own operational structure. The proposed PRO facility will be open to ALL patients, regardless of membership status or other PRO operations or activities"*. [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 11]

In addition to the comments above applicant stated, *"We have consistently stated throughout our application that PRO is committed to meeting community and regional health needs, ensuring low-income, racial and ethnic minorities, handicapped, and other under-served groups will have access to health services provided at PRO's proposed facility.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 10]

PRO Sports Club provided draft of its charity care policy to show that it will provide charity care to patients. The department review of the draft policy shows that the applicant intends to provide charity care to all eligible patients seeking treatment at the ASF. [Source: PRO Sport Club PUI response received August 30, 2018, page 10, Exhibit 6A and Exhibit 6B]

Given that PRO Sports Club provided draft policy documents, if this project is approved, the department would attach conditions requiring PRO Sports Club to provide finalized policies consistent with the drafts provided in the application.

WAC 246-310-270(7)

WAC 246-310-270(7) requires that ASFs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed ASF. For charity care reporting purposes, the Department of Health Office of Charity Care and Hospital Financial Data (CCHFD) divides Washington State into five regions: King County, Puget Sound, Southwest, Central, and Eastern. PRO Sports Club will be located in Bellevue in East King County within the King County region. Currently, there are 21 hospitals operating in the King County Region. Of those hospitals, four are acute care hospitals and could be affected by approval of this project.<sup>15</sup>

For this project, the department reviewed the most recent three years charity care data for the 21 existing hospitals currently operating within the King County Region and focused on the four general acute care hospitals located in East King County. The three years charity care data reviewed are 2014, 2015, and 2016. Table 5 below is a comparison of the average charity care for the King County Region as a whole, the four hospitals combined average, and PRO Sports Club projected charity care.<sup>16</sup>

**Table 5  
Charity Care**

	<b>% of Total Revenue</b>	<b>% of Adjusted Revenue</b>
<b>King County Region</b>	0.91%	1.93%
<b>Four Hospitals Combined</b>	0.74%	1.41%
<b>PRO Sports Club</b>	1.72%	4.76%

[Sources: CCHFD Charity Care, 2014-2016; April 27, 2016 supplemental information Exhibit 17B]

As shown above in the table above, the proposed charity care levels represented in PRO Sports Club application exceed the four hospitals combined average. Based on the review of PRO Sports Club financial statements submitted in the application, the department notes that the applicant intends to provide charity care. However, if this project is approved the department would attach a condition requiring PRO Sports Club to provide charity care in the amount identified in the application or at the regional average whichever is greater.

<sup>15</sup> Includes Evergreen Health in Kirkland, Overlake Hospital Medical Center in Bellevue, Snoqualmie Valley Hospital in Snoqualmie, and Swedish Health Services – Issaquah in Issaquah.

<sup>16</sup> Harborview Medical Center is subsidized by the state legislature to provide charity care services. Charity care percentages for Harborview make up almost 50% of the total percentages provided in the King County Region. Therefore, for comparison purposes, the department excludes Harborview Medical Center’s percentages.

Based on the source documents reviewed and PRO Sports Club agreement to the conditions identified in the “conclusion” section of this evaluation, the department concludes that all residents including low income, racial and ethnic minorities, handicapped, and other under-served groups would have access to the services provided by the applicant **this sub-criterion is met.**

(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 no residing in the health service areas in which the entities are located or in adjacent health service areas.

**Department Evaluation**

This 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 criterion is not applicable to this application.

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

**Department Evaluation**

This 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 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 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 non-health 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 criterion is not applicable to this application.

### **B. Financial Feasibility (WAC 246-310-220)**

Based on the source information reviewed and the applicant agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that Professional Recreation Organization, Inc., dba PRO Sports Club met the financial feasibility criteria in WAC 246-310-220.

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

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

### **PRO Sports Club**

*“Please see **Exhibit 17** for pro forma financial statements for the PRO Sports Club ASF that forecasts financial performance resulting from the project.”* [Source: Application page 33]

*“In the interest of clarity, we have provided a 2nd revision to Exhibit 17A that extends the financial pro forma through year 2023. In this manner, the tables referenced by the department and the financial models will cover the same time periods. Please see **Exhibit 17B** (PRO Sports Ambulatory Surgery Center, Revenue and Expense Statement, 2018-2023), attached”.* [Sources: April 27, 2018, supplemental information page 3]

Restated below are the assumptions used by PRO Sport Club to project and prepare it finances for the three operating room ambulatory surgery center.

#### *“Revenues*

- *Inflation of gross and net revenues was excluded from the models.*

- *Average Gross Revenue per case has been estimated by procedure group, where the procedure code groups...*
- *Gross revenue per case, by type of case, as identified for the five groups above, were modeled based on public documents for other ASCs similar to the proposed PRO Sports Club ASF.*
- *Payer mix, by type of case is provided in **Table 2**. ...It is based on 2016 inpatient CHARS payer mix statistics, by payer, for discharges. These CHARS percentage figures, by payer, have been adjusted for the expected difference between inpatient and outpatient ambulatory surgery...*
- *...Net revenues by payer have been prepared based on review of other ASC CNs comparable to the proposed project. ...the difference between payer mix as a percentage of cases and the payer mix, based on percentage of net revenues, which has been used in **Exhibit 17**.*
- *The difference between Gross Revenue and Net Revenue equals Deductions from Revenue, which includes Contractual Allowances and Charity Care. In this ASF model, Bad Debt is considered an operating expense... Forecasted Deductions from Revenue are included in **Exhibit 17**.*
- *Charity care is assumed constant at 1.5% of Gross Revenue. It should be noted this figure is above the King County (less Harborview Medical Center) regional charity care average of 1.29% over the 2013-2015...*

#### *Expenses*

- *Inflation was not included in any operating expense forecasts.*
- *Detailed FTE tables are also included in **Exhibit 17**. Non-productive FTE figures, calculated at 12% of productive figures, add in the time spent for vacation or sick time on top of productive hours.*
- *Wage and salary figure are specific to each group of FTEs, and are calculated on an hourly basis. It is assumed a FTE works 2,080 hours per year. These costs have been estimated per hour, based on current PRO Sports Club employees' costs, knowledge of the labor market and review of other publicly-available ASC CN requests similar to this ASF request.*
- *Benefits were calculated as 20.0% of total wages and salaries.*
- *Medical Director expenses were calculated based on an assumed \$150 hourly rate for 20 hours per week. Current plans anticipate this Medical Director will be employed by PRO Sports Club, but these costs have been included as a conservative approach.*
- *Supplies, purchased services, utilities, environmental services, professional services, equipment rentals/leases, and pharmacy expenses were calculated on a per case basis.*
- *Other expenses include recruitment, meeting, legal, and travel expenses, among others.*
- *Repairs and maintenance were calculated based on square footage.*
- *Equipment and repair expenses were calculated based on seven percent of movable equipment capital expenditures, where it is assumed year one expenses are covered by warranty.*
- *B&O taxes were calculated at 1.7% of net revenue.*
- *Insurance estimates were assigned annual estimates and held constant.*
- *Employee education and training were set at \$125 per FTE.*

- *Billing and collection costs, presumed to be outsourced, have been assumed equal to 6% of net revenues. However, it is assumed there will be a Billing and Collection FTE to facilitate/manage billing and collection activities (Exhibit 17).*
- *Bad debt expenses have been modeled at 0.5% of Gross Revenues.*
- *Indirect, allocated expenses have been modeled at 2% of Net Revenue. These indirect cost estimates have been included as costs for PRO Sports Club executive leadership, finance, legal, human resource support, marketing and other corporate-level expenses.*  
[Source: Application page 36-37]

In addition to the assumptions restated above, at the request of the department in screening questions, PRO Sports Club provided a revised payer mix and its proposed sources of revenue for this project which is restated below.

*“A revised table is provided below. Charity care has been excluded as a payer class”.*

**(Reproduced)**

***PRO Sports Club ASC. Projected Payer Mix,  
as Percentage of Total Cases and Net Revenues***

<b><i>Payer Class</i></b>	<b><i>% of Total Cases</i></b>	<b><i>% of Net Revenues</i></b>
<i>Commercial Insurance</i>	<i>65.8%</i>	<i>79.3%</i>
<i>Medicare</i>	<i>18.7%</i>	<i>10.5%</i>
<i>Medicaid</i>	<i>5.2%</i>	<i>2.1%</i>
<i>Health Care Service Contractor</i>	<i>6.7%</i>	<i>7.0%</i>
<i>HMO</i>	<i>1.0%</i>	<i>0.5%</i>
<i>Self-pay</i>	<i>1.7%</i>	<i>0.0%</i>
<i>Other gov't sponsored patient &amp; L &amp; I</i>	<i>0.9%</i>	<i>0.5%</i>
<b><i>Total</i></b>	<b><i>100.0%</i></b>	<b><i>100.0%</i></b>

[Sources: February 25, 2018, supplemental information page 4]

*“Please see Exhibit 19 for an independent auditor's report and a company-wide balance sheet”.* [Source: Application page 38]

*“Additionally, we provided as Exhibit 19 to the application an agreed-upon procedures report from our outside accountants verifying our 2016 balance sheet; enclosed as Exhibit 19a is an updated report from our outside accountants covering the most recent three years, consistent with the Department's request for three years of information”.*

In addition to the statements above, PRO Sports Club provided its historic balance sheet. Information from the balance is below.

**PRO Sports Club Balance Sheet Year 2016**

<b>Assets</b>		<b>Liabilities</b>	
Current Assets	\$53,714,319	Current Liabilities	\$8,690,352
Property and Equipment	\$48,944,996	Long Term Debt	\$1,380,000
Other Assets	\$716,699	Equity	\$93,305,962
<b>Total Assets</b>	<b>\$103,376,314</b>	<b>Total Liabilities and Equity</b>	<b>\$103,376,314</b>

[Sources: February 25, 2018, supplemental information page 4 and Exhibit 19a]

Public Comments

Overlake Medical Center

*“A number of surgical procedure types included in pro forma projections are performed by physicians whose specialties are not included in PRO Sports current list of affiliated providers (e.g, general surgery, gynecology, vascular surgery, ENT/plastic surgery). PRO Sports has not demonstrated that they will have or will not have proceduralists that will perform these types of procedures”.* [Source: Overlake Medical Center public comments received June 11, 2018, page 2]

PRO Sport rebuttal comments

*“There were public comments that stated PRO Sports Club medical staff roster does not match the proposed scope of services, calling into question the reasonableness of the volume assumptions, and in turn, the financial projections. This is an unreasonable contention given the proposed project is a new facility, and not yet operational. Once CN-approved, any specialist who meets PRO Sports Club credentialing requirements and who deems PRO Sports Club ASF as clinically appropriate for ambulatory surgeries, will be able to schedule and utilize PRO Sports Club ORs. To suggest PRO Sports Club should have identified, and moreover, hired its medical staff before it is CN-approved and operational, is unreasonable and counter to prudent financial practice”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 12]

Department Evaluation

If this project is approved, year 2019 would PRO Sports Club first full year of operation. Under this timeline, year 2021 is PRO Sports Club third full calendar year of operation. [Source: Application, page 13, and April 27, 2017, screening responses, Exhibit 17B] To evaluate this sub-criterion, the department first reviewed the assumptions used by PRO Sport Club to determine the projected number of procedures for the proposed three operating room ASF. To help in developing these assumptions, the applicant relied on the National Health Statistics Reports-Ambulatory Surgery in the United States, 2006. Within the application, the applicant stated this project will increase the supply of outpatient cases and improve access to lower care cost for planning area residents.

Overlake Medical Center questioned the number of surgical procedures included in the pro forma financial statements and as a result the reasonableness of the projected financial statements. Their comments focused on matching the current PRO Sports Club medical staff roster to the proposed types of surgeries and concluding that the projections were unreasonable because some of the physicians required for the surgical procedures are not on the current PRO Sports Club roster. The department does not agree. Use of the ASF will not be limited to only PRO Sport Club physicians. The department would not expect a new ASF to have all the

physicians that might use the ASF credentialed by the ASF prior to receiving Certificate of Need approval.

Based on the information considered in the application, the department concludes PRO Sports Club projections are reasonable.

PRO Sports Club projected the revenue, expenses, and net income for the three operating room surgery center. PRO Sports Club projections are shown in Table 6.

**Table 6**  
**PRO Sports Club**  
**Projected Revenue and Expenses for Years 2019 through 2022**

	<b>Partial Yr. 2018</b>	<b>Full Yr. 1 2019</b>	<b>Full Yr. 2 2020</b>	<b>Full Yr. 3 2021</b>	<b>Full Yr. 4 2022</b>
Net Revenue	\$2,387,429	\$9,551,676	\$9,936,098	\$10,236,472	\$10,443,641
Total Expenses	\$1,849,395	\$7,547,946	\$7,808,584	\$8,074,699	\$8,158,015
<b>Net Profit/(Loss)</b>	<b>\$538,034</b>	<b>\$2,003,730</b>	<b>\$2,127,514</b>	<b>\$2,161,773</b>	<b>\$2,285,626</b>

[Source: April 27, 2018 screening responses, Exhibit 17B]

The “Net Revenue” line item is gross patient revenue, minus any deductions from revenue such as contractual allowances, bad debt, and charity care. The “Total Expenses” line item includes both operating and non-operating expenses, including salaries and wages, benefits, insurance, rentals and leases, and depreciation. As shown in the table above, PRO Sports Club expects its operation would be profitable beginning in partial year 2018 and throughout all three full years of operation.

PRO Sports Club identified Gordon Cohen, MD as the medical director for the proposed ASF. Dr. Gordon Cohen is PRO Sports Club current chief medical director for PRO Sports Club. The applicant states, *“The Medical Director would be an employee of PRO Sports Club. A Medical Director fee has been included in the pro forma as an operating expense, however, since this work would be incremental to compensation for physician FTE Clinic activities. It is assumed that work as a Medical Director would require 20 hours per week”*. [Sources: February 25, 2018, supplemental information page 7 and Exhibit 26]

Based on the source documents evaluated, 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.

**Pro Sports Club**

The proposed PRO Sports Club ASF will occupy space within a multistory medical center currently being built by the applicant within its Bellevue campus. PRO Sports Club provided the following statements:

*“The proposed ASF will be part of a much larger medical office complex. For purposes of certificate of need, the projected cost for the ASF is estimated to equal \$10,083,138. The estimated cost for the larger project is \$48,271,401. The ASF will be located on the bottom floor (below ground). The first floor above ground will include physician offices. The second floor above ground will include a wellness center. The top floor will include other PRO Sports Club expansion space”.* [Source: Application page 13]

*“PRO Sports Club based the project’s capital expenditures on the best estimates provided by our contractors, consultants, and leadership team’s experience. See **Exhibit 16** for the non-binding contractor estimate”.* [Sources: Application page 33]

PRO Sports Clubs provided the capital expenditure breakdown for the proposed project. Shown in Table 7 below is the capital expenditure breakdown (numbers are rounded).

**Table 7  
PRO Sports Club Capital Expenditure Breakdown**

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
Land Building	\$2,927,425	29.03%
Building Construction (Tenant Improvement)	\$2,924,360	29.1%
Fixed & Moveable Equipment	\$2,381,565	23.62%
Architect, Site work preparation Engineering Fees	\$893,565	8.86%
Sales Tax	\$956,103	9.48%
<b>Total</b>	<b>\$10,083,138</b>	<b>100.0%</b>

[Sources: Application page 33]

**Public Comments**

**Evergreen Health**

*“While PRO intends to care for patients age 10 and over (p. 14 of its application)... Pediatric patients typically require specialized equipment, providers and staff, procedures and protocols, and ideally, a care environment that optimizes the experience for the child and family.*

*Pediatric cases often require specialized equipment. This includes laparoscopic instruments, intra-operative equipment sets, beds, wheelchairs, and equipment for airway management (ET tubes, laryngoscopes, airways). The equipment list for PRO does not identify any specific pediatric equipment”.* [Source: Seattle Children’s public comments received June 8, 2018, page 1]

**Virginia Mason**

*“A comparison of the ASC equipment lists by Virginia Mason’s and PS respective CN applications illustrate significant gaps that are likely to result in surgeries at PS being unable to be safely performed without substantial additional capital investments. Patient safety issues will arise if the missing equipment is not purchased*

*Table 1 below compares various line items from the two applicant's respective equipment lists which reveal PS "low ball" approach of grossly underestimating equipment costs, as well as PS failure to account for several types of equipment that are necessary to provide safe outpatient surgeries. To address these deficiencies, PS will need to expend hundreds of thousands of dollars more than they currently propose in order to safely equip their proposed facility and those expenditures will further increase if more realistic price estimates are used".* [Source: Virginia Mason public comments received June 8, 2018, page 5]

#### PRO Sports rebuttal comments

*"The assertion that we have not properly or fully identified equipment requirements is mistaken. As stated above, as part of pre-application planning and analysis, we identified the physician specialties and the expected range of ambulatory surgeries expected to be performed at the PRO Sports Club ASF. This analysis allowed us to identify expected equipment needs, which we fully detailed in our application. There was also concern on the part of Virginia Mason staff that we had underestimated equipment costs. This is also incorrect. We have written quotes from equipment vendors that are the basis for our equipment cost estimates. In other words, we have a high degree of confidence our cost estimates are accurate".* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 12]

#### Department Evaluation

The capital expenditure cost of the proposed project is \$10,083,138. A breakdown of the associated costs was provided in the application. PRO Sports Club provided a construction estimate from Foushee, a Seattle Bellevue Construction firm. Of the project's total estimated cost of \$10,083,138, \$6,794,732 is related to building improvements, tenant improvement, site work and preparation, and taxes. The remaining \$3,288,406 is associated with equipment (fixed and movable), and design/legal/permit fees. A review of the breakdown cost shows that it's comparable to the cost of similar projects reviewed by the department in the past.

Within the application, PRO Sport Club provided a listing of the equipment that will used at the proposed ASF. The applicant stated it has quotes from vendors and that it identified the physician specialties and the expected range of ambulatory surgeries expected to be performed at the ASF. Additionally, in the supplemental information provided by the applicant, it identified the special types of equipment that it will used at the ASF for pediatric. Given that PRO Sports Club provided clarification regarding the equipment it will used to provide treatments for pediatric patients, the department is satisfied with the applicant response.

Based on the source information reviewed, the department concludes **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.

### **Pro Sports Club**

*“PRO Sports Club will fund the project from reserves (cash and investments). Please see Exhibit 18 for a letter of financial commitment from PRO Sports Club's CEO, Mark Dedomenico, M.D. [Sources: Application page 37]*

### **Department Evaluation**

PRO Sports Club provided a letter from its chief executive officer confirming the applicant's commitment to finance the project using its reserves. The application included a report dated December 11, 2017 entitled Report on Agreed-Upon Procedures. According to that report Clark Nuber stated:

*“We performed the following procedures:*

- *Obtained the management-prepared consolidated balance sheet of the Company as of December 31, 2016, which is attached to this report.*
- *Compared the attached management-prepared consolidated balance sheet to the 2016 consolidated financial statements we previously audited and verified that the numbers match without exception.*

*This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.” [Source: Application Exhibit 19]*

A review of this information showed the funds needed for the proposed ASF as available. Based on the source information reviewed the department concludes **this sub-criterion is met.**

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

Based on the source information reviewed and the applicant agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that Professional Recreation Organization, Inc., dba PRO Sports Club met the structure and process (quality) of care criteria in WAC 246-310-230.

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

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that 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.

### **PRO Sports Club**

*“Please see Table 13 below for the forecasted number of productive FTEs, by type”. [Source: Application page 38]*

*“PRO Sports Club believes that a well-developed workforce is essential in providing quality care and operating a successful ambulatory surgical facility that meets the needs of its patients.*

The PRO Sports Club ASF will offer an attractive work environment and hours, thus attracting local area residents who are qualified. We do not expect any staffing challenges that would disrupt our ability to achieve our goals and objectives relative to the project”. [Source: Application page 40]

Below is DOH reproduced Table 13 showing projected FTEs.

**Table 13 (Reproduced)**  
**“PRO Sports Club ASF. Ambulatory Surgery Facility Productive FTEs by Type by Year, 4Q2018-2022**

	<b>4Q2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Productive FTE Analysis</b>		<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>
<i>Office/Clerical Employees</i>	2.0	2.0	2.0	2.0	2.0
<i>Scheduler</i>	1.0	2.0	2.0	2.0	2.0
<i>Billing and Collection Employee</i>	1.0	1.0	1.0	1.0	1.0
<i>Surgical Services Assistant</i>	1.0	1.0	1.0	1.0	1.0
<i>Housekeeping</i>	1.0	1.0	1.0	1.0	1.0
<i>Registered Nurse</i>	8.0	9.0	9.0	10.0	10.0
<i>Operating Room Technicians</i>	4.0	5.0	6.0	6.0	6.0
<i>Materials Management</i>	1.0	1.0	1.0	1.0	1.0
<i>Manager</i>	1.0	1.0	1.0	1.0	1.0
<i>Anesthesia Technician</i>	1.0	1.0	1.0	1.0	1.0
<b>Total Productive FTEs</b>	<b>21.0</b>	<b>24.0</b>	<b>25.0</b>	<b>26.0</b>	<b>26.0”</b>

[Source: Application page 39]

Public Comments

Overlake Medical Center

“PRO Sports plans to care for patients with ASA Level I, II and III. Nationally, caring for ASA Level III patients in an ASC is becoming more common; however, there is no demonstration of how PRO Sports plans to care for patients who require overnight care (from a staffing or facilities perspective)”. [Source: Overlake Medical Center public comments received June 11, 2018, page 2]

Virginia Mason

“PS’ CN application states that any qualified, credentialed and privileged physician on PRO Sports Club’s medical staff will be able to use the proposed facility. Page 11 of PS’ initial CN filing (its application) states PS currently employs or contracts with 10 physicians, but no employment agreements or contracts were provided. PS provides no evidence they have any surgeons specializing in performing several of the listed surgeries, including ENT, urology, general surgery (described as digestive), GYN, vascular surgery and vascular access”. [Source: Virginia Mason public comments received June 8, 2018, page 4]

## PRO Sports Club Rebuttal Comments

*“Our Admission Policy is very comparable to other ASC policies. As specified in our Policy, PRO Sports Club will treat ASA I, II and III patients who are clinically appropriate candidates for ambulatory surgery, as determined by the patient’s treating physician, in collaboration with the anesthesiologist providing care at PRO Sports Club ASF. This is standard practice and clinically appropriate”.* Source: PRO Sports Club rebuttal comment received June 22, 2018, page 9]

*“Regarding pediatric care and care that might extend beyond 23:59, i.e., overnight, PRO clinicians, as directed by the patient's physician, will provide clinically necessary care, and if required, will have the ability to transfer any patient needing inpatient care to Evergreen Health, which has an operational pediatric unit. PRO Sports Club has a signed transfer agreement with Evergreen Health. Thus, all patients cared for at our ASF (i.e., patients ages 10 years and older) will be covered under PRO’s transfer agreement with Evergreen Health, in the unlikely event inpatient care is needed”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 5]

*“The Pro Sports Club ASF is not yet operational, thus, contrary to several public comments, it is premature and unreasonable to expect us to have already built a medical staff that includes those subspecialties expected to perform ambulatory surgeries at the PRO ASF. At project completion and based on CN-approval, PRO will be able to provide access to all such physician specialists who meet PRO Sports Club ASF credentialing requirements.*

*We have identified the physician specialties we anticipate will perform ambulatory surgeries at the PRO Sports Club ASF, which has allowed us to identify expected equipment needs”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 5]

*“The Seattle Children’s spokesperson raised several questions regarding pediatric care. We appreciate Dr. Melzer’s concerns; however, we understand the dimensions of pediatric care and fully expect to provide clinically excellent pediatric care. Dr. Gordon Cohen, the Chief Medical Officer at PRO Sports Club, is Board-Certified in Pediatric Cardiothoracic Surgery. Additionally, Dr. Cohen is in discussion with a highly respected anesthesiology practice, which includes Board-Certified pediatric anesthesiology subspecialists. Dr. Cohen anticipates utilizing such a contracted anesthesiology group. As needed, these subspecialists would be available for pediatric surgical care at the PRO Sports Club ASF”.* [Source: PRO Sports Club rebuttal comment received June 22, 2018, page 15]

*“As a preliminary matter regarding the importance we attribute to proper care for pediatric patients at PRO Sports ASF, we repeat certain responses we provided in our Rebuttal document that addressed others concerns regarding this element of our proposed ASF. We understand the dimensions of pediatric care and fully expect to provide clinically excellent pediatric care. Dr. Gordon Cohen, the Chief Medical Officer at PRO Sports Club, is Board-Certified in Pediatric Cardiothoracic Surgery. Earlier in his career, Dr. Cohen was Professor and Vice-Chair of Surgery, the Julien I.E. Hoffman Endowed Chair of Cardiac Surgery, and the Chief of the Division of Pediatric Cardiothoracic Surgery at University of California, San Francisco (UCSF) School of Medicine. He was also co-Director of Seattle Children’s Heart Center”.* [Source: PRO Sport Club PUI response received August 30, 2018, page 5]

## **Department Evaluation**

As shown in the applicant's Table 13 reproduced, PRO Sports Club expects that staffing levels at the ASF will increase incrementally over time as surgical volumes and workloads increase. As shown in the table, PRO Sports Club FTEs will increase slightly from 21.0 FTEs during the first year of operation to 26.0 FTEs during the fourth year of operation in year 2022. The increase in FTEs is expected to be in nursing position which is a direct patient care position. PRO Sports Club also expects an increase in the number of operating technician's positions at the ASF. PRO Sports Club states it does not anticipate any difficulty in recruiting and maintaining the needed FTEs to support surgical volume increases after Certificate of Need approval.

Within the application PRO Sports Club stated the ASF will be specifically focused on the specialties of orthopedics and plastic surgeries during the first year of operation and as more specialists are credentialed to use the ASF it will increase the range of specialties performed at the ASF. The department expects PRO Sports Club to only admit patients that are clinically appropriate for services at the ASF.

PRO Sports Club current chief medical is Gordon Cohen, if this application is approvable, Dr. Cohen will continue on as the medical director of the proposed ASF.

Based on the information, the department concludes that PRO Sports Club has the ability to recruit and retain sufficient supply of qualified staff for this project. **This sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(2) as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

## **PRO Sports Club**

*"The final determination regarding which ancillary and support services will be provided on-site or from vendors in the community has not yet been made. It is our experience that such final determinations and subsequent contracts can be established well within the time frame of CN approval and subsequent opening. However, a signed Transfer Agreement between PRO Sports Club and Overlake Medical Center for the proposed project is included as **Exhibit 20**".*

[Source: Application 40]

*"The PRO Sports Club ASF will have a strong working relationship with the other services located in the Planning Area, including Overlake Medical Center. Patients requiring transfer to a higher level of care would either be transferred to Overlake Medical Center or another acute care facility as appropriate. Please see **Exhibit 20** for the signed Transfer Policy Agreement with Overlake Medical Center".* [Source: Application 41]

The department received public comments related to this sub-criterion the comments and PRO Sports Club rebuttal comments are restated below.

### Public Comments

#### Overlake Medical Center

*“Overlake signed a Patient Transfer Agreement with PRO Sports Club ASC, establishing Overlake’s agreement to receive transfers from PRO Sports’ future ASC for patients with urgent/emergent medical needs requiring a higher level of care. PRO Sports indicates they will serve patients age 10 and older. Overlake does not provide inpatient care for the pediatric population, aside from neonatology and newborn services. A transfer agreement for pediatric patients was not provided in the application”*. [Source: Overlake Medical Center public comments received June 11, 2018, page 2]

#### PRO Sports Club Rebuttal Comments

*“Regarding pediatric care and care that might extend beyond 23:59, i.e., overnight, PRO clinicians, as directed by the patient’s physician, will provide clinically necessary care, and if required, will have the ability to transfer any patient needing inpatient care to Evergreen Health, which has an operational pediatric unit. PRO Sports Club has a signed transfer agreement with Evergreen Health. Thus, all patients cared for at our ASF (i.e., patients ages 10 years and older) will be covered under PRO’s transfer agreement with Evergreen Health, in the unlikely event inpatient care is needed”*. [Source: PRO Sport Club PUI response received August 30, 2018, page 5]

### Department Evaluation

PRO Sports Club ASF is not currently operating in King County, but the applicant states that the proposal ASF upon approval will decide which ancillary and supports services it will provide onsite. The applicant provided two signed patients transfer agreements. One of the agreement with Evergreen Hospital was provided in response to public comments stating that PRO Sports Club initial transfer agreement with Overlake Hospital is insufficient because that hospital does not provide the type of pediatrics services needed. The second transfer agreement between PRO Sports Club and Evergreen Hospital appears to have addressed Overlake comments. The hospital currently provided pediatric services and it will accept and treat patients between 10 and 17 years. The agreement stated the need to transfer a patient to Evergreen shall be determined based on the recommendation of the attending physician. The agreement identify the roles and responsibilities of both entities. [Source: PRO Sports Club rebuttal comment received June 22, 2018, Exhibit 27]

Given that PRO Sports Club is currently not operational, the applicant stated that upon approval it will decide which other ancillary and support services it will offer onsite, therefore the department expect that it will have sufficient ancillary and support services available for the ASF. Based on the statement and the transfer agreements provided, the department concluded there is reasonable assurance the proposed ASF will have appropriate relationships with ancillary and support services in the community. **This sub-criterion is met.**

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

### **PRO Sports Club**

*"All PRO Sports Club entities meet all relevant State and Federal rules and regulations. PRO Sports Club abides by all current laws, rules and regulations. All physicians performing surgeries at this ASF will be credentialed and privileged as a member of the medical staff roster and in good standing within the medical community. [Source: Application 41]"*

### **Public Comments**

None

### **Rebuttal Comments**

None

### **Department Evaluation**

PRO Sports Club does not currently operate an ASF in Washington, however information in the application states that upon approval of the proposed ASF project, the applicant intends to seek Medicare and Medicaid certification. Within the application, PRO Sports Club states that it currently operates an office base/procedure medical spa in Bellevue that is accredited by AAAHC. The Medical Spa has a Medical Test Site Certificate Waiver License number MTSW.FS .60465896. [Source: Application page 10]

PRO Sports Club identified Dr. Gordon Cohen as the medical director of the proposed ASF and provided his license number. The department conducted a quality of care check for Dr. Cohen through the Health Systems Quality Assurance (HSQA OCS) and the Nursing Quality Assurance Commission (NQAC). The quality of care check reveal that the license associate with Dr. Cohen is in good standing. [Source: NQAC, HSQA OCS] Based on the above information, the department concludes 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.

### **PRO Sports Club**

*“The PRO Sports Club ASF will have a strong working relationship with the other services located in the Planning Area, including Overlake Medical Center. Patients requiring transfer to a higher level of care would either be transferred to Overlake Medical Center or another acute care facility as appropriate. Please see **Exhibit 20** for the signed Transfer Policy Agreement with Overlake Medical Center”.* [Source: Application 41]

### **Public Comments**

None

### **Rebuttal Comments**

None

### **Department Evaluation**

PRO Sports Club is not an existing provider of healthcare services in the planning area. Within the application, the applicant provided two patient transfer agreements with two local hospitals. One was with Overlake Medical Center and the other is with Evergreen Hospital. The applicant stated in the application that upon approval of this project, and once it starts operations, it will decide which type of ancillary and support services to establish. Rather approval of this project could result increased continuity of care for patients of non-Therefore, the department believes that as more credentialed physicians gain access to ASF, the needed continuity of care for its patients will be developed. Information provided in the application shows that PRO Sports Club has transfer agreements with two local hospitals in East King County planning area. The department does not expect construction of the new ASF to affect the applicant’s ability to promote continuity of care. The two transfer agreements provided within the application appears suitable for the type of patients and services proposed by the applicant.

Although the department received many comments related patients transfer agreement, and scope of service proposed by the applicant, the department believes that the rebuttal comments provided by PRO Sports Club addressed the public comments. Based on the information considered **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.*

WAC 246-310 does not contain specific WAC 246-310-230(5) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare certified and Medicaid eligible. Therefore, using its experience and expertise the department assessed the applicant’s history in meeting these standards at other facilities owned or operated by the applicant. The department’s review of this sub-criterion includes historical quality of care of the applicant to assess whether the applicant's history could be a positive indicator of the future.

### **PRO Sports Club**

This sub-criterion is evaluated in sub-section (3) above. Based on that evaluation, the department concludes **this sub-criterion is met.**

#### **D. Cost Containment (WAC 246-310-240)**

Based on the source information reviewed the applicant agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that Professional Recreation Organization, Inc., dba PRO Sports Club met the cost containment criteria in WAC 246-310-240.

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

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

If the project met the applicable criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

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

#### **Step One:**

#### **PRO Sports Club**

The department concluded that PRO Sports Club’s application met the review criteria under WAC 246-310-210, 220, and 230. Therefore, further analysis of this project is provided in step two.

**Step Two:**

**PRO Sports Club**

*“In deciding to submit this application, PRO Sports Club explored the following options: (1) no project—continuing as a licensed medical spa facility, (2) the requested project-seeking certificate approval for a 3-OR facility, and (3) seeking certificate of need approval for a much larger facility that would fully meet net demand for East King ambulatory surgery suites, in this case, a 12-OR facility.*

*These options are evaluated below using the following decision criteria: improving access; improving quality of care; capital and operating costs (efficiency); staffing; and legal restrictions:*

**(Reproduced)**

**Table 14. Alternatives Analysis: Promoting Access to Healthcare Services.**

<b>Option:</b>	<b>Advantages/Disadvantages:</b>
<i>No Project – remain a Medical Spa</i>	<ul style="list-style-type: none"><li><i>• In terms of improving access, there is no advantage to continuing as is remain as a (Disadvantage (“D”))</i></li><li><i>• The principal disadvantage of this option is that it does nothing to address the ambulatory surgery OR shortages forecast in the Planning Area. (D)</i></li></ul>
<b>CN Approved 3-OR ASC (Requested project)</b>	<ul style="list-style-type: none"><li><i>• The requested project addresses some of the current and future access issues identified in the Planning Area. (Advantage (“A”))</i></li><li><i>• From an improved access perspective, there are no disadvantages. (A)</i></li></ul>
<i>CN Approval—12-OR ASC</i>	<ul style="list-style-type: none"><li><i>• Best meets current and future access issues identified in the Planning Area. (A)</i></li><li><i>• However, an ASF this large would be unable to be co-located next to the existing PRO Sports Club facility and would require development of an entirely new site. Relative to the requested project, this would lead to prolonged delays in access to care needed by Planning Area residents (D)</i></li></ul>

**(Reproduced)**

**Table 15. Alternatives Analysis: Promoting Quality of Care**

<b>Option:</b>	<b>Advantages/Disadvantages:</b>
<i>No Project – remain a Medical Spa</i>	<ul style="list-style-type: none"><li><i>• There are no advantages from a quality of care perspective. (Neutral (“N”) remain as a</i></li><li><i>• If unmet need in the Planning Area continues to rise, then patients will either be forced to out-migrate or forgo care altogether. (D)</i></li></ul>
<b>CN Approved 3-OR ASC (Requested project)</b>	<ul style="list-style-type: none"><li><i>• The requested project meets and promotes quality and continuity of care issues in the Planning Area, given it improves access identified above. (A)</i></li><li><i>• From a quality of care perspective, there are only advantages. (A)</i></li></ul>

CN Approval— 12-OR ASC	<ul style="list-style-type: none"> <li>• A 12-OR facility would be capable in providing a greater breadth and depth 12-OR ASC of service offerings. (A)</li> <li>• However, a 12-OR facility would require a larger capital expenditure. Relative to the project, this would lead to prolonged delays in access for services needed by Planning Area residents. (D)</li> </ul>
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**(Reproduced)**

**Table 16. Alternatives Analysis: Promoting Costs and Operating Efficiency**

<b>Option:</b>	<b>Advantages/Disadvantages:</b>
No Project – remain a Medical Spa	<ul style="list-style-type: none"> <li>• Under this option, there would be no impacts on costs or efficiency. (N)</li> </ul>
<b>CN Approved 3-OR ASC (Requested project)</b>	<ul style="list-style-type: none"> <li>• Build-out feasible on existing land and does not necessitate purchasing and development of a new site. (A)</li> <li>• Prevents Planning Area residents from having to out-migrate in order to receive needed care. (A)</li> </ul>
CN Approval— 12-OR ASC	<ul style="list-style-type: none"> <li>• Substantially higher capital expenditures necessitated by a facility this large. (D)</li> <li>• To the extent that a larger site would materialize into larger case volumes, there could be opportunities to capture considerable economies of scale. (A)</li> </ul>

**(Reproduced)**

**Table 17. Alternatives Analysis: Staffing Impacts.**

<b>Option:</b>	<b>Advantages/Disadvantages:</b>
No Project – remain a Medical Spa	<ul style="list-style-type: none"> <li>• The principal advantage would be the avoidance of hiring/employing ASF (A)</li> <li>• There are no disadvantages from a staffing point-of-view. (N)</li> </ul>
<b>CN Approved 3-OR ASC (Requested project)</b>	<ul style="list-style-type: none"> <li>• Will require significant recruitment of additional staff, but we anticipate no issues with recruitment for a facility the size of the requested project. (N)</li> </ul>
CN Approval— 12-OR ASC	<ul style="list-style-type: none"> <li>• Would require significantly larger number of staff that may be difficult to recruit during development of the facility. (D)</li> </ul>

**(Reproduced)**

**Table 18. Alternatives Analysis: Legal Restrictions**

<b>Option:</b>	<b>Advantages/Disadvantages:</b>
No Project – remain a Medical Spa	<ul style="list-style-type: none"> <li>• There are no legal restrictions to continuing operations as presently. (A)</li> </ul>
<b>CN Approved 3-OR ASC (Requested project)</b>	<ul style="list-style-type: none"> <li>• Requires certificate of need approval. This requires time and expense. (D)</li> </ul>
CN Approval— 12-OR ASC	<ul style="list-style-type: none"> <li>• Same as the Project”.</li> </ul>

[Source: Application page 43-44]

The department received public comments related to this sub-criterion. The comments are below.

### Public Comments

#### Proliance Surgeons

*“The applicant’s exploration of alternatives to the proposed project is strikingly incomplete. The applicant considers only the following: 1) no project; 2) the proposed project; and 3) a project 400 percent larger than the proposed project. The applicant fails to consider joint venturing or otherwise partnering with another health care facility or provider in the health planning area, including the certificate of need approved ambulatory surgical facilities addressed above, in order to take advantage of their significant existing capacity. This last alternative is most relevant and responds to the actual lack of need for additional operating rooms in the health planning area as well as the important criteria of cost containment”.*

[Source: Proliance Surgeons public comments received June 8, 2018, page 2]

#### Overlake Medical Center

*“The applicant’s exploration of alternatives to the proposed project is strikingly incomplete. The applicant considers only the following: 1) no project; 2) the proposed project; and 3) a project 400 percent larger than the proposed project. The applicant fails to consider joint venturing or otherwise partnering with another health care facility or provider in the health planning area, including the certificate of need approved ambulatory surgical facilities addressed above, in order to take advantage of their significant existing capacity. This last alternative is most relevant and responds to the actual lack of need for additional operating rooms in the health planning area as well as the important criteria of cost containment”.*

[Source: Overlake Medical Center public comments received June 11, 2018, page 3]

#### PRO Sports Club Rebuttal Comments

*“Proliance argues that PRO Sports Club should have entered into a “joint venture” with “another health care facility” rather than build an ambulatory surgical facility, and because it did not choose this “superior alternative”, its application should be denied under WAC 246-310-240(1). As a threshold matter, Proliance does not even explain what it means by this, or how it could have been accomplished. Additionally, Proliance offers no analysis of the advantages or disadvantages of such an approach, or why it would even be a “superior” alternative. Most importantly, we are not aware of the Department ever having denied a CN application because the Department determined that the applicant should not have applied, but rather should have entered into a joint venture with another (unidentified) healthcare provider, and that theoretical joint venture should have applied instead.*

*PRO Sports Club identified three options: build an ambulatory surgical facility that would meet part of the projected planning area need (i.e., a 3-OR facility); build an ambulatory surgical facility that would meet all of the projected planning area need (i.e., a 12-OR facility); or not build an ambulatory surgical facility. It provided, in its application, a careful analysis of the three options”.*

**Department Evaluation**

PRO Sports Club identified three different alternatives. These were “do nothing”, apply for a 12-OR facility, or the proposed project. They identified the advantages and disadvantages of each option before submitting its application. As Proliance and Overlake pointed out, one of the options not considered was a joint venture with an existing provider. Considering a projected 11 OR need in the planning area, the department did not identify any other alternatives to those proposed by PRO Sports Club that was a superior in terms of cost, efficiency, or effectiveness that is available or practicable. This step is satisfied, and the department moves on to Step 3.

**Step Three**

This step is applicable only when there are two or more approvable projects. This is the only application under review to add outpatient surgical capacity in East King County. Therefore, this step does not apply.

Based on the information evaluated, **this sub-criterion is met.**

- (2) In the case of a project involving construction:
- (a) The costs, scope, and methods of construction and energy conservation are reasonable;

**PRO Sports Club**

*“We have selected and retained a team of architects and engineers with extensive experience in health care facility design. Additionally, the Washington State Department of Health has been involved and has reviewed the layout of our surgery center, ensuring compliance with current codes and efficiency guidelines. This team's experience has developed a facility that satisfies all patient requirements and provides the greatest value for the investment dollar.”*  
[Source: Application page 45]

*“This project has been designed to meet current state and local building and energy codes.”*  
[Source: Application page 45]

**Public Comments**

None

**Rebuttal Comments**

None

**Department Evaluation**

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**

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

**PRO Sports Club**

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). **This sub-criterion is met.**

Public Comments

None

Rebuttal Comments

None

**Department Evaluation**

The information reviewed by PRO Sports Club is consistent with similar projects reviewed by the department. There is a demonstrated need for additional outpatients operating rooms in the east King County planning area, the department does not anticipate an unreasonable impact on the costs and charges to the public for providing these type services. The department concludes **this sub-criterion is met.**

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

**PRO Sports Club**

*“The PRO Sports Club ASF will occupy 10,423 square feet of space. Please see **Exhibit 7** for the single line drawing and **Exhibit 16** for a nonbinding contractor cost estimate related to construction.* [Source: Application page 45]

*This project has been designed to meet current state and local building and energy codes”.* [Source: Application page 45]

Public Comments

None

Rebuttal Comments

None

**Department Evaluation**

This project has the potential to improve delivery of ambulatory surgical services within the planning area. Information within PRO Sports Club’s application states it will use a reserve (cash and investments) to finance this project. The applicant provided a letter of financial commitment from its CEO Dr. Mark Dedomenico confirming its intent to use reserves. The department concludes **this sub-criterion is met.**

# APPENDIX A



**APPENDIX A  
ASC Need Methodology  
East King County**

Service Area Population: 2021	696,409	Claritas	Age:15+										
Surgeries @ 132,648/1,000:	92,377												
a.i.	94,250	minutes/year/mixed-use OR											
a.ii.	68,850	minutes/year/dedicated outpatient OR											
a.iii.	44	dedicated outpatient OR's x 68,850 minutes =			3,029,400	minutes dedicated OR capacity	51,415	Outpatient surgeries					
a.iv.	42	mixed-use OR's x 94,250 minutes =			3,958,500	minutes mixed-use OR capacity	36,214	Mixed-use surgeries					
b.i.		projected inpatient surgeries =	28,065	=	3,067,796	minutes inpatient surgeries							
		projected outpatient surgeries =	64,312	=	3,789,280	minutes outpatient surgeries							
b.ii.		Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's											
		64,312	-	51,415	=	12,897	outpatient surgeries						
b.iii.		average time of inpatient surgeries		=	109.31	minutes							
		average time of outpatient surgeries		=	58.92	minutes							
b.iv.		inpatient surgeries*average time		=	3,067,796	minutes							
		remaining outpatient surgeries(b.ii.)*ave time		=	759,880	minutes							
					3,827,676	minutes							
c.i.		if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use OR's											
		<b>USE THIS VALUE</b>											
		3,958,500											
		-	3,827,676										
		130,824	/	94,250	=	1.39							
c.ii.		if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94,250 to determine shortage of inpatient OR's											
		<b>Not Applicable - Ignore the following values and use results of c.i</b>											
		3,067,796											
		-	3,958,500										
		(890,704)	/	94,250	=	-9.45							
		divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's											
		759,880	/	68,850	=	11.04							



**APPENDIX A  
ASC Need Methodology  
East King County**

Certificate of Need Applications:  
CN 18-15

Facility	Credential Number	ZIP Code	Special Procedure Rooms	Dedicated Inpatient ORs	Dedicated Outpatient ORs	Mixed Use ORs	Inpatient min/case	2015 Inpatient Cases in Mixed Use ORs	2015 Inpatient Mins. In Mixed Use ORs	Outpatient Min/Case	Outpatient Cases	Outpatient Mins.	Data Source
EvergreenHealth	HAC.FS.00000164	98034		0	0	8	113.3	6,966	789,071				Data obtained from Year 2016 survey.
Overlake Hospital Medical Center	HAC.FS.00000131	98004	4	0	1	18	115.1	11,543	1,328,058	50	231	11,550	Data obtained from Year 2014 survey. Mins/surg equaled 9. Not likely correct. Used default 50 min/case
Snoqualmie Valley Hospital	HAC.FS.00000195	98065	1	0	0	1	<b>ENDOSCOPY ORS &amp; MINUTES NOT COUNTED-CN APPROVED</b>						Year 2015 data obtained from year 2016 survey.
Swedish Medical Center-Issaquah	HAC.FS.60256001	98029	6	0	0	12	93.7	6,007	562,704				Data obtained from Year 2015 survey.
Aesthetic Facial Plastic Surgery, PLLC	ASF.FS.60429354	98004	0	0	1	0	0.0	0	0	71.0	348	24,699	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Aesthetic Physicians dba Sono Bello	ASF.FS.60291172	98004	0	0	3	0	0.0	0	0	114.9	950	109,117	Year 2016 data obtained from year 2017 survey. Minutes/surgery calculated.
Aesthetic Eye Associates, PS	ASF.FS.60574719	98033	0	0	2	0	0.0	0	0	50.0	842	42,100	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated
Anderson Sobel Cosmetic Surgery	ASF.FS.60278641	98004	0	0	1	0	0.0	0	0	133.8	86	11,508	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
Athenix Body Sculpting Institute	ASF.FS.60329939	98005	0	0	2	0	0.0	0	0	50.0	639	31,950	Year 2014 data obtained from year 2015 survey. Did not provide minutes/case. Used 50 x # of cases.
Aysel K. Sanderson, MD, PS	ASF.FS.60101705	98033	0	0	1	0	0.0	0	0	50.0	148	7,400	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Bellevue Plastic Surgery Center [Newvue]	ASF.FS.60320007	98004	0	0	1	0	0.0	0	0	50.0	154	7,700	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
Bellevue Spine Specialist	ASF.FS.60100993	98005	0	0	1	0				50.0	2,500	125,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. 2009 data - still active per facility website <a href="http://www.bellevuespinespecialist.com/">http://www.bellevuespinespecialist.com/</a>
Bellevue Surgery Center (Wash Center for Pain Management)	ASF.FS.60287715	98004	0	0	2	0	0.0	0	0	50.0	915	45,750	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
Bel-Red Ambulatory Surgical Facility	ASF.FS.60102983	98004	0	0	2	0	0.0	0	0	50.0	200	10,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for 2015 license renewal
Center for Plastic Surgery [David Stephens, MD]	ASF.FS.60134975	98004	0	0	1	0	0.0	0	0	50.0	151	7,550	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for 2015 license renewal
Cosmetic Surgery & Dermatology of Issaquah	ASF.FS.60100200	98027	0	0	2	0	0.0	0	0	60.0	641	38,460	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Eastside Endoscopy Center-Bellevue	ASF.FS.60100024	98004					<b>ENDOSCOPY ORS &amp; MINUTES NOT COUNTED-CN APPROVED</b>						
Eastside Endoscopy Center-Issaquah	ASF.FS.60100200	98027					<b>ENDOSCOPY ORS &amp; MINUTES NOT COUNTED-CN APPROVED</b>						
Eastside Surgery Center	ASF.FS.60477711	98027	1	0	2	0	0.0	0	0	4,831.0	3,587	179,350	Year 2016 data obtained from year 2017 survey. Minutes/surgery calculated
Egrari Plastic Surgery Center	ASF.FS.60307710	98004	0	0	1	0	0.0	0	0	50.0	346	17,300	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Evergreen Endoscopy Center	ASF.FS.60103003	98034					<b>ENDOSCOPY ORS &amp; MINUTES NOT COUNTED</b>						
Evergreen Surgical Center (under HAC license)	HAC.FS.00000164	98034	3		7					64.1	5,670	363,356	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
EvergreenHealth Ambulatory Surgical Care (Evergreen Surgical Clinic ASC)	ASF.FS.60584768	98034	0	0	0	0	0.0	0	0	0.0	0	0	Relinquishes CN 2/3/2017
Gaboriau Center	ASF.FS.60100119	98074	0	0	1	0	0.0	0	0	50.0	28	1,400	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Group Health Cooperative-Bellevue	ASF.FS.60100954	98004	1	0	7	0	0.0	0	0	62.9	5,082	319,500	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
John H Brunzman	ASF.FS.60102987	98073	0	0	1	0				50.0	100	5,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. 2012 data - still active per facility website <a href="http://www.foot-clinic.net/">http://www.foot-clinic.net/</a>
Naficy Plastic Surgery and Rejuvenation Center	ASF.FS.60101790	98004	0	0	2	0	0.0	0	0	52.5	565	29,650	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Northwest Center for Aesthetic Plastic Surgery	ASF.FS.60101127	98004	0	0	1	0	0.0	0	0	50.0	250	12,500	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Northwest Laser and Surgery Center	ASF.FS.60277121	98005	0	0	2	0	0.0	0	0	50.0	250	12,500	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated. 15 min/surg not likely, used 50 X cases
Northwest Nasal Sinus Center	ASF.FS.60118035	98033	0	0	2	0	0.0	0	0	50.0	1,441	72,050	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Overlake Reproductive Health	ASF.FS.60350164	98004	0	0	1	0	0.0	0	0	50.0	210	10,500	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Overlake Surgery Center	ASF.FS.60101029	98004	0	0	5	0	0.0	0	0	82.4	2,869	236,449	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
Pacific Cataract and Laser Institute-Bellevue	ASF.FS.60101107	98004	0	0	2	0	0.0	0	0	50.0	4,905	245,250	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Plastic Surgery Northwest	ASF.FS.60102710	98034	0	0	2	0	0.0	0	0	50.0	203	10,150	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for 2012 license renewal. NB: per ILRS, closed as of 6/24/2015
Proliance Eastside Surgery Center	ASF.FS.60101042	98034	0	0	4	0	0.0	0	0	64.0	4,490	287,262	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Proliance Highlands Surgery Center	ASF.FS.60101051	98029	0	0	4	0	0.0	0	0	71.8	4,668	335,063	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.



**APPENDIX A  
ASC Need Methodology  
East King County**

Certificate of Need Applications:  
CN 18-15

Facility	Credential Number	ZIP Code	Special Procedure Rooms	Dedicated Inpatient ORs	Dedicated Outpatient ORs	Mixed Use ORs	Inpatient min/case	2015 Inpatient Cases in Mixed Use ORs	2015 Inpatient Mins. In Mixed Use ORs	Outpatient Min/Case	Outpatient Cases	Outpatient Mins.	Data Source
Redmond Ambulatory Surgery Center, LLC	ASF.FS.60826603	98053	0	0	3		0.0	0	0	50.0	3,000	150,000	Per ILRS; outpatient minutes calculated using 50 x # of cases. Data for 2018 license
Remington Plastic Surgery Center	ASF.FS.60103007	98034	0	0	1	0	0.0	0	0	50.0	199	9,950	Year 2016 data obtained from year 2017 survey. Minutes/surgery calculated.
Retina Surgery Center (The)	ASF.FS.60278648	98004	0	0	2	0	0.0	0	0	50.0	1,867	93,350	Year 2016 data obtained from year 2017 survey. Minutes/surgery calculated.
Sammamish Center for Facial Plastic Surgery	ASF.FS.60100119	98074	0	0	1	0	0.0	0	0	50.0	28	1,400	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
Seattle Children's Bellevue	(under hospital licer	98004	0	0	3	3	0.0	0	0	53.5	4,112	220,112	Year 2015 data obtained from year 2016 survey.
SoGab Surgery Center	ASF.FS.60107297	98033	0	0	1	0	0.0	0	0	50.0	118	5,900	Year 2015 data obtained from year 2016 survey. Minutes/case provided does not support case. Used 50 x # of cases.
Stern Center for Aesthetic Surgery (The)	ASF.FS.60099126	98004	0	0	1	0	0.0	0	0	50.0	86	4,300	Year 2015 data obtained from year 2016 survey. Minutes/case provided does not support case. Used 50 x # of cases.
Virginia Mason-Bellevue ASC	ASF.FS.60101657	98004	0		5								Recently Approved 5 ORs on October 9, 2018
Virginia Mason-Issaquah ASC	ASF.FS.60101658	98027	1				<b>ENDOSCOPY ORS &amp; MINUTES NOT COUNTED</b>						
Washington Institute Orthopedic Center	ASF.FS.60101120	98034	0	0	1	0	0.0	0	0	50.0	741	37,050	Year 2015 data obtained from year 2016 survey. Did not provide minutes/case. Used 50 x # of cases.
Washington Urology Associates, PLLC-Bellevu	ASF.FS.60222057	98004	0	0	2	0	0.0	0	0	50.0	1,467	73,350	Year 2015 data obtained from year 2016 survey. Minutes/surgery calculated.
Washington Urology Associates, PLLC-Kirklan	ASF.FS.60222149	98034	0	0	2	0	0.0	0	0	50.0	1,974	98,700	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated. No 2015 data found.
Yarrow Bay Plastic Surgery Center	ASF.FS.60312375	98033	0	0	1	0	0.0	0	0	50.0	118	5,900	Year 2014 data obtained from year 2015 survey. Minutes/surgery calculated.
<b>Totals</b>			<b>17</b>	<b>0</b>	<b>87</b>	<b>42</b>	<b>322.0</b>	<b>24,516</b>	<b>2,679,833</b>	<b>7,012</b>	<b>56,179</b>	<b>3,310,076</b>	
							Avg min/case inpatient		<b>109.31</b>	Avg min/case outpatient		<b>58.92</b>	
<b>ORs counted in numeric methodology</b>					<b>44</b>	<b>42</b>							
ILRS: Integrated Licensing & Regulatory System													
Population data source: Claritas 2016													
<b>Total Surgeries</b>			<b>80,695</b>								<b>80,695</b>		
<b>Area population 2021 [10+]</b>			<b>608,339</b>								<b>696,409</b>		
<b>Use Rate</b>			<b>132.648</b>								<b>115.873</b>		
<b>Planning Area projected 0-85 population Year: 2021</b>			<b>696,409</b>								<b>696,409</b>		
<b>% Outpatient of total surgeries</b>			<b>69.62%</b>										
<b>% Inpatient of total surgeries</b>			<b>30.38%</b>										