



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

August 20, 2019

CERTIFIED MAIL # 7016 3010 0001 0575 0112

Rodney Joe, MD  
Gastroenterology Associates  
[rodnejoe@mac.com](mailto:rodnejoe@mac.com)

RE: CN Application #19-05

Dear Dr. Joe,

We have completed review of the Certificate of Need application submitted by Gastroenterology Associates, LLC. The application proposes the approval of a 4-operating room (OR) endoscopy ambulatory surgical facility (ASF) located in Olympia, within Thurston County. Enclosed is a written evaluation of the application.

For the reasons stated in this evaluation, the application submitted by Gastroenterology Associates, LLC proposing to establish a 4-operating room ambulatory surgical facility is consistent with the applicable criteria of the Certificate of Need Program, provided Gastroenterology Associates agrees to the following in its entirety.

**Project Description**

This certificate approves the establishment of a four operating room ambulatory surgical facility located in Olympia, within Thurston County. Surgical services provided include endoscopic surgeries that can be appropriately performed in an outpatient setting.

**Conditions**

1. Gastroenterology Associates, LLC agrees with the project description as stated above. Gastroenterology Associates, LLC further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
2. Gastroenterology Associates, LLC will maintain Medicare and Medicaid certification, regardless of facility ownership.
3. Gastroenterology Associates, LLC will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health. Gastroenterology Associates, LLC will use reasonable efforts to provide charity care consistent with the planning area average. The current planning area average is 0.90% of gross revenue and 2.52% of adjusted revenue. Gastroenterology Associates, LLC will maintain records of

charity care applications received and the dollar amount of charity care discounts granted. The department requires that these records be available upon request.

**Approved Costs**

The approved capital expenditure is \$371,281.

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:

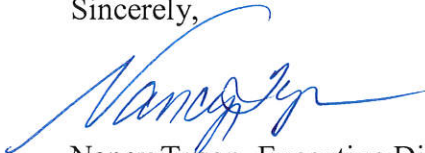
Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

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 AUGUST 20, 2019 FOR THE CERTIFICATE OF NEED APPLICATION PROPOSING AN AMBULATORY SURGICAL FACILITY IN OLYMPIA, WITHIN THURSTON COUNTY**

- **GASTROENTEROLOGY ASSOCIATES, LLC PROPOSES TO ESTABLISH A FOUR-OPERATING ROOMS CN-APPROVED AMBULATORY SURGICAL FACILITY**

**APPLICANT DESCRIPTION**

Gastroenterology Associates, LLC (GA) does business as Gastroenterology Associates Endoscopy Center. Gastroenterology Associates, LLC currently operates a 3-operating room ambulatory surgical facility (ASF) located in Olympia, which has been in operation since 2000. GA is jointly owned by the following physicians. [source: Application pdf4, Certificate of Need historical files]

Rodney W. Joe, MD	Bruce A. Silverman, MD
Katheryne A Wagner, MD	Harpreet S. Brar, MD
Meimin Xie, MD	Kristine Y. Zhang, MD
David J. Owens, MD	Mark D. Cumings, MD
Nicholas K. Weber, MD	

It is currently licensed as an ambulatory surgical facility by the State of Washington, and is Medicare and Medicaid certified [source: Application p7]

**PROJECT DESCRIPTION**

Gastroenterology Associates, LLC (GA) proposes to relocate its current approved Certificate of Need (CN) approved endoscopy center (ASC) to a new location with an additional procedure room, for a total of four procedure rooms and additional space for patient admission and recovery. The facility has been operating since 2000. [source: Application, p7 and CN Historical Files]

The ASC will continue to provide the same services it has provided in the past, which includes endoscopic gastroenterology procedures. [source: Application, p7]

The estimated capital expenditure for the project is \$371,281, which reflects the cost of building out the ASF portion of the building. [source: Application, p10]

**APPLICABILITY OF CERTIFICATE OF NEED LAW**

This application is subject to Certificate of Need review as the construction, establishment, or other development of a health care 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:

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

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

### **TYPE OF REVIEW**

This application proposes an ASF in the Thurston County under a regular review timeline outlined in WAC 246-310-160, which is summarized on the following page.

## **APPLICATION CHRONOLOGY**

<b>Action</b>	<b>Date</b>
Letter of Intent Submitted	July 9, 2018
Application Submitted	August 9, 2018
Department's pre-review activities: <ul style="list-style-type: none"><li>• DOH 1st Screening Letter</li><li>• Applicant's Responses Received</li></ul>	August 29, 2018
<ul style="list-style-type: none"><li>• DOH 2nd Screening Letter</li><li>• Applicant's Responses Received</li></ul>	October 19, 2018
	November 8, 2018
	December 5, 2018
Beginning of Review	December 17, 2018
Public Hearing Conducted	January 2, 2019
Public Comments accepted through the end of public comment	January 22, 2019
Rebuttal Comments Due	February 5, 2019
Department's Anticipated Decision Date	March 22, 2019
Department's Actual Decision Date	August 20, 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 course of review, several entities requested to receive copies of the application, but none qualified for affected person status.

## **SOURCE INFORMATION REVIEWED**

- Gastroenterology Associates, LLC Certificate of Need application
- Gastroenterology Associates, LLC screening responses

- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission and Nursing Quality Assurance Commission
- Compliance history for facilities and services from the Washington State Department of Health – Office of Health Systems Oversight
- DOH Provider Credential Search website: <http://www.doh.wa.gov/pcs>
- CMS QCOR Compliance website: [https://qcor.cms.gov/index\\_new.jsp](https://qcor.cms.gov/index_new.jsp)
- Historical charity care data for years 2015, 2016, and 2017 obtained from the Department of Hospital/Finance and Charity Care (HFCC) Office
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- Gastroenterology Associates LLC website: <https://www.washgi.com>
- Washington State Department of Revenue website: <http://www.dor.wa.gov>
- Center for Medicare and Medicaid Services website: <https://www.cms.gov>
- Certificate of Need historical files

## **CONCLUSION**

### **Gastroenterology Associates LLC**

For the reasons stated in this evaluation, the application submitted by Gastroenterology Associates LLC proposing to establish an ambulatory surgery in Olympia, within Thurston County, is consistent with applicable criteria of the Certificate of Need Program, provided Gastroenterology Associates LLC agrees to the following in its entirety.

### **Project Description**

This certificate approves the establishment of a four operating room ambulatory surgical facility located in Olympia, within Thurston County. Surgical services provided include endoscopic surgeries that can be appropriately performed in an outpatient setting.

### **Conditions**

1. Gastroenterology Associates, LLC agrees with the project description as stated above. Gastroenterology Associates, LLC further agrees that any change to the project as described in the project description above is a new project that requires a new Certificate of Need.
2. Gastroenterology Associates, LLC will maintain Medicare and Medicaid certification, regardless of facility ownership.
3. Gastroenterology Associates, LLC will provide charity care in compliance with its charity care policies reviewed and approved by the Department of Health. Gastroenterology Associates, LLC will use reasonable efforts to provide charity care consistent with the planning area average. The current planning area average is 0.90% of gross revenue and 2.52% of adjusted revenue. Gastroenterology Associates, LLC will maintain records of charity care applications received and the dollar amount of charity care discounts granted. The department requires that these records be available upon request.

### **Approved Costs**

The approved capital expenditure is \$371,281.

## **CRITERIA DETERMINATIONS**

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

#### **Gastroenterology Associates, LLC**

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

*(1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need.*

To evaluate this sub-criterion, the department uses facility-specific criteria found in WAC 246-310-270.

#### **WAC 246-310-270(6)**

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

#### **Gastroenterology Associates, LLC**

Gastroenterology Associates identified that the facility would have four ORs. [source: Application pdf10]

#### **Public Comments**

None

#### **Rebuttal Comments**

None

#### **Department Evaluation**

The application provided documentation and statements to demonstrate the surgery center would have four ORs. **This sub-criterion is met.**

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

The Department of Health's Certificate of Need Program uses the numeric methodology outlined in WAC 246-310-270 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. This facility is located in Olympia, within the Thurston County secondary health service planning area.

The methodology 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 and endoscopy rooms and procedures. Dedicated interventional pain management surgical services are also among the excluded rooms and procedures.

Because this project proposes operating rooms that would be exclusively dedicated to endoscopy services, the department will not complete the numeric need methodology and will instead move forward with analysis under WAC 246-310-210, assessing whether existing services are sufficiently available or accessible to serve the projected population.

### **WAC 246-310-210**

The applicant must also demonstrate that existing services are not sufficiently available and accessible to meet the community need.

### **Gastroenterology Associates, LLC**

*“The existing ASC is currently addressing both community and clinical needs. GA is submitting this application in order to physically move the ASC to the Proposed ASC location. The only change in the facility will be to increase the procedure rooms from three to four and additional admit and recovery space to account for the additional procedure room.*

*The ASC is currently operating at capacity and has operated at capacity for many years. Because the ASC is currently operating at capacity, GA does not have the ability to provide additional procedures to the community members in need of such in the current ASC. In fact, GA has had to limit the patients it serves to only patients from certain counties because the demand for services is so high.*

*As demonstrated below, the population in Thurston County continues to grow and there is great need for an additional procedure room to provide additional gastrointestinal procedures to our community. As noted in the question below, all age cohorts in Thurston County are expected to grow by 2020, however, the age cohort that will see the highest growth is age sixty-five and over (65+), which will grow by twenty-five and one tenths percent (25.1%) (+10,031). This and the combined age cohort of forty five and over (45+) (in other words, the higher utilizers of gastroenterology services) are expected to grow faster than the population at large (35.3% versus 8.3%). Therefore, because GA does not have the physical capacity to service any more patients than it currently does in the ASC, GA continually has wait lists and greater demand for procedures than it can currently accommodate and the population needing gastroenterology services is expected to grow at a rate of 35.3%, without an additional procedure room in the Proposed ASC, there will be an unmet health need for the population of Thurston County and surrounding counties most in need of gastroenterology services.*

*Dedicated outpatient endoscopy ASCs are deliberately excluded from the numeric methodology described in WAC 246-310-270(9). See Mid Columbia Endoscopy Center, LLC*



*Certificate of Need Determination, 2010 at page 8. In its place, the Department of Health focuses on the specific need for the endoscopy services proposed in the Application. Here, there is a demonstrated need for the ASC to not only continue providing the current level of services but also for an ability to provide an increasing number of services (which will be accomplished with an additional procedure room.*

*The ASC, and the Proposed ASC will continue to provide a valuable and necessary service to the growing local population in the south Puget Sound area. Since 2000, the ASC has provided essential gastroenterology procedures such as symptomatic and screen colonoscopies, EGD and flexible sigmoidoscopy to the community. GA's expertise and focus on patient care is well known throughout the region. If a Certificate of Need for the Proposed ASC is not approved, more than nine thousand (9,000) procedures each year would need to be performed in other facilities.. [source: Application pdf17-18]*

Historical volumes are shown below. [source: Application pdf10]

***Applicant's Table***  
**Gastroenterology Associates, PLLC**  
**Annual Procedures, 2013-2017**

<b>Annual Procedures 2013-2017</b>				
<b>Year</b>	<b>EGD</b>	<b>Colon</b>	<b>Flex Sig</b>	<b>Total</b>
2013	2,099	6,684	7	8,790
2014	1,998	6,782	17	8,797
2015	2,057	7,326	23	9,406
2016	2,525	7,097	35	9,657
2017	2,189	7,555	43	9,787
<b>Total</b>	<b>10,868</b>	<b>35,444</b>	<b>125</b>	<b>46,437</b>

GA provided the following information related to their projected volumes:

*“GA's ASC procedure and patient volume has steadily grown over the last sixteen years. In the last few years, the ASC has operated at its maximum capacity and at times, GA has had lengthy wait times for patients to be seen at the ASC. The number of procedures the ASC is able to accommodate each year is based on the number of days the ASC is able to be open (which differs slightly each year due to leap year, holidays falling within a week, and whether there are inclement weather closures). In the last five years, the ASC has been open from 248-253 days per year based on the above cited variables.*

*Table 13 below projects maximum capacity in the Proposed ASC utilizing three (3) procedure rooms during the first year of operation (2020). The Proposed ASC, even operating with three (3) procedure rooms will have the ability to accommodate eighteen (18) procedures per procedure room per day because of a larger admit and recovery space (to accommodate more*

patients during the admit and recovery periods). GA anticipates opening the fourth procedure room in 2021, and based on the demand for services and the growing population numbers in Thurston County and surrounding counties, anticipates that once four procedure rooms are open, the ASC will continue to operate at capacity. Thurston County population growth projections show an increase in population of 8.3% by 2020 and the age cohort that will see the highest growth by 2020 is age sixty-five and over (65+) which will grow by twenty-five and one tenths percent (25.1 %) (+ 10,031). The higher utilizers of gastroenterology services of forty-five years and older and sixty-five years and older are expected to grow faster than the population at large (35.3% versus 8.3%).”

*Applicant’s Table*

<b>Projected Procedures 2018-2023</b>				
<b>Year</b>	<b>EGD</b>	<b>Colon</b>	<b>Flex Sig</b>	<b>Total</b>
2018	2.450	7.134	64	9.648
2019	2.388	7.262	47	9.697
2020	2.911	9.681	63	12.655
2021	3.881	12.908	85	16.874
2022	3.881	12.908	85	16.874
2023	3.881	12.908	85	16.874
<b>Total</b>	<b>14.554</b>	<b>48.407</b>	<b>317</b>	<b>63.277</b>

[source: Application pdf21-22, screening 1 response pdf2]

“The number of people now using the services of GA will remain the same and with the additional procedure spots open, the number of people utilizing the services will likely increase. As stated above, GA has been operating at capacity and has at times had long wait times for appointment spots. Evidence that supports current and future use numbers increasing include: an increased population in Thurston County and surrounding counties, a consistent healthcare and job market in Thurston County, and the fact that colonoscopies are recommended every 3-10 years for all adults ages 50-75, dependent upon family and personal history of polyps. Therefore, the number of people using the services of the current ASC will likely increase when additional space and times become available, as the Thurston County population ages (resulting in more people between the ages of 50-75), and patients continue to need recommended procedures every 3-10 years.

Table 14 below shows the patient origin data that includes patients outside of Thurston County to demonstrate current patient encounters by county of residence.

*Applicant's Table*

**Percentage of Patient Encounters by County of Residence**

<b>GA Endoscopy Center</b>			
<b>Percentage of Patient Encounters by County of Residence</b>			
<b>County</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>
Thurston	74%	70%	70%
Mason	11%	10%	9%
Grays Harbor	5%	9%	9%
Lewis	3%	4%	4%
Other	7%	7%	7%

*Based on GA's sixteen year history of steadily increasing referrals along with increasing local adult population, there is an assumption of increased referrals for routine and diagnostic gastrointestinal procedures in future years. GA's ASC has operated, and currently operates at its maximum capacity, and many times with a long waitlist for patients to receive services. Increased referrals as well as an increased number of procedure rooms will allow GA to serve patients in Thurston County and surrounding counties that are in need to gastrointestinal procedures without having extreme wait times to obtain services.*

*Applicant is aware of four (4) other physicians currently operating in the primary service area. They are: Marshall McCabe, M.D., Darien Heap, M.D., John Kucynski, M.D., and Michelle B. Thompson, D.O., all of whom provide services through Olympia Multi-Specialty Clinic and its Ambulatory Procedure Center. Source: Public Records*

*This project proposes to physically move an existing dedicated outpatient endoscopy CN-approved ASC to a different location and it will remain a dedicated outpatient endoscopy CN-approved ASC. The ASC is currently operating with the physicians listed above in the area. The ASC has had to limit the patients it accepts to only those from certain counties. The need to serve more patients (and patients from other counties) is present. Therefore, it can be assumed that there will not be unnecessary duplication of services. In fact, if this project is not approved, more than nine thousand (9,000) procedures per year would need to be performed in other facilities, and Thurston, Mason, Grays Harbor, North Pacific and Lewis County residents would experience reduced access to diagnostic and therapeutic endoscopy procedures.*

*Applicant is the largest GI practice in the Thurston, Mason, Grays Harbor, North Pacific and Lewis County areas that accepts Medicaid. The Olympia Multi-Specialty Clinic and its Ambulatory Procedure Center referenced above does not accept Medicaid and instead refers Medicaid patients to Applicant for services. [source: Application pdf23-25]*

### Public Comments

None

### Rebuttal Comments

None

### Department Evaluation

Because numeric need is not a factor, the department must instead determine whether other services and facilities for the type proposed are not or will not be sufficiently available and accessible to meet that need.

GA provided statements related to the availability and accessibility of other providers in the planning area. GA's comments focused largely on the continued utilization of highly used endoscopy facilities as well as the lack of other available resources in the planning area, outside of the hospital setting. GA correctly points out that there are limited available providers in the planning area. The department agrees, and adds that the only existing outpatient surgery center providing endoscopy is Certificate of Need exempt, and is therefore not required to provide charity care or to serve Medicare or Medicaid patients.

The department did not receive any public comment to suggest that other area providers opposed the CN-approval of this existing outpatient surgery capacity in the planning area. To further evaluate this sub-criterion, the department identified the surgical specialties available at the existing planning area surgery centers.

Based on the high utilization of this facility, lack of public comment, and the fact that GA experiences significant in-migration from surrounding counties without resources, the department has determined that the existing supply of facilities may not be sufficiently available and accessible to all planning area residents. Further, this project meets the standard under WAC 246-310-270(6). **This sub-criterion is met.**

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

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

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

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

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

Charity care shows a willingness of a provider to provide services to individuals who do not have private insurance, do not qualify for Medicare, do not qualify for Medicaid, or are under insured. With the passage of the Affordable Care Act, the amount of charity care is expected to decrease, but not disappear. Specific to ASCs, WAC 246-310-270(7) requires that 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.

**Gastroenterology Associates, LLC**

GA provided copies of the following policies, which are currently in use. [source: Application Exhibit G, M]

- Admission Policy
- Nondiscrimination Policy
- Financial Payment Policy
- Patients’ Rights and Responsibilities Policy

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

*“GA serves patients regardless of income, race, ethnicity, sex or physical or mental disability and fully intends to continue observing the same policy.”* [source Application pdf25]

**Department’s Table 1  
Current and Projected Payer Mix**

<b>Payer</b>	<b>Forecast</b>
Commercial and Contracted Insurance	43.00%
Medicare	49.00%
Medicaid	5.00%
Private Pay	0.01%
Other Government	2.91%
<b>Total</b>	<b>100%</b>

[source Application pdf12]

**Public Comments**

None

**Rebuttal Comments**

None

### Department Evaluation

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

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

Based on the historical financials, it appears that the surgery center has provided some charity care in the past. The proposed charity care policy includes the process a patient would need to follow in order to obtain charity care.

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

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

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

### Gastroenterology Associates, LLC

GA's financial payment policy was provided in the application – it includes a provision for charity care for financial hardship.

### Public Comments

None

### Rebuttal Comments

None

### Department Evaluation – Charity Care Requirement

For charity care reporting purposes, Washington State is divided into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. This application propose ASFs in Thurston County, within the Southwest Region.

Currently there are 14 hospitals operating within the region. Table 2 below compares the three-year historical average of charity care provided by the hospitals operating in the Southwest Region, in Thurston County, and the applicants' projected charity care percentages.

**Department's Table 2**  
**Charity Care – Three Year Average**

	<b>% of Total Revenue</b>	<b>% of Adjusted Revenue</b>
3-year Southwest Region	1.03%	3.27%
3-year Thurston County	0.90%	2.52%
Gastroenterology Associates – Projected	1.07%	--

[source: Applications pdf17, HFCC Charity Care reports 2015-2017]

As shown above, the projected percentage of charity care proposed by this facility exceeds the Thurston County average, and is generally consistent with the regional average.

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

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

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

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

GA acknowledged the requirement under WAC 246-310-270(7) to provide charity care and committed to the regional average. **With agreement to a charity care condition, this sub-criterion is met.**

- (3) The applicant has substantiated any of the following special needs and circumstances the proposed project is to serve.
- (a) The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers providing a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas.

Department Evaluation

This sub-criterion is not applicable to this application

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

Department Evaluation

This sub-criterion is not applicable to this application

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

Department Evaluation

This sub-criterion is not applicable to this application

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

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

Department Evaluation

This sub-criterion is not applicable to this application

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

Department Evaluation

This sub-criterion is not applicable to this application

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

Department Evaluation

This sub-criterion is not applicable to this application



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

### **Gastroenterology Associates, LLC**

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

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

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

### **Gastroenterology Associates, LLC**

The GA forecast model uses the following assumptions and methodologies. [source: Application pdf31-32]

*“The assumptions that factor into the pro forma financial statements include the following:*

*The Pro Forma Financial Statements included as Table 18 show financial predictions for the Proposed ASC for four years. The financial predictions are made based on a variety of assumptions provided below. However, it is important to note that these assumptions are based on actual numbers and how the ASC is run today, with the only change being an increased number of procedures able to be completed due to additional admit/recovery space and an additional procedure room (and corresponding increase in staffing and supplies to staff for an increased number of procedures).*

*Assumptions that factor into the Pro Forma Financial Statements (based on past history) regarding volume of services include:*

- *Maintaining the same hours of operation, but the ability to increase number of procedures able to be completed due to additional space/beds in the ASC*
  - *Monday-Friday business week and 30-minute single procedure/45-minute double procedure appointments*
  - *There is no plan to change hours, business days of the week, or procedure appointment time allowances.*
- *Maintaining stable patient volumes and utilization of services and increasing with increased procedure space available:*
  - *Procedure volumes were steadily maintained from 2009-2014 at 8500-8800 procedures annually, then increased to 9406 in 2015 and 9657 in 2016. These increases were due to an extension of business hours which started in July 15. Upon increasing the business hours, the ASC was easily able to fill the additional procedure spots, and maintained operating at maximum capacity.*

- *The Proposed ASC will have additional admit and recovery space which will allow fifteen (15) additional procedures per day with the use of three procedure rooms. When GA opens the fourth procedure room, it will allow an additional eighteen (18) procedures per day. The Pro Forma Financial Statements assume that, as historically has been the case, GA will be able to continue to fill the additional procedure slots and will continue to operate at maximum capacity with the additional procedure slots available.*
- *Historically, the Center has had a 90-92% utilization rate of procedure slots, with unutilized slots due to no-shows and late cancellations (day prior) which cannot be filled on short notice due to preparations required for procedures.*
- *The ASC has a stable and large primary care and specialty referral base as well as a procedure recall base (for surveillance) which was formed over the past sixteen years of business*
- *The ASC accepts a broad range of insurances including Medicare and Medicaid.*
- *The ASC is approved by CMS and WA State DOH ASF survey.*
- *Thurston-Mason county areas and the surrounding communities will continue to expand in population, so presumably the need for gastrointestinal procedures and services will continue to increase.*
- *Colonoscopy remains the gold standard for colon cancer screening and polyp removal as well as for surveillance in patients with certain medical conditions.*

The assumptions GA used to project revenue, expenses, and net income for the proposed surgery center for the projection years are shown below. [sources: Application pdf32-33]

- *Procedure costs increase annually. This is based on predictable and unpredictable increases in a variety of fixed and variable expenses such as building lease, employee cost of living raises, benefits, supply costs, equipment purchase, new regulations that increase requirements, etc.*
  - *Itemized expenses for the ASC have increased annually over the past 3 years as follows:*
    - ❖ *2015: \$3,147,036*
    - ❖ *2016: \$3,210,485*
    - ❖ *2017: \$3,361,250*
  - *Cost per procedure has increased annually over the past 3 years as follows:*
    - ❖ *2015: \$335*
    - ❖ *2016: \$344*
    - ❖ *2017: \$345*
- *Procedure charges will remain stable and possibly increase slightly. Charges are variable per negotiated payer contracts. Contracts are negotiated from the starting point of 1.1 x the highest payer allowable for each CPT (current procedural terminology) for the facility fee of the highest current RVU multiplied by 80. Payer contracts are typically 2-3 years in term and typically auto-renew at the end of a term. Center charges, payments and adjustments history for the past three years (show*

below) outlines a steady increase in charges, payments and adjustments as allowables increase:

<b>Charges/Payments/Adjustments</b>			
<b>Year</b>	<b>Charges</b>	<b>Payments</b>	<b>Adjustments</b>
2015	\$21,805,625	\$8,464,768	\$13,328,866
2016	\$23,676,758	\$8,667,501	\$14,570,655
2017	\$24,849,098	\$9,024,230	\$15,705,232

- *No significant increase in charity care or bad debt is anticipated. GA serves patients regardless of income, race, ethnicity, sex or physical or mental disability and fully intends to continue observing the same policy.*

*There are no landlord hardcosts associated with this project because the building will be owned by GA Development, LLC, and leased to GA. GA Development, LLC is a distinct and separate entity from GA. GA Development, LLC will be responsible for all construction costs necessary to make the facility ready for use as an ASC.[source: Application pdf35]*

GA’s projected revenue, expenses, and net income for the ASF are shown in Table 3 below.

**Department’s Table 3  
Projected Revenue and Expenses**

	<b>2020 (year one)</b>	<b>2021 (year two)</b>	<b>2022 (year three)</b>
Procedures	12,655	16,874	16,874
Net Revenue	\$11,569,126	\$15,386,937	\$15,540,805
Total Expenses	\$4,362,237	\$5,188,563	\$5,125,759
Net Profit/(Loss)	\$7,206,889	\$10,198,374	\$10,415,046
Net Profit/(Loss) per Procedure	\$569	\$604	\$617

The “Net Revenue” line item is gross patient revenue, minus deductions from revenue for charity care, bad debt, and contractual adjustments. The “Total Expenses” line item includes operating expenses, including salaries and wages, benefits, insurance, rentals, and leases. As noted in the application, GA operates on a cash basis and therefore does not include contractual adjustments or bad debt.

Public Comments

None

Rebuttal Comments

None

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by GA to determine the projected number of procedures and occupancy of the proposed ASF. The basis for their volumes is largely driven from existing volumes with growth projected based on past

performance, and at less than the planning area population growth. This assumption is reasonable.

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

GA provided a lease agreement for the site along with an explanation as to how the lease “crosswalks” to match the pro forma. The lease is between “GA Development, LLC” and GA. The lease identifies the roles and responsibilities for each, party. All costs associated with the lease are substantiated in the revenue and expense statement, as only part of the lease is assigned to the surgery center.

GA identified the medical director, Dr. Kathryne Wagner, MD. The role of medical director is compensated through a contract effective January 2018 and has automatic annual renewals. These costs were substantiated in the pro forma. [source: Screening Response 1 Exhibit C].

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

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

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

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project’s costs with those previously considered by the department.

**Gastroenterology Associates, LLC**

*“This project will result in capital costs of \$371,281 as documented in this Application. GA currently collects a facility fee that will continue after the move to the Proposed ASC. The project will have an impact on operating costs due to the increased number of procedures that will be able to be completed due to additional admit/recovery space and an additional procedure room. Table 17 below demonstrates the increase in Operating Costs, which is a direct result of increasing the number of procedures per year, and the need for additional staffing, supplies, etc. to provide the additional procedures.*

*Applicant's Table*

<b>Project Impact - Capital Costs/Operating Costs</b>			
	<b>2017</b>	<b>2020</b>	<b>2021</b>
Capital Costs		226,721	144,560
Operating Costs	\$3,361,250	\$3,387,992	\$4,058,754
Overall Impact	\$3,361,250	\$3,614,713	\$4,203,314

*The average cost and charge per surgery will remain the same at the new facility (or until each individual payer contract is renegotiated every 3-6 years, which is what has historically happened and what would happen if GA does not move to the Proposed ASC). The average charge per surgery is \$2,583.99. The average adjustment per surgery is: \$1,604.70. The average cost per surgery is \$345.00. Applicant does not anticipate these amounts will change significantly after moving to the Proposed ASC.” [source: Application pdf19]*

Public Comments

None

Rebuttal Comments

None

Department Evaluation

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

**Department’s Table 4  
Department Calculation of Net Charges per Case**

	<b>2020</b>	<b>2021</b>	<b>2022</b>
Net Revenue	\$11,569,126	\$15,386,937	\$15,540,805
Number of Procedures	12,655	16,874	16,874
Net Revenue (charges prior to adjustments) per Procedure	\$914	\$912	\$921

As shown above, the net charges change only nominally in the projection years and these changes are based on historical performance at the existing facility.

The majority of the construction costs are being borne by the development company, and the applicant is only responsible for approximately \$370,000. Based on the above information, the department concludes that the relocation and expansion of GA as a CN-approved ASF would likely not have an unreasonable impact on the costs and charges for healthcare services in the Thurston County secondary service planning area. **This sub-criterion is met**

(3) The project can be appropriately financed.

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

**Gastroenterology Associates, LLC**

*“GA Development, LLC will be responsible for all construction costs necessary to make the facility ready for use as an ASC. Therefore, the only capital expenditures GA anticipates are for additional equipment necessary for a larger ASC as well as moving fees, and fees associated with a new facility (i.e. additional chairs for the larger waiting room, artwork for waiting room, equipment for the additional procedure room). In the interest of full disclosure, the total cost to GA Development, LLC for the purchase of the property and construction costs for the proposed facility is: \$9,788,978.00. Applicant has included a letter to the CON Division from GA Development, LLC providing its assurance that GA Development, LLC has access to the funds necessary to complete the construction and facility.”* [source: Application pdf35]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

Within their application, GA provided documentation that they have sufficient assets to cover the cost of this project, however they intend to use operating capital. As demonstrate under WAC 246-310-220(1), GA annually has revenue exceeding expenses by over \$7 million annually. If approved, the department would attach a condition requiring GA to fund the project consistent with the description in the application. **This sub-criterion is met.**

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

**Gastroenterology Associates, LLC**

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

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

WAC 246-310 does not contain specific WAC 246-310-230(1) criteria as identified in WAC 246- 310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310- 200(2)(a)(ii) and (b) that directs what specific staffing patterns or numbers of FTEs [full time equivalents] that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

**Gastroenterology Associates, LLC**

GA provided the following table and statement related to this sub-criterion:

*Applicant's Table*  
**Staffing Forecast**

	Staffing Forecast				
	<u>Current</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Number of Operating Rooms</b>	3	3	3	4	4
<b>Maximum Procedure Volume</b>	9828	9828	13608	18144	18144
<b>Number of FTE's per Year (Productive)</b>					
RN Manager	1	1	1	1	1
RNs	8.4	8.4	10	11	11
LPNs	5.8	5.8	7	8	8
GI Assistants (MA-Registered)	6	6	7	8	8
Front Desk Reception	1	1	1	2	2
<b>Total FTEs</b>	<b>22.2</b>	<b>22.2</b>	<b>26</b>	<b>30</b>	<b>30</b>
<b>Total Wages and Salaries</b>					
Manager	\$95,950	98,349	100,807	103,328	105,911
RNs	\$663,761	697,832	850,720	959,130	964,850
LPNs	\$324,642	\$332,725	\$411,466	\$481,894	\$493,875
GI Assistants (MA-Registered)	\$209,290	\$214,531	\$256,547	\$300,518	\$308,006
Front Desk Reception	\$33,342	\$34,174	\$35,027	\$71,802	\$73,590
<b>Total Employee Salaries</b>	<b>\$1,326,986</b>	<b>\$1,377,611</b>	<b>\$1,654,567</b>	<b>\$1,916,672</b>	<b>\$1,946,232</b>
Employee Benefits @ 30%	\$398,096	\$413,283	\$496,370	\$575,001	\$583,870
<b>Total Salaries and Benefits</b>	<b>\$1,725,081</b>	<b>\$1,790,894</b>	<b>\$2,150,938</b>	<b>\$2,491,673</b>	<b>\$2,530,102</b>

*“The above numbers include average wages, based on current wages GA pays and increases at 2.5% annually. Benefit numbers are based on thirty percent (30%) of wages which is accurate in value of benefits with wages currently, and therefore increase naturally with the annual wage increases.*

*FTE volume in 2020, which will be the first year in the Proposed ASC, will increase by 3.8 FTE due to the additional procedures able to be accommodated with the larger bay capacity (from 13 procedures per procedure room/per day to 18 procedures per procedure room/per day).*

*FTE volume in 2021, the second year in the Proposed ASC, would increase by an additional 4 FTE due to the addition of the fourth procedure room (and calculating at 18 procedures per room/per day).*

*Physicians are not included in the above table as the physicians all have staff privileges at the ASC and so are not paid by the ASC...” [source: Application pdf21]*

*“The ASC anticipates slowly increasing its staff pursuant to Table 23, “Staffing Forecast” above. The increase of number of staff is minimal, and GA anticipates increasing staff by a total of 7.8 FTE over the next four years. This will include an additional 2.6 FTE RNs, 2.2 FTE LPNs, 2 FTE GI Assistants and 1 FTE Receptionist. GA offers competitive wages and benefits and has not had a concern attracting qualified individuals to work at its ASC in the past and does not anticipate a concern attracting qualified individuals in the future.*

*Further, as noted in the Staffing Forecast, the number of RN Managers for the ASC will remain the same.” [source: Application pdf38]*

#### Public Comments

None

#### Rebuttal Comments

None

#### Department Evaluation

As shown above, the ASF is already fully staffed, and increases in the projection period are due to volume growth. Information provided in the application demonstrates that GA is a well-established provider of healthcare services in the Thurston County secondary service planning area. GA is currently operational with three operating rooms. Information within the application supports that utilization has consistently grown at this surgery center since 2012, and that the number of available operating rooms is their largest limiting factor..

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

#### **Gastroenterology Associates, LLC**

*“This project does not propose the addition of any new services. Existing ancillary and support services are already established and sufficiently meet the service demands of the existing ASC and will continue to meet the service demands of the Proposed ASC..” [source: Application pdf39]*

GA provided a short listing of examples of these services which are currently in place.



Public Comments

None

Rebuttal Comments

None

Department Evaluation

GA has been in existence for many years, and the current Olympia facility has been licensed since 2009. All ancillary and support services are already in place. GA not expect the existing ancillary and support agreements to change as a result of this project.

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

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

**Gastroenterology Associates, LLC**

*“GA and the individual owners thereof have no history of criminal conviction of any kind, nor have they received a denial or revocation of a license to operate a health care facility, to practice a health profession, or a decertification as a provider of services in the Medicare or Medicaid program.”* [source: Application pdf40]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

As a part of this review, the department must conclude that the proposed services provided by an applicant would be provided in a manner that ensures safe and adequate care to the public.<sup>1</sup> To accomplish this task, the department reviewed the quality of care and compliance history for GA and the medical professionals that would practice there.

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<sup>1</sup> WAC 246-310-230(5)

CMS Survey Data

Gastroenterology Associates operates just their one ASF – therefore this is the only facility by which the department can gauge compliance with this sub-criterion.

Using CMS Quality, Certification & Oversight Reports (QCOR), the department reviewed historical survey data for the four surgery centers.

**Department’s Table 5  
Surveys and Enforcement**

<b>Facility</b>	<b># of CMS Surveys</b>	<b>Enforcement Action?</b>	<b># of State Surveys</b>	<b>Enforcement Action?</b>
Gastroenterology Associates Endoscopy Center	1	No	0	No

Within the last three years, GA was surveyed once by CMS and this survey did not result in any condition-level deficiencies or necessitate a follow-up visit.<sup>2</sup> The Office of Health Systems Oversight with the Department of Health has not taken action against any of these facilities’ licenses. [source: ILRS, QCOR Survey Activity Report for GA]

In addition to the facilities identified above, the department also reviewed the compliance history of the physicians and other staff associated with the surgery center. The table below shows the key staff identified in the application. [source: Application pdf21]

**Department’s Table 6  
Key Staff**

<b>Name</b>	<b>Credential Number</b>	<b>License Status</b>
Kathryne Wagner, MD	MD00029477	Active
Johnathon Moore, RN	RN60400111	Active

As shown above, all key staff associated with the facility have active credentials. The department did not find any restrictions on the above listed licensees within the last three years. Based on the information above, the department concludes that GA demonstrated reasonable assurance that the facility would continue to operate in compliance with state and federal requirements if this project is approved. **This sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246- 310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310- 200(2)(a)(ii) and (b) that direct how to measure unwarranted fragmentation of services or what types of relationships with a services area’s existing health care system should

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<sup>2</sup> Condition-level deficiencies are deficiencies that violate Medicare’s Conditions of Participation.

be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

### **Gastroenterology Associates, LLC**

*“GA's ASC already, exists; this Certificate of Need Application is requesting to move the ASC less than a mile from its current location and increase the number of procedure rooms by one. The Proposed ASC as a Certificate of Need approved facility will promote continuity in the provision of health care to the defined population and avoid unwarranted fragmentation of service. This is due to a number of reasons: the Clinical Practice will be physically moving locations to the new facility, and so having the Proposed ASC in the same facility as the Clinical Practice promotes continuity and is easier for patients to use. The current ASC is currently located directly to the east of Providence Health & Services - Washington d/b/a Providence St. Peter Hospital ("St. Peter Hospital"), whereas the Proposed ASC will be located directly to the south of) St. Peter Hospital, allowing continuity and unwarranted fragmentation of services should patients be required to be transferred to St. Peter Hospital. It is only if this project is not approved for a Certificate of Need that continuity would be interrupted and fragmentation would occur.*

*The Emergency Patient Transfer Agreement (titled "Patient Transfer Agreement") between St. Peter Hospital and GA is attached as **Exhibit P.**” [source: Application pdf40]*

### **Public Comments**

None

### **Rebuttal Comments**

None

### **Department Evaluation**

Information in the application demonstrates that as a long-time provider of outpatient surgical services, GA has the infrastructure in place at their existing ASF facility. No letters of opposition were submitted for this project.

GA provided information within the application to demonstrate it intends to continue existing relationships, and that these relationships are adequate to support the increase in procedures to be provided at their new location. This includes the executed transfer agreement between GA and an area hospital. Based on the information provided in the application, the department concludes there is reasonable assurance that approval of this this project would continue to promote continuity in the provision of health care services in the community. **This sub-criterion is met.**

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

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

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

### **Gastroenterology Associates, LLC**

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

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

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

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

If there are multiple applications, the department's assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type in Step three. The superiority criteria are objective measures used to compare competing projects and Page 187 of 209 make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility type superiority criteria as directed by WAC 246-310-200(2) (a)(i), then the department would use WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

### **Step One**

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

### **Step Two**

### **Gastroenterology Associates, LLC**

The only alternative to the project explored by GA was "do nothing," shown below:

*"GA has operated its ASC for sixteen years and the increase in need for gastrointestinal procedures in the Thurston County area and surrounding communities has outgrown the space available in its current facility. Alternatives to moving would be to continue to operate in its*

*current facility which poses a number of problems. First, GA is not able to serve the needs of the patients of Thurston County and surrounding communities with only three procedure rooms. Second, the Clinical Practice will be moving and so to maintain the ASC in its current location would present a number of concerns including but not limited to: patient fragmentation and lack of continuity of services because patients would need to physically go between two different locations, as well as difficulty for physicians to go between the clinical practice location and the Proposed ASC..” [source: Application pdf41]*

Public Comments

None

Rebuttal Comments

None

Department Evaluation

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

The department did not identify any alternative that was a superior alternative in terms of cost, efficiency, or effectiveness that is available or practicable. It is far more practical to co-locate the surgery center and practice, if possible, which this project proposes.

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

**Step Three**

Step 3 only applies under concurrent review. This application was not reviewed concurrently and this step does not apply. **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;

**Department’s Evaluation**

Consistent with the evaluation under WAC 246-310-210, the costs identified within this project have been substantiated and are reasonable for the scope of project. **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.

**Department Evaluation**

This sub-criterion was evaluated in conjunction with WAC 246-310-220 above **and is considered 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.

**Gastroenterology Associates, LLC**

*“The project will promote system efficiency specifically by increasing the admit and recovery bed availability. The increase in these two areas will allow the Proposed ASC to serve more patients (using both the three and four procedure room options) because additional patients will be able to be in admit and/or recovery while the procedure room(s) are in use. The increase in patient flow will promote system efficiency and productivity.*

*The ASC uses staff efficiently and in creating the staffing forecast for the Proposed ASC, will continue to use staff efficiently. GA continuously reevaluates its methods to ensure that the most efficient and productive uses of its resources (including staff) are used. GA will continue to do so in the Proposed ASC.”* [source: Application pdf41-42]

Public Comments

None

Rebuttal Comments

None

Department Evaluation

This project has the potential to continue improving the delivery of outpatient services to the residents of Thurston County and surrounding communities with the relocation and expansion of the Olympia ASF. The department is satisfied the project is appropriate and needed. **This sub-criterion is met.**