



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

December 9, 2011

CERTIFIED MAIL # 7009 2250 0001 8668 6040

Kevin McHugh, Consultant  
Strategic Ancillaries, LLC  
210 Railroad Avenue, #200  
Centralia, Washington 98531

Re: CN11-03

Dear Mr. McHugh:

We have completed review of the Certificate of Need application submitted on behalf of Gateway ASC proposing to establish an ambulatory surgery center in Everett, within central Snohomish County. For the reasons stated in this evaluation, the application submitted is consistent with applicable criteria of the Certificate of Need Program, provided Gateway ASC agrees to the following in its entirety.

**Project Description:**

This project approves the establishment of a two-operating room ambulatory surgery center at 3726 Broadway Avenue, #206 in Everett, within central Snohomish County. Services to be provided at the ambulatory surgery center include podiatry, orthopedic, urology, general surgery, and spinal surgery.

**Conditions:**

1. Western Washington Medical Group d/b/a Gateway ASC, LLC agrees with the project description stated above.
2. Washington Medical Group d/b/a Gateway ASC, PLLC must provide for the department's review and approval an adopted charity care policy. The adopted policy must be consistent with the draft policy provided in the application.
3. Washington Medical Group d/b/a Gateway ASC, PLLC will provide charity care in compliance with the charity care policies reviewed and approved by the Department of Health. Western Washington Medical Group d/b/a Gateway ASC, LLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the regional average amount of charity care provided by hospitals in the Puget Sound Region. Currently, this amount is 2.02% of gross revenue and 4.41% of adjusted revenue. Western Washington Medical Group d/b/a Gateway ASC, LLC will



maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

**Approved Costs:**

The approved estimated capital expenditure for this project is \$59,148 and is solely related to the consultant and Certificate of Need application fees associated with submission of this application.

Your client has two options, either accept or reject the above in its entirety. If your client accepts the above in its entirety, the application will be approved and a Certificate of Need sent to your client. If your client rejects any provision of the above, your client must identify that provision, and the application will be denied because approval would not be consistent with applicable Certificate of Need review criteria. Please notify the Department of Health within 20 days of the date of this letter whether your client accepts the above in its entirety.

Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

Mailing Address:

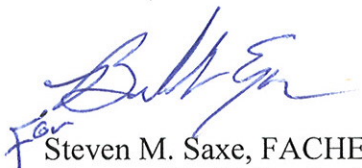
Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

Other Than By Mail:

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

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

Sincerely,



Steven M. Saxe, FACHE  
Director, Health Professions and Facilities

Enclosure

**EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY  
WESTERN WASHINGTON MEDICAL GROUP, INC. PS D/B/A GATEWAY ASC, LLC  
PROPOSING TO ESTABLISH AN AMBULATORY SURGERY CENTER IN CENTRAL  
SNOHOMISH COUNTY**

**APPLICANT DESCRIPTION**

In 1993, four separate medical groups formed Western Washington Medical Group, Inc. PS (WWMG). Since that time, WWMG has expanded to a multispecialty group with more than 70 physicians. WWMG's corporate office is located at 1728 West Marine View Drive in Everett, and as of the writing of this evaluation, WWMG has 10 separate clinical locations in Everett and one location in Bothell. All WWMG physicians have staff privileges at Providence Regional Medical Center in Everett, and many of the physicians have staff privileges at other hospitals in the state.<sup>1</sup> The 11 separate WWMG locations are shown below. [source: WWMG website]

<b>Address</b>	<b>City</b>	<b>Zip</b>
12728 – 19 <sup>th</sup> Avenue SE	Everett	98208
4301 Hoyt Avenue	Everett	98203
1330 Rockefeller Avenue, #340	Everett	98201
12800 Bothell-Everett Highway, #200	Everett	98208
4225 Hoyt Avenue, #A	Everett	98203
<b>3726 Broadway Avenue, #206</b>	<b>Everett</b>	<b>98201</b>
3216 Norton Avenue, #202	Everett	98201
3202 Colby Avenue, #E	Everett	98201
3525 Colby Avenue, #200	Everett	98201
4310 Colby Avenue, #203	Everett	98203
1909 214 <sup>th</sup> Street SE, #211	Bothell	98021

On November 28, 2006, Gateway ASC, LLC was established as a Washington State Limited Liability Company located at the Broadway Avenue address listed in bold above. Gateway ASC, LLC operates with the following six owning physicians. [source: Application, pp2-3 and Attachment IA-C]

Harold J. McCutchan, MD	Jeffery W. Boggs, MD
Robin L. Madsen MD	Kevin L. Morris, MD
Thomas S. Stark, MD	Mathew J. Phelps, MD

**PROJECT DESCRIPTION**

This project focuses on the WWMG facility known as Gateway Surgery Center. On February 26, 2007, WWMG obtained an exemption from Certificate of Need (CN) review to establish an ambulatory surgery center (ASC) as part of their physician group practice<sup>2</sup>. The ASC has remained in continuous operation since its inception and is currently licensed through the Department of Health.<sup>3</sup> [source: Application, p3] The exempt ASC operates under the name of Gateway ASC and remains located at the Broadway Avenue

<sup>1</sup> The other hospitals include Cascade Valley Hospital in Arlington, Skagit Valley Medical Center in Mount Vernon, Valley General Hospital in Monroe, and Whidbey General Hospital in Coupeville.

<sup>2</sup> Determination of Reviewability #07-18

<sup>3</sup> ASF.FS.60100914

address in Everett. The exempt ASC is not separately incorporated from the group practice. The ASC was managed under a management agreement for the first two years of operation as an exempt facility. The management agreement expired in 2009 and the ASC is no longer managed by a separate management entity. [source: Application, p4; DOR #07-18; November 17, 2011, PUI documents,pp1-2 ]

Gateway ASC is currently used by only the owners or employees. This project proposes to allow other physicians the opportunity to perform surgeries and procedures at the ASC. This action requires prior Certificate of Need review and approval.

If the project is approved, the location of the ASC would remain at the existing Broadway site and the number of operating rooms would remain at two. Services currently provided at the exempt ASC are procedures related to podiatry, orthopedic, and urology. This application proposes to continue with the procedures already provided, and add general surgery and spinal surgery. [source: Application, p8]

The estimated capital expenditure associated with the project is \$59,148 and is solely related to the consultant and CN application fees associated with submission of this application. [source: October 10, 2010, Amendment Application, p9]

If this project is approved, Gateway ASC anticipates it would begin to offer services as a CN approved ASC by July 2011. Under this timeline, year 2012 would be the ASCs first calendar year of operation and year 2014 would be year three. [source: Amended Application, p10]

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

Even though the exempt ASC is operational, this project is subject to Certificate of Need review as the establishment of a new health care facility under the provisions of Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a).

### **CRITERIA EVALUATION**

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 on 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*

*(ii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project.”*

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

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

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

To obtain Certificate of Need approval, the applicant must demonstrate compliance with the 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>4</sup>. 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.

**APPLICATION CHRONOLOGY**

<b>Action</b>	<b>Gateway ASC</b>
Letter of Intent Submitted	March 10, 2010
Initial Application Submitted	July 29, 2010
Department’s pre-review activities including screening and responses	July 30, 2010 through October 19, 2010
Amended Application Received <sup>5</sup>	October 20, 2010
Beginning of Review <ul style="list-style-type: none"> <li>• public comments accepted throughout review;</li> <li>• no public hearing requested or conducted</li> </ul>	November 18, 2010
End of Public Comment	December 22, 2010
Rebuttal Comments Submitted	January 14, 2011 <sup>6</sup>
Department Declares Pivotal Unresolved Issue (PUI)	October 17, 2011
Applicant Submits PUI Documents	November 17, 2011
Public Comments on PUI Documents	December 5, 2011
Rebuttal Comments Submitted for PUI Documents <sup>7</sup>	December 20, 2011
Department's Anticipated Decision Date	January 20, 2012
Department's Actual Decision Date	December 9, 2011

<sup>4</sup> Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), (6); and WAC 246-310-240(2) and (3).

<sup>5</sup> In its initial application, Gateway identified an estimated capital expenditure of zero. In its first screening responses, Gateway amended its application by identifying an estimated capital expenditure of \$59,148. The amendment application focuses on the change in capital expenditure; all other information remains the same.

<sup>6</sup> The department granted an extension for the applicant and affected persons to provide rebuttal documents.

<sup>7</sup> Public comments on the PUI documents were due on December 5, 2011. There were no comments submitted, therefore, the applicant did not provide any rebuttal comments.

## **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."*

For this project, only one entity sought and received affected person status under WAC 246-310-010(2).

- Providence Regional Medical Center Everett is an acute care hospital located at 1321 Colby Avenue in Everett, within Snohomish County. The hospital provides Medicare and Medicaid services to the residents of Snohomish County and surrounding areas. Providence Regional Medical Center Everett provides inpatient and outpatient surgeries within its 17 active operating rooms.

## **SOURCE INFORMATION REVIEWED**

- Gateway ASC, LLC Certificate of Need Application received on July 29, 2010
- Gateway ASC, LLC amendment application / supplemental information received on October 20, 2010
- Utilization survey responses from providers located in the planning area
- Public comments provided by the community
- Public comments from Providence Regional Medical Center Everett dated September 21, 2010
- Public comments from Providence Regional Medical Center Everett on December 22, 2010
- Rebuttal comments from Gateway ASC, LLC on January 14, 2011
- Gateway ASC, LLC pivotal unresolved issue (PUI) documents received on November 17, 2011
- Claritas and Office of Financial Management population data for Central Snohomish planning area
- Licensing and/or survey data provided by the Department of Health's Investigations and Inspections Office
- Licensing and compliance history data provided by the Department of Health's Medical Quality Assurance Commission
- Western Washington Medical Group website at [wwmedgroup.com](http://wwmedgroup.com)

## **CONCLUSION**

For the reasons stated in this evaluation, the application submitted by Western Washington Medical Group d/b/a Gateway ASC, LLC proposing to establish an ambulatory surgery center in central Snohomish County is consistent with the applicable review criteria, provided Western Washington Medical Group d/b/a Gateway ASC, LLC agrees to the following in its entirety.

### **Project Description:**

This project approves the establishment of a two-operating room ambulatory surgery center at 3726 Broadway Avenue, #206 in Everett, within central Snohomish County. Services to be provided at the ambulatory surgery center include podiatry, orthopedic, urology, general surgery, and spinal surgery.

### **Conditions:**

1. Western Washington Medical Group d/b/a Gateway ASC, LLC agrees with the project description stated above.

2. Washington Medical Group d/b/a Gateway ASC, PLLC must provide for the department's review and approval an adopted charity care policy. The adopted policy must be consistent with the draft policy provided in the application.
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**Approved Costs:**

The approved estimated capital expenditure for this project is \$59,148 and is solely related to the consultant and Certificate of Need application fees associated with submission of this application.

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the 'Conclusion' section of this evaluation, the department determines that the applicant has met the need criteria in WAC 246-310-210 and 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*

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 for determining the need for additional ASCs in Washington State. The numeric methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient OR's in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 separate secondary health services planning areas. The proposed ASC would be located in the central Snohomish County planning area.

The methodology estimates OR need in a planning area using multi-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 rooms in the planning area, subtracts this capacity from the forecast number of surgeries to be expected in the planning area in the target year, and examines the difference to determine:

- a) whether a surplus or shortage of OR's is predicted to exist in the target year, and
- b) if a shortage of OR's is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.
- c) Data used to make these projections specifically exclude endoscopy rooms and procedures.<sup>8</sup>

Applicant's Methodology

The numeric portion of the methodology requires a calculation of annual capacity of existing outpatient and inpatient ORs. To demonstrate need for a new ASC in the planning area, the applicant provided the following three separate numeric methodologies its application. [source: Amended Application, pp17-21]

- Methodology #1: this methodology was used in a CN application reviewed in year 2006 and located in Edmonds. Numeric need for 16.75 dedicated outpatient ORs were projected for year 2013.
- Methodology #2: this methodology was used in a CN application submitted in year 2000 from Providence Regional Medical Center Everett. This data projects need for 23.56 additional dedicated outpatient ORs in year 2013.
- Methodology #3: this methodology was used in a CN application submitted in 2010 from Northwest Weight Loss Surgery. The data projects need for 5.45 dedicated outpatient ORs in year 2013.

After reviewing the three methodologies provided by Gateway ASC, the department concludes that Methodology #1 is not reliable because it does not include OR utilization within the central Snohomish planning area, rather the project was for a facility in Edmonds, which is located the southwest Snohomish County planning area. Additionally, the application used in Methodology #1 was submitted in year 2006—four years before submission of this Gateway ASC application. As a result, this methodology will not be further discussed in this evaluation.

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<sup>8</sup> WAC 246-310-270(9)(a)(iv).



For Methodology #2, while the planning area is the same, the application was submitted in year 2000—ten years before submission of this Gateway ASC application. This methodology is also not considered reliable and will not be further discussed in this evaluation.

Methodology #3 is the most reasonable methodology submitted by the applicant. It is current and is based on the central Snohomish planning area. The remainder of this evaluation will focus on the applicant’s calculations in Methodology #3. Below is an outline of the applicant’s assumptions used in Methodology #3.

<b>Assumption</b>	<b>Data Used</b>
Planning Area	Central Snohomish County
Population Estimates and Forecasts	2009 OFM’s Population Forecast is 285,029. Project target year 2013 projected population is 312,953
Use Rate	Divide 2009 estimated current surgical cases by estimated 2009 populations results in the service area use rate of 41.96/1,000 population
Percent of surgery ambulatory vs. inpatient	63.8% ambulatory (outpatient) and 36.2% inpatient
Average minutes per case	Inpatient 120 minutes Outpatient 79 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	OR Capacity: 17 mixed use

Using the assumptions outlined above, Gateway ASC calculates a need for 5.45 additional dedicated outpatient ORs by the end of target year 2013 in the planning area.

The department notes that the applicant did not include the two ORs recently approved for Northwest Weight Loss Surgery Center. This is because the Northwest Weight Loss Surgery Center decision was released after submission of this Gateway ASC project. For this project, all CN approved ORs must be included in the numeric methodology.

Department’s Methodology

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. Gateway ASC is located in central Snohomish County so the department applied the methodology to determine need in the planning area. According to the department’s historical records, there are seven providers including the applicant with OR capacity located in the planning area. The seven providers are listed on the following page.<sup>9</sup>  
[source: CN Historic Files]

<sup>9</sup> One additional ASC is located in the planning area, however, it is an endoscopy facility. Under WAC 246-310-270(9)(a)(iv), ORs and utilization at endoscopy ASCs are not counted in the numeric methodology.

### Central Snohomish County Planning Area Providers

Hospital	ASC
Providence Regional Medical Center-Everett	Everett Clinic (Kemp and Trask sites)
	Proliance ASC (Everett Bone & Joint ASF)
	Western Washington Medical Group (applicant)
	Northwest ASC (Foot and Ankle)
	Physician Eye Surgery Center
	Northwest Weight Loss Surgery, PLLC

As shown above the seven facilities include Providence Regional Medical Center-Everett (Providence Everett), an acute care hospital with two campuses in the planning area. As defined in WAC 246-310-010, Providence Everett is included in the capacity calculations of available ORs for the planning area.

Of the six ASCs shown above, five—including the applicant—are located within a solo or group practice (considered an exempt ASC) and therefore, the use of these ASCs is restricted to physicians that are employees or members of the clinical practices that operate the facilities. Therefore, these five facilities do not meet the ASC definition found in WAC 246-310-010. For exempt ASCs, the utilization, but not ORs, is included in the methodology for the planning area.

Since Northwest Weight Loss Surgery is a CN approved ASC, the utilization and ORs are included in methodology for the planning area.<sup>10</sup>

To assist in its application of the numeric methodology for this project, on August 10, 2010, the department requested utilization information from each of the facilities identified above, except the applicant. Only two responses were received. Providence Everett and Everett Bone and Joint ASF both provided completed utilization information.

To apply the numeric methodology, the department relied on its own survey results and data obtained from the Department of Health internal database. The assumptions used by the department to apply the methodology are shown on the following page.

<sup>10</sup> Northwest Weight Loss was issued CN #1435 on December 17, 2010.

### Department's Methodology

Assumption	Data Used
Planning Area	Central Snohomish
Population Estimates and Forecasts	Claritas population data for Central Snohomish County 284,519. Project target year is 2013 and the projected population is 301,308
Use Rate	Divide 2009 surgical cases by 2009 populations results in the service area use rate of 95.14/1,000 population
Percent of surgery ambulatory vs. inpatient	Based on DOH survey results, 70.9% ambulatory (outpatient) and 29.1% inpatient
Average minutes per case	Based on DOH survey results, Outpatient cases = 60.85 minutes; inpatient cases 135.55 minutes
OR Annual capacity in minutes	1,167,525 outpatient surgery minutes; 1,068,666 inpatient or mixed-use surgery minutes
Existing providers	Based on 2010 listing of Central Snohomish County providers. 2 dedicated outpatient ORs and 17 mixed use ORs.

The department's application of the numeric methodology based on the assumptions described above indicates a surplus of 5 inpatient mixed-use ORs in year 2013; and a need of 15 dedicated outpatient ORs in year 2013. The department's methodology is Appendix A attached to this evaluation.

In summary, based solely on the numeric methodology contained in WAC 246-310-270, numeric need for outpatient OR capacity in the Central Snohomish County is demonstrated. [source: department's methodology and utilization surveys]

Within its application, Gateway ASC also provided the following rationale for submitting this application. [source: Application, pp8-12]

- Gateway ASC plans to expand current surgical services to include orthopedic, urology, spine, and interventional pain services.
- Approval of this project would allow physicians not associated with Western Washington Medical Group or Gateway ASC access to the facility.

During the review of this application, Providence Everett provided comments related to this sub-criterion, which are summarized below. [source: Providence Regional Medical Center-Everett public comments dated September 21, 2010]

- Providence Everett expressed concerns regarding the applicant's three methodologies provided in the application. Since the department has already stated that Methodologies #1 and #2 will not be considered, this topic has been addressed.
- Providence Everett expressed concerns regarding the number of ORs counted by the applicant in its three methodologies. Since the department has applied its own methodology based on the number of ORs identified in the utilization survey responses, this topic has also been addressed.
- The final area of concern by Providence Everett is the projected population used by the applicant. Gateway ASC based its population projections on 2009 OFM data and projected 312,953 residents in central Snohomish County in year 2013. Providence Everett states that

these projections are overstated and the correct population, based on Claritas population data, is 300,915 for year 2013 in central Snohomish County. Providence Everett asserts that once the population is corrected, the net need becomes a surplus of 1.27 ORs in the central Snohomish planning area.

In response to Providence Everett's concerns raised above, Gateway ASC concedes that the department will calculate its own methodology in this evaluation and any discrepancies noted in the applicant's methodology will be discussed and corrected. [source: January 14, 2011, rebuttal documents, pp2-10]

To determine the correct 2013 population for central Snohomish County, the department reviewed Claritas population data. According to Claritas data, year 2009 central Snohomish County population is 284,519 and year 2013 is projected to be 301,308. The 2013 population figure is slightly larger than the projections provided by Providence Everett (300,915) and smaller than the projections used by the applicant (312,953). The department's population projection of 301,308 is used in the methodology attached to this evaluation. Additionally, the department applied the smaller population of 300,915 asserted by Providence Everett to be correct. The projections still result in a surplus of 5 mixed-use ORs in year 2013; and a need of 15 dedicated outpatient ORs in year 2013.

WAC 246-310-270(6)

WAC 246-310-270(6) requires a minimum of two ORs in an ASC. The exempt ASC currently operates with two ORs and does not propose to increase the number of ORs.

[source: Amended Application, p28] This standard is met.

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

Gateway, ASC is currently a provider of ambulatory surgical services to residents of Washington State, including low-income, racial and ethnic minorities, handicapped and other underserved groups. The department record shows that Gateway, ASC is currently licensed as an Ambulatory Surgical Facility (ASF). This same record shows the ASF is Medicare certified.

To determine whether all residents of the service area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission policy. The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment.

To demonstrate compliance with this sub-criterion, Gateway, ASC provided a copy of its Admission Criteria. The policy provided the ASC's pre-operative guidelines and demonstrated that all patients requiring surgical care that is appropriate to the ASC setting will have access to services regardless of race, income, ethnicity and sex or handicap status. [source: Amended Application, Supplemental Information, Attachment SA-1]

To determine whether low-income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to

make that determination. Gateway, ASC currently provides services to Medicaid eligible patients at the existing facility. The applicant intends to continue to provide services to Medicaid patients. A review of the anticipated revenue sources indicates that the facility expects to continue to receive Medicaid reimbursements. [source: Amended Application, p9]

To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination. Gateway, ASC currently provides services to Medicare patients at the existing ASC and intends to continue doing so. A review of the facility-anticipated revenue sources indicates that it expects to continue to receive Medicare reimbursements. [source: Amended Application, p9]

A facility’s charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

Gateway, ASC demonstrated its intent to provide charity care to patients receiving treatment at the facility by submitting its draft charity care policy that outlines the process one would use to access this service. Within the application, Gateway, ASC also included it’s expected ‘charity care’ levels. [source: Amended Application, p3 & SA2]

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. For charity care reporting purposes, the Department of Health’s Hospital and Patient Data Systems (HPDS), divides Washington State into five regions: King County, Puget Sound, Southwest, Central, and Eastern. Gateway, ASC is located in Snohomish County within the Puget Sound Region. For charity care reporting purposes, the affected hospital is Providence Regional Medical Center Everett. For this project, the department reviewed charity care data for the 18 existing hospitals currently operating within the Puget Sound region and Providence Everett.

For the Puget Sound Region, the three year average 2007 - 2009 charity care average is 2.02% for gross revenue and 4.41% for adjusted revenue. Providence Everett’s charity care percentages are slightly higher than the regional average with 3.33% of total revenue and 7.38% of adjusted revenues. [source: HPDS 2007-2009 charity care summaries] The department’s review of the applicant’s pro forma income and expense statement shows charity care at approximately 2.00% of total revenue and 2.45% of adjusted revenue. [source: Amended Application, p9 and October 10, 2010, Supplemental Information SA3 – SA6]

Table 1 below is Gateway ASC’s projected charity care percentages compared with the averages of the Puget Sound Region and Providence Everett.

**Table 1  
Charity Care Percentage Comparisons**

	<b>% of Total Revenue</b>	<b>% of Adjusted Revenue</b>
Gateway ASC (Applicant)	2.00%	2.45%
Puget Sound Region	2.02%	4.41%
Providence-Everett	3.33%	7.28%

Providence Everett provided comments related to the charity care policy provided in the application. Specifically, Providence Everett states that the charity care policy is inadequate when evaluated against charity care requirements applied to all Certificate of Need applications. Providence Everett asserts that Gateway ASC's policy excludes many aspects of medical treatment that are under control of the members, yet are excluded from consideration for charity care write offs, including physician fees. In addition, the charity care process excludes any procedure considered not necessary for an "acute" condition, yet "acute" condition is not defined and there is no explanation of how this exclusion would be applied. [source: Providence Everett, December 22, 2010, public comments, p1]

In response to the comments by Providence Everett above, Gateway ASC states that its charity care policy terms have met the department's approval criteria many times in the past. The submitted policy is functionally equivalent to policies from many previously approved applications. Compared to the Puget Sound regional average charity care, Gateway ASC's projected average is higher than the regional average and its physicians currently provide high levels of charity care as evidence by a letter of support submitted to the department as public comment. Gateway ASC is multiplying its charitable services by donating both its facility and surgical services. [source: January 14, 2011, Rebuttal comments, pp11-13]

#### Department's Evaluation

An exempt ASC does not undergo any review of its charity care policies, procedures, or percentages. In fact, an exempt ASC is not required to provide charity care at its ASC; however, documentation provided in the application demonstrates that Gateway ASC currently provides charity care. The department's review of the applicant's projected charity care percentages shows that its charity care percentages are slightly below the regional averages and significantly below the averages provided by Providence Everett. The department is unable to verify Providence Everett's assertions that the applicant's charity care policy excludes surgical procedures not considered acute. To ensure that appropriate charity care percentages would be provided by Gateway ASC, if this project is approved, the department would attach two conditions related charity care. One condition requires Gateway ASC to provide its final adopted charity care policy and the second condition requires Gateway ASC to provide charity care at certain percentages. The two conditions are stated below.

#### Condition

- 1) Washington Medical Group d/b/a Gateway ASC, PLLC must provide for the department's review and approval an adopted charity care policy. The adopted policy must be consistent with the draft policy provided in the application.
- 2) Washington Medical Group d/b/a Gateway ASC, PLLC will provide charity care in compliance with the charity care policies reviewed and approved by the Department of Health. Western Washington Medical Group d/b/a Gateway ASC, LLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the regional average amount of charity care provided by hospitals in the Puget Sound Region. Currently, this amount is 2.02% of gross revenue and 4.41% of adjusted revenue. Western Washington Medical Group d/b/a Gateway ASC, LLC will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

Based on the documents provided in the application and Gateway's 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.**

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the 'Conclusion' section of this evaluation, the department determines that the applicant did not meet the financial feasibility criteria in WAC 246-310-220.

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

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

To comply with this sub-criterion, Gateway ASC provided its assumptions, forecasted pro forma income statements, and forecasted balance sheets. [source: Initial and Amended Applications, Attachments IV-A through Attachment IVL and Supplemental Attachment SA-3 through SA-7]

To determine if the facility would meet its immediate and long range operating costs, the department reviewed the assumptions used as a basis for its financial projections. Additionally, the department reviewed Gateway, ASC's financial statements for its first three full years of operation. Summarized below are the assumptions used by Gateway ASC as the basis for projecting utilization and the number of procedures it expects. [source: Initial Application, p8 & p12; Amended Application, p23-24]

- Since opening in year 2007, over 3,800 patients have had surgery at Gateway's ASC, however, under the CN exemption, only those physicians associated with the practice are allowed to perform surgeries at the ASC. Allowing non-Western Washington Medical Group physician's access to the ASC would expand utilization at the ASC.
- For year 2010 and partial year 2011, there are three core surgical specialties using the facility—orthopedics, podiatry, and urology. Approval of this project would expand services to include spine and interventional pain services.
- During the review of this project, the applicant expects modest increases in the core services of approximately 10% each year. This is based on historical utilization of the facility.
- In 2011, when the project is approved, the additional services would be added. Discussions with the spine specialists in the area indicate that approximately 200 spinal cases would be performed in partial year one (2011). Discussions with local general and gynecological surgeons indicate that an additional 100 'other' cases would be added in partial year one. Also, in partial year 2011, current physicians expect a 5% increase in cases for the core services.
- For years 2012 through 2014, no new providers are expected to join the ASC; however, the existing providers that joined in 2011 expect annual increases of approximately 5% per year.

Table 2 on the following page is a summary of the projected number of surgeries based on the assumptions above. [source: Initial Application, p8]

**Table 2**  
**Gateway, ASC Utilization Projections Year 2010- 2014**

<b>Surgery Type</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Orthopedics	994	1,320	1,330	1,340	1,350
Podiatry	235	325	342	359	377
Urology	70	105	110	115	121
Spine	0	200	210	220	232
Other	0	100	105	115	115
<b>Total</b>	<b>1,299</b>	<b>2,050</b>	<b>2,097</b>	<b>2,144</b>	<b>2,195</b>

Year 2010 shown in Table 2 above is nine months of operation and as stated in the assumptions, is used as a basis for calculating year 2011 projections. Year 2011 assumes approval of this project in approximately July and anticipates that the additional physicians would use the facility shortly thereafter. Years 2012 through 2014 show modest increases in the number of surgeries using 5% increase each year. The assumptions relied on by Gateway ASC to project the number of surgeries appear to be reasonable.

Using the projections in Table 4 above, Table 5 below is a summary of Gateway ASC's projected revenues and expenses for 2010 through 2014. [source: Amended Application, Supplemental Attachment SA-3 through SA-7]

**Table 3**  
**Gateway ASC Projected Revenue and Expenses Summary**

	<b>Year 2010 Historical</b>	<b>Year 2011 Current</b>	<b>Year 2012 Full Year 1</b>	<b>Year 2013 Full Year 2</b>	<b>Year 2014 Full Year 3</b>
Number of Procedures	1,299	2,050	2,097	2,144	2,195
Net Revenue	\$2,545,084	\$2,263,744	\$4,692,927	\$4,798,726	\$4,938,804
Total Expenses	\$2,285,495	\$2,110,192	\$4,483,586	\$4,668,314	\$4,786,129
Net Profit or (Loss)	\$259,589	\$153,552	\$209,341	\$130,412	\$152,675
Average Revenue per Procedure	\$1,959.26	\$1,104.27	\$2,237.92	\$2,238.21	\$2,250.02
Average Expenses per Procedure	\$1,759.43	\$1,029.36	\$2,138.10	\$2,177.39	\$2,180.47
Net Profit or (Loss) per Average Procedure	\$199.84	\$74.90	\$99.83	\$60.83	\$69.56

The 'net revenue' line item in Table 5 above is the result of gross revenue minus any deductions for charity care. The 'total expenses' line item includes staff salaries/wages and the ASC's portion of bad debt. As shown in Table 5, Gateway ASC is expected to operate at a profit for all years shown. It is noted that the profit is expected to significantly decrease in year 2011. This reduction is the result of adding the additional cases and the initial expenses associated with them. The reduction in net profit for year 2012 is the result of a projected growth in some expenses without a commensurate growth in revenues.

Additionally, the ASC has been operating from its current location since year 2005. Gateway ASC provided a copy of its executed lease agreement for the site between Gateway ASC LLC (tenant) and THR Real Estate LLC (Landlord). [source: Initial Application, Attachment II-G] The agreement outlines the roles and responsibilities of the lease agreement, along with specific increases in lease costs for



future years. A review of the lease amounts identified in the executed agreement shows that it is comparable to the information used to prepare the revenue and expense summary in the table above.

In addition to the projected Statement of Operations, Gateway ASC provided the projected Balance Sheets for years 2010 through 2014. Below is a summary of years 2012 and 2014, which are the first and third full years of operation as a Certificate of Need approved ASC.<sup>11</sup> [source: Initial Application, Attachment IV-E to IV-H]

**Tables 4**  
**Gateway ASC, LLC Forecasted Balance Sheets**  
**Year 2012**

Assets		Liabilities	
Cash	\$ 1,177,233	Current Liabilities	\$ 0
Inventory	\$ 72,000	Long Term Debt	\$ 1,117,864
Fixed Assets (Equipment)	\$ 2,030,485	Other Liabilities	\$ 0
Accumulated Depreciation	(\$ 850,473)	<b>Equity</b>	<b>\$ 1,311,381</b>
<b>Total Assets</b>	<b>\$ 2,429,245</b>	<b>Total Liabilities and Equity</b>	<b>\$ 2,429,245</b>

**Year 2014**

Assets		Liabilities	
Cash	\$ 1,654,360	Current Liabilities	\$ 0
Inventory	\$ 79,200	Long Term Debt	\$ 1,086,487
Fixed Assets (Equipment)	\$ 2,030,485	Other Liabilities	\$ 0
Accumulated Depreciation	(\$909,743)	<b>Equity</b>	<b>\$ 1,767,815</b>
<b>Total Assets</b>	<b>\$ 2,854,302</b>	<b>Total Liabilities and Equity</b>	<b>\$ 2,854,302</b>

During the review of this project, Providence Everett provided comments related to this sub-criterion. The comments are summarized into the three topics below. [source: Providence-Everett public comments received December 22, 2010, p2 and Attachment 2]

- There is no cost allocation for the management oversight for Strategic Ancillaries.
- The lease cost appears too costly compared to current market rates for similar facility size and cannot be substantiated in the revenue and expense statements.
- There is no depreciation on the revenue and expense statements, which is consistent with the information provided in the application; however, the balance sheets and cash flow statements both show significant depreciation amounts. These documents are not consistent with the revenue and expense statements. Additionally, the balance sheets for year 2010 and 2013 are exactly the same. This is an obvious error in the statements.

In response to the comments by Providence Everett above, Gateway ASC provided the following responses summarized below. [source: January 14, 2011, rebuttal documents, pp14-18; and November 17, 2011, PUI submission, pp1-6]

<sup>11</sup> Gateway ASC states that the facility is part of the Western Washington Medical Group with more than 60 physicians, and the balance sheets co-mingle all company assets and liabilities, thereby providing no detail on the facility assets and liabilities operation. The balance sheets provided were created specifically for this Certificate of Need application. [source: Initial Application, p29]

### Management Oversight

When the ASC first received its exemption from Certificate of Need in 2007, there was a management contract between Western Washington Medical Group and Strategic Ancillaries, PLLC. The management agreement was effective for two years and expired in June 2009. The management agreement has not been renewed, however, Strategic Ancillaries, PLLC continues to provide consulting services on an as needed basis under an hourly rate.

### Lease Cost

Providence Everett's calculations of the applicant's lease cost have mathematical errors. Gateway, ASC's base rent is subject to annual lease adjustments for inflation. Additionally, the lease agreement specifies that the tenant shall be responsible for paying operating expenses. Gateway, ASC's lease agreement consists of four components: base rent, adjusted increases, operating expense and supplemental rent. Providence Everett incorrectly calculated Gateway, ASC's lease cost.

### Balance Sheets

In response to this concern, Gateway ASC concedes that the balance sheet had extensive errors that were caused by the complexities of isolating the ASC assets and liabilities from a large professional services corporation. Gateway ASC provided corrected balance sheets in its rebuttal documents.

## **Department's Evaluation**

### Management Oversight

Management services are no longer provided on a continuous basis, rather the management services are provided intermittently and under an hourly rate agreement. As a result, costs for management services are appropriately excluded from the Pro Forma Revenue and Expense Statements.

### Lease Cost

Gateway ASC provided a clear and concise explanation for the lease costs. The department's review of the lease agreement did not support Providence Everett's assertions that the lease costs are inconsistent with the costs identified in the pro forma revenue and expense statement. The review also did not support that the lease costs are unreasonably high.

### Depreciation

During the review of this application the department noted significant information was omitted from the application. This information could have, and should have, been discovered during the screening of the project. As a result, on October 17, 2011, the department declared a pivotal unresolved issue (PUI) to obtain the omitted information. The PUI process also allowed the applicant to clarify and correct any error in the balance sheet. Providence Everett's concerns regarding the balance sheet were appropriately addressed by the applicant. The department reached this conclusion when Providence Everett chose to not provide comments related to Gateway ASC's PUI submissions.

Based on the information presented 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.

The estimated capital expenditure associated with the project is \$59,148 and is solely related to the consultant and CN application fees associated with submission of this application. [source: October 10, 2010, Amendment Application, p9]

To further demonstrate compliance with this sub-criterion, Gateway, ASC provided its existing percentage of revenue by source shown in Table 5 below. [Source: Amended Application, p9]

**Table 5**  
**Gateway, ASC Existing Revenue Source**

<b>Source of Revenue</b>	<b>Current 2009</b>
Medicare/Medicaid	18.32%
PPO	29.66%
Other Commercial	27.39%
HMO	8.94%
Workers Comp/Other	15.69%
<b>Total</b>	<b>100.00%</b>

As shown in the Table 5 above, currently the majority of the ASCs s revenue sources are private pay and commercial insurance, which is expected based on the types of surgeries currently offered at the ASC. The applicant does not expect the sources to change with the additional services.

Based on the above information, the department concludes that costs associated with this project will not have unreasonable impact on the costs and charges for healthcare services within the service 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.

To demonstrate compliance with this sub-criterion, Gateway, ASC provided the following capital expenditure breakdown for the project which is shown in the table on the following page. [source: Amended Application, p28]

**Table 6**  
**Gateway, ASC Projected Capital Expenditure**

<b>Item</b>	<b>Cost</b>	<b>% of Total</b>
CN Consulting fees	\$40,000	68.0%
Other Project costs	\$19,148	32.4%
<b>Total Project Cost</b>	<b>\$59,148</b>	<b>100.0%</b>

Included in the 'other' project costs above is the Certificate of Need review fee. As shown above, no additional equipment is necessary to begin providing the additional surgeries. The applicant provided the following statements related to its capital expenditure identified above. [source: Amended Application, p28]

*"The capital expenditure related to this application is for the consulting and application fees that total \$59,148. The costs were expensed during the course of the year 2010 and as such there are no financing requirements for this project."*

Based on the information, the department concludes the proposed source of funding for this project is appropriate. **This sub-criterion is met.**

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the 'Conclusion' section of this evaluation, the department determines that the applicant has met the structure and process 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.

Gateway, ASC LLC is currently operating under an exemption from CN review. As an operational ASC, the applicant does not expect to hire new staff because all staff is already in place. Table 7 below summarizes the applicant's current staffing. [source: Amended Application, p 30]

**Table 7**  
**Gateway, ASC Year 2011 FTEs**

<b>FTEs</b>	<b>Current Year 2011</b>
RN Nurse Manager	1.00
RN's	2.00
LPN/Techs	2.00
Reception	1.00
Business Office	1.00
<b>Total</b>	<b>7.00</b>

Given that the ASC is currently operational as an exempt ASC and no additional staff is needed to provide the additional services, the department concludes that the ASC would be adequately staffed. Based on the source information reviewed, the department concludes 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.

Gateway ASC is an exempt ASC that has been operating since year 2007, and has already established ancillary and support agreements with healthcare providers in the central Snohomish County planning area. Gateway ASC provided a copy of the existing transfer agreement between itself and Swedish Edmonds that was established in year 2007. The agreement identifies the roles and responsibilities of both entities. There is no indication that current relationships would be negatively affected if this exempt ASC obtains Certificate of Need approval.

Therefore, the department concludes that there is reasonable assurance that Gateway ASC will continue its relationships with ancillary and support services and this project would not negatively affect those relationships. **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.

The ASC has been operating at its current location since February 2007, and it does not own or operate any other health care facilities in Washington or any other state. The Department of Health's Investigations and Inspections Office (IIO), which surveys ASCs within Washington State, has completed at least one compliance survey for Gateway ASC.<sup>12</sup> The survey revealed no substantial non-compliance issues for the ASC. [Source: IIO compliance data]

The Department of Health's Medical Quality Assurance Commission credentials medical staff in Washington State and is used to review the compliance history for all medical staff, which includes the six physician owners listed on page one of this evaluation. Additionally, one of the physician owners—Harold J. McCutchan, MD—acts as the current medical director. These services are provided as part of the employment responsibilities, rather than under a medical director contract. A compliance history review of all the medical staff associated reveals no recorded sanctions for all. [Compliance history provided by Medical Quality Assurance Commission]

<sup>12</sup> Initial compliance survey completed in July 30, 2007.

After reviewing the compliance history of Gateway ASC and the compliance history of all medical staff associated with the ASC, the department concludes there is reasonable assurance that Gateway ASC would continue to operate in conformance with applicable state and federal licensing and certification requirements. **This sub-criterion is met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(4) criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how to measure unwarranted fragmentation of services or what types of relationships with a services area's existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

Gateway ASC currently operates as an exempt ASC since 2007. Ancillary and support services and agreements are not expected to change if this project is approved.

Additionally, the department considers the results of the numeric methodology and review criteria outlined in WAC 246-310-210. Application of the numeric methodology shows a need for additional OR capacity in the central Snohomish planning area. Within the application, Gateway ASC demonstrated it met the standards to receive approval to convert its exempt ASC into a CN approved ASC.

The department concludes that approval of this project would not have the potential of fragmentation of acute care services within the planning area. **This sub-criterion is met.**

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

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

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the 'Conclusion' section of this evaluation, the department concludes the applicant has met the cost containment criteria in WAC 246-310-240.

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

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230 and WAC 246-310-270. 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**

For this project, Gateway ASC has met the review criteria under WAC 246-310-210, 220, and 230. Therefore, the department moves to step two below.

### **Step Two**

Before submitting this application, Gateway ASC considered and rejected only the option of status quo or do nothing. The applicant states that the option was rejected because with advent of new healthcare initiatives as adopted by the Federal Government, full utilization of existing facilities will be key to survival. The ASC is not currently utilized at full capacity, but in order to allow physicians not associated with the group practice access to the ASC a Certificate of Need is required. To best utilize the ASC and to ensure that the ASC continues to remain in operation in the future, this application was submitted. [source: Application, pp33-34]

This project proposes to allow other physicians the opportunity to perform surgeries and procedures at the ASC. This action is not allowed under the limitation of the exemption from Certificate of Need. As a result, if Gateway ASC wants to allow other physicians access to the ASC, submission of an application is its only option.

Based on the information above, the department concludes this project is the best available alternative for the residents of central Snohomish County and surrounding communities. **This sub-criterion is met.**

# APPENDIX A



CN11-03 Gateway ASC, LCC  
Departments Methodology

Service Area Population 2013:	301,308							
<b>Surgeries @ 95.14/1,000:</b>	<b>28,667</b>							
a.i.	94,250 minutes/year/mixed-use OR							
a.ii.	68,850 minutes/year/dedicated outpatient OR							
a.iii.	2 dedicated outpatient OR's x 68,850 minutes =	137,700 minutes dedicated OR capacity					2,269 Outpatient surgeries	
a.iv.	17 mixed-use OR's x 94,250 minutes =	1,602,250 minutes mixed-use OR capacity					11,820 Mixed-use surgeries	
b.i.	projected inpatient surgeries =	8,349	=	1,131,726 minutes inpatient surgeries				
	projected outpatient surgeries =	20,318	=	1,233,199 minutes outpatient surgeries				
b.ii.	Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's							
	20,318 -	2,269	=	18,049 outpatient surgeries				
b.iii.	average time of inpatient surgeries		=	135.55 minutes (per Survey)				
	average time of outpatient surgeries		=	60.69 minutes (per Survey)				
b.iv.	inpatient surgeries*average time		=	1,131,726 minutes				
	remaining outpatient surgeries(b.ii.)*ave time		=	1,095,499 minutes				
				2,227,226 minutes				
c.i.	if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use OR's							
	Not Applicable - Go to c.11. and ignore any value here.							
		1,602,250						
	-	2,227,226						
		-624,976	/	94,250	=	-6.63		
c.ii.	if b.iv. > a.iv. , divide (inpatient part of b.iv - a.iv.) by 94250 to determine shortage of inpatient OR's							
	<b>USE THESE VALUES</b>							
		1,131,726						
	-	1,602,250						
		(470,524)	/	94,250	=	-4.99		
	divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's							
		1,095,499	/	68,850	=	15.91		

CN11-03 Gateway ASC, LCC  
Departments Methodology

Facility	Special rms	Ded Inpat	Ded Output	Mixed use	closed/dfn of used	op hrs	ip wks	ip hrs	ip wks	mixed hrs	mixed wks	ip min/case	ip clean	2009 ip cases	2009 ip min	op min/case	op clean	2009 op case	2009 op min	Capacity	Occy %
Providence Everett Medical	0.00	0	0	17	3	30.6	52	30.6	52	30.6	52	135.55	30	7884	1068666	73.56	30	4570	336155	1602250	87.7%
Western Washington Medical Group	0.00	0	2			40	50					58.00	90	1554		58	15	10855	90132	137700	65.5%
Everett Clinic	0.00	0	8			50	52					56	15	10855		56	15	10855	610848	5508600	110.9%
Everett Bones & Joint	0.00	0	2			50	52					60	10	1700		60	10	1700	102000	137700	74.1%
Northwest Weight Loss	0.00	0	2			30.6	52					50		507		50		507	25350	137700	18.4%
Totals	0.00	0	14	17	3	201	258	30.6	52	30.6	52	135.55		7884	1068666	50		19186	1184465	2566150	87.0%
Average min/case																					
Not Reporting:																					
* Everett Clinic indicated operating at 400 hrs per week the department assumed this was calculated of each operating room operating 50 hrs weekly.																					
Note:																					
Total Surgeries 2009																					
Area population 2013																					
Area population 2009																					
Use Rate 2009 per survey																					
Applicant's use rate																					
in pt surgery percentage																					
Output surgery percentage																					
ORS COUNTED IN METHOD																					
ded inpt																					
ded outpt																					
mix use																					
TOTALS																					
Providence Medical Center Everett																					