

EVALUATION DATED JANUARY 3, 2012 FOR THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY PEACEHEALTH dba WHATCOM HOSPICE PROPOSING TO AMEND CERTIFICATE OF NEED #1372 DUE TO INCREASE IN APPROVED CAPITAL EXPENDITURE

APPLICANT DESCRIPTION

The Sisters of St. Joseph of Peace have been providing healthcare in small communities throughout the Pacific Northwest since 1891. In 1976 they decided to consolidate the healthcare ministries of their Western Province by forming a not-for-profit system, Health and Hospital Services, which was renamed PeaceHealth in 1994. PeaceHealth now operates eight hospitals, medical office complexes, chemical-dependency services, home-health services, medical laboratories, and other services in three states—Alaska, Oregon, and Washington. Below is a listing of the hospitals by state. [source: PeaceHealth website]

Alaska

Ketchikan General Hospital, Ketchikan

Oregon

Sacred Heart Medical Center, Riverbend

Sacred Heart Medical Center, Eugene

Cottage Grove Community Hospital, Cottage Grove

Peace Harbor Hospital, Florence

Washington

St. Joseph Hospital, Bellingham

St. John Medical Center, Longview

PeaceIsland Medical Center, Friday Harbor¹

Southwest Washington Medical Center²

BACKGROUND INFORMATION AND PROJECT DESCRIPTION

In 2007, PeaceHealth dba Whatcom Hospice (Whatcom Hospice) submitted a Certificate of Need application proposing to establish a 12-bed hospice care center in the city of Bellingham within Whatcom County. On May 20, 2008, the department approved Whatcom Hospice's Certificate of Need application to build the hospice care center with an estimated capital expenditure of \$3,165,000. On June 11, 2008, the department issued CN#1372 to Whatcom Hospice with four terms attached to the certificate. [source: Department Evaluation dated May 20, 2008]

On June 30, 2008, the Program provided Whatcom Hospice with a progress report as required under WAC 246-310-590. The progress report incorrectly identified the approved capital cost for the project. The correct cost was \$3,165,000; the progress report identified \$6,888,354. Neither the department nor Whatcom Hospice noticed the error. When the costs of the project increased, Whatcom Hospice assumed the incorrect capital expenditure on its progress reports was more than enough to cover the cost overrun.

When the department discovered its error on the progress report, it contacted Whatcom Hospice to advise them that an amended application was required under CN Program rules. For this project, the costs could increase to \$3,544,880. Within the amended application, Whatcom

¹ On August 1, 2011, PeaceHealth was issued an Certificate of Need #1447 approving the establishment of PeaceIsland Medical Center in Friday Harbor, within San Juan County. The new hospital is expected to be become operational in 2012.

² On December 8, 2010, PeaceHealth and Southwest Washington Medical Center entered into an affiliation agreement. [DOR 11-06]

Hospice stated the final cost of the project is \$4,125,440, which is approximately 30% more than the approved capital expenditure of \$3,165,000.

WAC 246-310-570(2)(a)(iii) allows a certificate holder to amend an application that includes construction after project completion if the department does not provide written notification that amendment is necessary. Since the department did not discover the approved capital expenditure error until after Whatcom Hospice completed its project, the department allowed Whatcom Hospice to submit this project post completion. Whatcom Hospice proposes to amend CN#1372 due to increase in capital cost.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to review under WAC 246-310-570(1)(e) because the costs of the project have increased beyond the amount allowable in WAC 246-310-570.

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 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 the 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.”*

The review for an amendment project is limited to only those criteria that would be affected by the amendment, provided that the amendment does not significantly alter the project. Although Whatcom Hospice's capital expenditure increased approximately 30%, the project was not significantly altered under CN rules.

As a result, this review will focus on financial feasibility (WAC 246-310-220) and cost containment (WAC 246-310-240). Additionally, all terms of the initial approval that are not requested to be explicitly modified as part of an applicant's request for an amendment remain in effect. It is noted that the project is complete and all terms and conditions attached to CN#1372 have been met.

APPLICATION CHRONOLOGY

June 23, 2011	Letter of Intent submitted
September 6, 2011	Application submitted
September 7, 2011 through	Department's Pre-Review Activities
November 6, 2011	<ul style="list-style-type: none">• 1st screening activities and response
November 7, 2011	Department Begins Review of the Amendment Application <ul style="list-style-type: none">• public comments accepted throughout review• no public hearing conducted under the expedited review rules
November 28, 2011	End of Public Comment ³
December 12, 2011	Rebuttal Comments Submitted ⁴
January 3, 2012	Department's Anticipated Decision Date
January 3, 2012	Department's Actual Decision Date

AFFECTED PERSONS

Washington Administrative Code 246-310-010(2) defines "*affected person*" as:

"...an "*interested person*" who:

- is located or resides in the applicant's health service area;*
- testified at a public hearing or submitted written evidence; and*
- requested in writing to be informed of the department's decision.*"

Throughout the review of this project, no entities sought or received affected person status under WAC 246-310-010(2).

SOURCE INFORMATION REVIEWED

- PeaceHealth dba Whatcom Hospice Certificate of Need amendment application submitted September 6, 2011
- PeaceHealth dba Whatcom Hospice supplemental information received October 31, 2011
- Quarterly Progress Reports for CN#1372 completed and submitted by PeaceHealth dba Whatcom Hospice [Initial quarterly report beginning in June 2008, and each quarter thereafter for years 2009 and 2010, plus March 2011 and September 2011 quarterly reports.]
- The department's May 28, 2008, initial evaluation approving PeaceHealth dba Whatcom Hospice application to build a 12-bed hospice care center
- Certificate of Need #1372 issued on June 11, 2008

³ The department did not receive any public comment

⁴ Since no public comments were submitted, no rebuttal comments were submitted.

CONCLUSION

For the reasons stated in this evaluation, the application submitted by PeaceHealth dba Whatcom Hospice proposing to amend Certificate of Need #1372 because of increase in the capital expenditure is approved. An amended Certificate of Need shall be issued with an approved capital expenditure of \$4,125,440.

A. Financial Feasibility (WAC 246-310-220)

Based on the source information reviewed, the department determines that the applicant has met the financial feasibility criteria in WAC 246-310-220.

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

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that 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.

Whatcom Hospice Initial Application Summary

In its May 20, 2008, evaluation supporting the issuance of CN #1372, the department concluded that this sub-criterion was met based on the following factors:

- 1) A review of Whatcom Hospice's projected revenue and expense statement for years 2010 through 2015; and
- 2) Further to show that Whatcom Hospice monthly lease costs would be minimal, Whatcom Hospice provided a draft purchase and lease agreement between Catholic Community Services of Western Washington (Seller) and the Visiting Nurse Foundation dba Whatcom Hospice Foundation (Buyer). According to the document provided, Whatcom Hospice Foundation would purchase and finance the property and then lease it to Whatcom Hospice for an annual monthly fee of \$1.00 for a minimum term of fifty (50) years [source: Department's initial evaluation, pgs 6-7]

Whatcom Hospice Amendment Application Review

Within its amendment application, Whatcom Hospice states, "*The Whatcom Hospice Foundation raised the funds for the project through a comprehensive fundraising campaign. The Whatcom Hospice Foundation then leased the hospice care center to Whatcom Hospice for the minimal monthly fee of \$1.00.*" [source: Amended application, p9] Supplemental information provided by Whatcom Hospice in response to the department's screening questions stated the fundraising campaign for the hospice house began on July 1, 2008. As of October 28, 2011, it had raised a total of \$5,285,786 through gifts and donors. The hospice care center became operational in August 2010. [source: Amended application supplemental information received October 31, 2011, p2; March 2011 Progress report]

Department's Evaluation

Information within the amended application states the increase in costs for the project resulted from an increase in the total square footage of the hospice care center, additional costs related to a HVAC system, medical gas system, emergency power and a nurse call system. The department's review of Whatcom Hospice amended application, demonstrates that the scope of the project as approved did not change. [source: October 31, 2011, Supplemental information, p2 and March 2011 progress report]

Information provided in the amendment application demonstrates that the increase in capital expenditure did not affect the revenues, expenses, or financial viability of the hospice care center. Based on the information above, the department concludes that the immediate and long-range operating costs of the project continue to 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.

Whatcom Hospice Initial Application Summary

In its May 20, 2008, initial evaluation supporting the issuance of CN #1372, the department concluded that this sub-criterion was met based on the following factors:

- 1) The applicant's documentation and rationale provided for the establishment of Whatcom Hospice; and
- 2) The use of 100% community fundraising to construct the hospice care center. [source: Department's initial evaluation, p7]

Whatcom Hospice Amendment Application Review

The total costs for the project increased by \$960,440 or approximately 30% above the approved amount. The majority of the cost increase is related to purchase of a new HVAC system, a medical gas system, an emergency power and a nurse call system, and an increase in square footage of the hospice care center. Whatcom Hospice's explanation of the cost overrun is restated below.

"The original budget was created with a more "residential" model in mind. Based on the specific facility requirements for a hospice care center, the square footage of the center increased by over 1,600 square feet, adding to the total cost. In addition, unexpected additional costs related to a medical gas system, new HVAC system, emergency power and a nurse call system increased the total cost significantly. However, these additional costs have no impact on the financial viability of the center since the additional costs were assumed by the Whatcom Hospice foundation through a fundraising campaign. Under the original CN and in this amendment, Whatcom Hospice is simply responsible for a minimal monthly fee of \$1.00 per month. [source: Amendment Application, p20]

Additionally, Whatcom Hospice provided a breakdown of the revised capital expenditure to further demonstrate that cost increase would not result in an unreasonable impact on the costs and charges for health services. A comparison of the costs identified in the initial project and the costs identified in the amendment project is shown in Table 1 below. [source: Amendment Application, p20]

Table 1
Whatcom Hospice Initial and Amended Capital Cost Breakdown

	Original Cost	Final Cost
Land Purchase	\$1,250,000	\$1,250,000
Building Construction	\$1,274,000	\$2,155,448
Fixed Equipment	\$410,000	\$407,118
Architect/Engineer Fees	\$20,000	\$24,500
Consulting Fees	\$60,000	\$62,332
Supervision and Inspection	\$10,000	\$10,786
Sales Tax, Building Construction Equipment	\$141,000	\$215,256
Total Estimated Capital Cost (Actual Replacement Cost)	\$3,165,000	\$4,125,440

To demonstrate that the increase in costs did not result in an unreasonable impact on the costs and charges for health services, Whatcom Hospice confirmed that the source of revenue identified in the initial application had not changed. Whatcom Hospice's revenue source is shown in Table 2 below. [source: Amended Application, p25]

Table 2
Whatcom Hospice Sources and Percentages of Revenue

Source of Revenue	Initial Application
Medicare	75%
State (Medicaid)	18%
Commercial/HMO	6%
Self Pay	1%
Total	100%

Based on the information provided above, the department concludes **this sub-criterion remains 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.

Whatcom Hospice Initial Application Summary

In the initial application, PeaceHealth dba Whatcom Hospice proposed using 100% comprehensive fundraising campaign to fund the 12-bed hospice care center. The approved capital expenditure associated with CN #1372 for the establishment of Whatcom Hospice was \$3,165,000. The majority of the initial capital cost was dedicated to land purchase, construction and leasehold improvements, fixed and moveable equipment and state sales tax.

Whatcom Hospice Amendment Application Review

Information provided to the department by Whatcom Hospice in the amended application confirms 100% campaign funds were used to finance the 12-bed hospice care center. Supplemental information provided by Whatcom Hospice indicated that as of October 28, 2011, it has raised the sum of \$5,285,786. [source: Supplemental information received October 31, 2011, p2]

The March 2011 quarterly progress report for the project confirms that the hospice care center became operational in August 2010. Based on the information provided, the department concludes **this sub-criterion remains met.**

B. Cost Containment (WAC 246-310-240)

Based on the source information reviewed, the department determines that 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. 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 WAC 246-310-210 through 230 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.

Whatcom Hospice Initial Application Summary

On May 28, 2008, the department concluded that Whatcom Hospice's proposal to establish a new 12-bed hospice care center within the city of Bellingham was the best available option because this facility would be the only hospice care center in Whatcom County. [source: Initial evaluation p12]

Whatcom Hospice Amendment Application Review

To evaluate Whatcom Hospice amendment project, the department begins with the three steps identified above.

Step One

For this project, Whatcom Hospice has met the applicable review criteria under WAC 246-310-220. Therefore, the department moves to step two below.

Step Two

WAC 246-310-570(1)(e) requires a certificate holder to obtain an amended Certificate of Need if the costs for the project increase beyond 12% or \$50,000 [whichever is greater] of the approved costs. Since Whatcom Hospice's costs increased by approximately 30% of the approved costs, no other option was available to Whatcom Hospice for this project.

Given that this the only hospice care center in Whatcom County even with the increase in costs, it is ultimately the best option for the residents of the county. The applicant's March 2011 progress report indicated the 12-bed project became operational in August 2010. [source: March 2011, Progress report received August 18, 2011]

Step Three

This step is used to determine between two or more approvable projects which is the best alternative. PeaceHealth dba Whatcom Hospice initial application did not undergo a concurrent review because it was the only application submitted for Whatcom County. Based on the information above, the department concludes this project continues to be the best available alternative for the residents of Whatcom County. **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;
and

This sub-criterion is re-evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that **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.

This sub-criterion is re-evaluated within the financial feasibility criterion under WAC 246-310-220(2) and **is met.**