



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

December 13, 2013

CERTIFIED MAIL # 7011 1570 0002 7802 6302

Troy Green, JD Chief Executive Officer
Olympia Orthopaedic Associates, PLLC
1800 Cooper Point Road Southwest, Building 21
Olympia, Washington 98501

RE: CN 14-01

Dear Mr. Green:

We have completed reconsideration review of the Certificate of Need (CN) application submitted by Olympia Orthopaedic Associates, PLLC proposing to establish a six-operating room ambulatory surgery center in Olympia, within Thurston County. For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Olympia Orthopaedic Associates, PLLC agrees to the following in its entirety.

Project Description:

This certificate approves the establishment of a six operating room surgery center in Olympia, within Thurston County. Services provided at the ambulatory surgery center include orthopedic, pain management, ENT, GI, urology, GYN, plastic surgery, dermatology, and operations of the nervous system. OOA does not intend to provide any ophthalmology or cardiology procedures or provide services to patients less than 8 years of age.

Conditions:

1. Approval of the project descriptions as state above. Olympia Orthopaedic Associates, PLLC further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Olympia Orthopaedic Associates, PLLC will provide charity care in compliance with the charity care policies reviewed and approved by the Department of Health. Olympia Orthopaedic Associates, PLLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the average amount of charity care provided by the two hospitals currently operating in the Thurston County planning area. Currently, this amount is 2.87% of gross revenue and 6.66% of adjusted revenue. Olympia Orthopaedic Associates, PLLC will maintain records documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies.



Approved Costs:

The total capital expenditure for this project is \$10,665,145. Of that amount, \$10,216,223 was expended in year 2011 when Olympia Orthopaedic Associates, PLLC constructed and equipped the 4-operating room Certificate of Need exempt ambulatory surgery center. The remaining \$448,922 is for the equipment and associated taxes necessary to open ORs #5 and #6. The approved capital expenditure associated with this project is \$10,665,145.

You have two options, either accept or reject the above in its entirety. If you accept the above in its entirety, the application will be approved and a Certificate of Need sent to you. If you reject any provision of the above, you 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 you accept the above in its entirety.

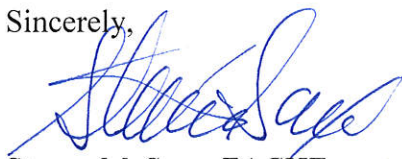
Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

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
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 Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,



Steven M. Saxe, FACHE
Director, Community Health Systems

Enclosure

**RECONSIDERATION EVALUATION DATED DECEMBER 13, 2013, OF THE
 CERTIFICATE OF NEED APPLICATION SUBMITTED BY OLYMPIA
 ORTHOPAEDIC ASSOCIATES, PLLC PROPOSING TO ESTABLISH A SIX
 OPERATING ROOM AMBULATORY SURGERY CENTER IN THURSTON COUNTY**

APPLICANT DESCRIPTION

There are two main entities associated with this project: Olympia Orthopaedic Associates, PLLC and Olympia Orthopaedic Properties, LLC. Below is a brief description of each entity.

Olympia Orthopaedic Associates, PLLC (OOA) is a for-profit Washington State corporation governed by the following 11 physicians located in Olympia, Washington. Each of the 11 physicians has equal ownership of this corporation. [source: Washington State Secretary of State website and April 22, 2013, department staff meeting notes]

| Name | Name | Name |
|----------------------------|-------------------------|-----------------------|
| L (Laddie) Anthony Agtarap | Andrew P. Manista | Steven William Snow |
| Clyde T. Carpenter | R (Robert) Trent McKay | P (Peter) Brodie Wood |
| Patrick Joseph Halpin | William Warren Peterson | Jerome P. Zechmann |
| Thomas Scott Helpenstell | Dennis Edward Smith | |

OOA includes the medical business and all employees of the practice. The following three clinics are under this corporation.

| Name | Address | City |
|----------------------------|-----------------------------------|----------------|
| OOA Eastside Clinic | 615 Lilly Road NE | Olympia |
| OOA Westside Clinic | 3901 Capitol Mall Drive SW | Olympia |
| OOA Yelm Clinic | 201 Tahoma Boulevard SE | Yelm |

The Westside Clinic, identified in bold above, has a Certificate of Need exempt ambulatory surgery center (ASC) located at the same site. [source: Application, p10]

Olympia Orthopaedic Properties, LLC was created in January 2000 for the purpose of owning and leasing property to OOA. This corporation is governed by the following four physicians. [source: Washington State Secretary of State website]

Clyde T. Carpenter | Patrick Joseph Halpin | Dennis Edward Smith | P (Peter) Brodie Wood

For this project, Olympia Orthopaedic Associates, PLLC [OOA] is the applicant.

On May 14 2001, OOA obtained an exemption from Certificate of Need review for the establishment of an ambulatory surgery center [ASC] known as Olympia Surgery Center (OSC). At that time, the ASC and practice were located at 1625 Mottman Road in Tumwater, within Thurston County. The ASC was established and remained in the same location until mid-year 2011.¹ Surgeries performed at the exempt ASC were those typically associated with orthopedic services.

¹ Determination of Reviewability (DOR) 01-20.

On April 7, 2011, OOA obtained a second exemption from Certificate of Need review for the establishment of an ASC at a new site in Thurston County. The new site is 3925 Capitol Mall Drive Southwest in Olympia [98502]. Once the practice and the exempt ASC were operating at the new site on Capitol Mall Drive, services ceased at the former Mottman Road site.²

PROJECT DESCRIPTION

One limitation of an exempt ASC is that only physicians that are part of the group practice may use the surgery center. OOA wants to allow access to the surgery center to physicians that are not part of the group practice. This action requires OOA to obtain a Certificate of Need for the ASC.

OSC is currently licensed and has been in operation at the new site since obtaining the exemption in 2011. Under the exemption OSC has operated with four operating rooms (ORs), pre- and post-operative and recovery rooms, administration/reception space, and physician offices. [source: July 26, 2013, supplemental information, Revised Exhibit 11] If this project is approved, OOA would equip and begin using two more ORs currently built out at the ASC, for a facility total of six new CN approved ORs. [source: Application, p12]

A wide range of orthopedic and pain procedures are currently provided at OSC for patients 8 years of age and older. Typical procedures include joint reconstruction/replacement, various arthroscopic procedures, arthritic and wound care, foot and ankle procedures, trauma, hand and upper extremity surgery, orthopedic spine and neurosurgery, occupational medicine, interventional pain management, physical and occupational therapy, and sports medicine. If this project is approved, OOA intends to expand the procedures beyond orthopedic and pain management procedures currently provided. Additional services include ENT, GI, urology, GYN, plastic surgery, dermatology, and operations of the nervous system. OOA does not intend to provide any ophthalmology or cardiology procedures or provide services to patients less than 8 years of age. [source: November 18, 2013, reconsideration documents]

When an exempt ASC is established within twelve months before an application is submitted, the department requires the applicant to identify the capital costs for its establishment. Those costs are then used to determine the estimated capital expenditure of the project, even though the costs may already be expended. The capital expenditure for this project is \$10,665,145. Of that amount, \$10,216,223 was expended in year 2011 when OOA constructed and equipped the 4-OR exempt ASC. The remaining \$448,922 is for the equipment and associated taxes necessary to open ORs #5 and #6. [source: July 26, 2013, supplemental information, pp2-3]

If this project is approved, OOA anticipates OR #5 would become operational by June 2014, and OR #6 would become operational by January 2015. [source: Application, p15] Under this timeline, year 2015 would be the ASC's first full calendar year of operation as a CN approved ASC with six ORs.

² Exemption requests are specific to the facts in place at the time of the request. Once the practice relocated and Olympia Orthopaedic Associates wanted to establish an exempt ASC at the new site, a new exemption is required. [source: DOR #11-23]

BACKGROUND INFORMATION ON THE PROJECT

On October 4, 2013, the department issued a conditional approval of OOA's application. The conditional approval is restated below.

Project Description:

This certificate approves the establishment of a six operating room surgery center in Olympia, within Thurston County. Services provided at the ambulatory surgery center are limited to the orthopedic and pain management procedures described in the application.

Conditions:

1. Approval of the project description as stated above. Olympia Orthopaedic Associates, PLLC further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Olympia Orthopaedic Associates, PLLC will provide charity care at Olympia Surgery Center in compliance with the charity care policies reviewed and approved by the Department of Health. Olympia Orthopaedic Associates, PLLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the average amount of charity care provided by the two hospitals currently operating in the Thurston County planning area. Currently, this amount is 2.87% gross revenue and 6.66% of adjusted revenue. Olympia Orthopaedic Associates, PLLC will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

Condition #1 above limited OOA's surgical procedures to orthopedic and pain management. On October 22, 2013, OOA submitted a request for reconsideration related to the limitation of procedures. On October 30, 2013, the department granted OOA's reconsideration request. A reconsideration hearing was conducted on November 18, 2013. During the hearing, OOA provided additional documentation related to the limitation of procedures. This document is the evaluation of the reconsideration information.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the establishment of a new healthcare 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).

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 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.”*

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).³ 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.

RECONSIDERATION EVALUATION CRITERIA

WAC 246-310-570 outlines the grounds that the department may deem to show good cause for reconsideration. For this project, OOA identified its grounds for reconsideration under subsection (2)(b)(iii), which states:

“Evidence the department materially failed to follow adopted procedures in reaching a decision.”

The reconsideration issue raised by OOA focuses on the types of procedures proposed to be provided at the ASC if the project is approved. The review for a reconsideration project is limited to only those criteria that were identified in the reconsideration request, however, the result of the department’s reconsideration review may impact other review criteria within the application.

³ Each criterion contains certain sub-criteria. The following sub-criteria are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6); WAC 246-310-220(2) and (3); and WAC 246-310-240(3).

TYPE OF REVIEW

This application was reviewed under the regular review timeline outlined in WAC 246-310-160, which is summarized below.

APPLICATION CHRONOLOGY

| Action | Olympia Orthopaedic Associates, PLLC |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|
| Letter of Intent Submitted | May 24, 2013 |
| Application Submitted | July 1, 2013 |
| Department's pre-review activities including screening and responses | July 2, 2013 through August 1, 2013 |
| Beginning of Review | August 2, 2013 |
| End of Public Comment <ul style="list-style-type: none">• public comments accepted through the end of public comment• No public hearing requested or conducted | September 6, 2013 |
| Rebuttal Comments ⁴ | September 23, 2013 |
| Department's Anticipated Decision Date | November 7, 2013 |
| Department's Actual Decision Date | October 4, 2013 |

RECONSIDERATION REVIEW CHRONOLOGY

| Action | Olympia Orthopaedic Associates, PLLC |
|--------------------------------------------------------|---------------------------------------------|
| Request for Reconsideration | October 22, 2013 |
| Department Grants Reconsideration | October 30, 2013 |
| Reconsideration Public Hearing Conducted | November 18, 2013 |
| Reconsideration Rebuttal Comments Due ⁵ | December 5, 2013 |
| Department's Anticipated Reconsideration Decision Date | January 21, 2014 |
| Department's Actual Reconsideration Decision Date | December 13, 2013 |

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."*

During the initial review of this project, the department identified Providence St. Peter Hospital as the only entity that sought and received affected person status. During the reconsideration review, the department discovered an error in this conclusion. Providence St. Peter Hospital did

⁴ The only documents determined to be public comment were the ASC utilization surveys submitted by existing providers in Thurston County during the department's annual survey. The applicant chose not to provide rebuttal comments on these documents.

⁵ Only the applicant and department staff attended the reconsideration hearing. Only the applicant provided comments at the reconsideration hearing. The applicant is precluded from providing rebuttal comments on their own comments.

not request interested or affected person status on this application.⁶ As a result, no entities sought or received affected person status during the initial or reconsideration review of this project.

INITIAL APPLICATION SOURCE INFORMATION REVIEWED

- Olympia Orthopaedic Associates, PLLC's Certificate of Need application submitted July 1, 2013
- Olympia Orthopaedic Associates, PLLC's supplemental information received July 26, 2013, and July 31, 2013
- Completed hospital and ambulatory surgery center utilization surveys for operating room use and capacity for Thurston County
- Data obtained from the DOH Integrated Licensing & Regulatory System [ILRS] database for operating room use and capacity for facilities located in Thurston County
- Data obtained from the DOH Construction Review Services website [<https://fortress.wa.gov/doh/constructionreviewlookup>]
- Licensing and/or quality of care survey data provided by the Department of Health's Investigations and Inspections Office
- Department of Health / Health Systems Quality Assurance Provider Credential Information
- Washington State Secretary of State website [www.sos.wa.gov]
- Washington State Department of Revenue website [www.dor.wa.gov]
- Certificate of Need historical files

RECONSIDERATION SOURCE INFORMATION REVIEWED

- Olympia Orthopaedic Associates, PLLC's reconsideration request received October 22, 2013
- Olympia Orthopaedic Associates, PLLC's reconsideration information submitted at the November 18, 2013, reconsideration public hearing
- The Department of Health's initial evaluation release on October 4, 2013

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Olympia Orthopaedic Associates, PLLC proposing to establish a Certificate of Need approved ambulatory surgery center is consistent with the applicable review criteria provided Olympia Orthopaedic Associates, PLLC agrees to the following in its entirety.

Project Description:

This certificate approves the establishment of a six operating room surgery center in Olympia, within Thurston County. Services provided at the ambulatory surgery center include orthopedic, pain management, ENT, GI, urology, GYN, plastic surgery, dermatology, and operations of the nervous system. OOA does not intend to provide any ophthalmology or cardiology procedures or provide services to patients less than 8 years of age.

⁶ Providence St. Peter Hospital submitted a letter on July 11, 2013, requesting interested person status related to a letter of intent filed by Capital Medical Center, rather than this Olympia Orthopedic Associates application.

Conditions:

1. Approval of the project description as stated above. Olympia Orthopaedic Associates, PLLC further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Olympia Orthopaedic Associates, PLLC will provide charity care at Olympia Surgery Center in compliance with the charity care policies reviewed and approved by the Department of Health. Olympia Orthopaedic Associates, PLLC will use reasonable efforts to provide charity care in an amount comparable to or exceeding the average amount of charity care provided by the two hospitals currently operating in the Thurston County planning area. Currently, this amount is 2.87% gross revenue and 6.66% of adjusted revenue. Olympia Orthopaedic Associates, PLLC will maintain records documenting the amount of charity care it provides and demonstrating compliance with its charity care policies.

Approved Cost

The total capital expenditure for this project is \$10,665,145. Of that amount, \$10,216,223 was expended in year 2011 when Olympia Orthopaedic Associates, PLLC constructed and equipped the 4-operating room Certificate of Need exempt ambulatory surgery center. The remaining \$448,922 is for the equipment and associated taxes necessary to open ORs #5 and #6. The approved capital expenditure associated with this project is \$10,665,145.

CRITERIA DETERMINATIONS

A. Need (WAC 246-310-210) and Ambulatory Surgery (WAC 246-310-270)

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 Olympia Orthopaedic Associates, PLLC's project has met the need criteria in WAC 246-310-210(1) and (2) and the ambulatory surgery center methodology and standards outlined in the 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 246-31-270(9)-Ambulatory Surgery Numeric Methodology

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on the numeric need methodology outlined in WAC 246-310-270(9) and the applicants demonstration that need for additional operating room capacity was needed in the Thurston County planning area. Additionally, OOA met the ASC requirement under WAC 246-310-270(6) by demonstrating that the ASC would have a minimum of two operating rooms. [source: October 4, 2013, initial evaluation, pp6-9]

Reconsideration Review

In its reconsideration documents, OOA identified the pages and tables within the initial application where OOA provided extensive discussion of its intent to expand services at the ASC beyond orthopedic and pain management. Under the 'need' criterion, specific areas that discuss the services to be provided are:

- Table 11 on page 25 provides the projected number of surgeries, by procedure, for the Thurston County planning area;
- Table 12 on page 26 provides OOA's the market share assumptions by procedure; and
- Table 13, page 26 provides OOA's projected number of surgeries by procedure.

Using the data in tables 11 and 12, OOA identified its projected number of procedures, broken down by type, for year 2014 through 2018. The table on the following page is a summary of Table 13 provided in the initial application and restated in OOA's reconsideration documents.

Table 1
Olympia Surgery Center's
Projected Number of Surgeries by Type

| Procedure* | 2014 | 2015 | 2016 | 2017 | 2018 |
|-------------------------|--------------|--------------|--------------|--------------|--------------|
| Nervous System | 282 | 303 | 326 | 338 | 350 |
| Endocrine System | 12 | 13 | 14 | 15 | 15 |
| Eye | 0 | 0 | 0 | 0 | 0 |
| Ear | 59 | 63 | 68 | 70 | 73 |
| Nose, Mouth & Pharynx | 152 | 163 | 175 | 181 | 188 |
| Respiratory System | 8 | 8 | 9 | 9 | 10 |
| Cardiovascular System | 0 | 0 | 0 | 0 | 0 |
| Digestive System | 1,018 | 1,091 | 1,175 | 1,218 | 1,262 |
| Urinary System | 78 | 84 | 91 | 94 | 97 |
| Male Genital Organs | 14 | 15 | 16 | 16 | 17 |
| Female Genital Organs | 68 | 73 | 78 | 81 | 84 |
| Musculoskeletal System | 4,910 | 5,262 | 5,667 | 5,872 | 6,085 |
| Integumentary System | 474 | 508 | 547 | 567 | 588 |
| Total Procedures | 7,075 | 7,583 | 8,166 | 8,461 | 8,768 |

*Each procedure is prefaced with the phrase ‘operations on the’

As noted in the table above, consistent with OOA’s discussion in the application, OOA does not intend to provide any ophthalmology or cardiology procedures. Additionally, consistent with OOA’s request for reconsideration, OOA intended to expand its services beyond orthopedic and pain management and provided data to determine the number of surgeries by procedure.

Based on the reconsideration information provided, 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of the Admission Policy and Charity Care Policy provided in the application. Additionally, OOA demonstrated its intent to serve Medicare and Medicaid patients and provide charity care at the average percentage of the two hospitals in the planning area. [source: October 4, 2013, initial evaluation, pp9-11]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department’s initial conclusion. With the charity care condition described in the conclusion section of this evaluation, **this sub-criterion remains 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 Olympia Orthopaedic Associates, PLLC's project 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's assumptions used to project the number of procedures to be provided at the surgery center. The projected number of procedures identified in Table 1 in this reconsideration evaluation was used as a basis for the pro forma Revenue and Expense Statement and Balance Sheets provided in the initial application. [source: October 4, 2013, initial evaluation, pp11-14]

Reconsideration Review

In its initial application, OOA based its financial projections on the expanded surgeries discussed in the application. Under this reconsideration, revisions to the Revenue and Expense Statement or the Balance Sheets were not necessary. As a result, there was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's capital expenditure and projected payer mix for the ASC. [source: October 4, 2013, initial evaluation, pp14-15]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's capital expenditure of \$10,665,145 and recognition that 96% of the costs [\$10,216,223] had already been expended when the exempt ASC was built in 2012. At that time, the ASC was built with four completed ORs and shelled-in space for two additional ORs. The remaining \$448,922 will be financed through OOA's cash reserves. A review of OOA's current Balance Sheet demonstrated that the funds are available for the project. [source: October 4, 2013, initial evaluation, p15]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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 Olympia Orthopaedic Associates, PLLC's project 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. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's current and projected FTEs for the ASC. The staff table identified an increase in staff beginning in year 2014 that would continue through year 2016. The increase was based on the addition of physicians and expansion of procedures. In year 2014, OOA expected to begin using OR #5 and using OR #6 in year 2015. [source: October 4, 2013, initial evaluation, p16]

Reconsideration Review

In its initial application, OOA based its staffing projections on the expanded surgeries discussed in the application. Under this reconsideration, revisions to the staffing table were not necessary. As a result, there was no additional information reviewed in this

reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's history of providing orthopedic and pain management services at the CN exempt ASC. As a current provider, OOA had already established long standing support and ancillary services with existing health providers. Additionally, the department reviewed OOA's Quality Assessment/Utilization Review and Performance Improvement Policy used at the surgery center. The policy defines roles and responsibilities and focuses on improved surgical outcomes. [source: October 4, 2013, initial evaluation, p17]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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. As part of its review, the department must conclude that the proposed service would be operated in a manner that ensures safe and adequate care to the public.⁷ 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's facility compliance history and the compliance history of current ASC staff at the exempt ASC. The department also reviewed the compliance history of OOA's medical director and other key 'lead' staff of the ASC, specifically, the Clinical Director, ASC Pre-op/PACU, Quality Assurance/Risk Management, Central Sterile/Surgical Technologist/Purchasing, and Administration/Credentialing.

[source: October 4, 2013, initial evaluation, pp17-18]

⁷ Also WAC 246-310-230(5).

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion. This conclusion was reached based on a review of OOA's current continuity in providing health care to the residents of Thurston County and surrounding areas. Documentation provided in the initial application demonstrated that the surgery center's change from an exempt facility to a Certificate of Need approved facility would not cause unwarranted fragmentation of the existing healthcare system. [source: October 4, 2013, initial evaluation, p18]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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.*

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion based on its ability to meet the sub-criterion in sub-section (3) above. [source: October 4, 2013, initial evaluation, p19]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains 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 determines that Olympia Orthopaedic Associates, PLLC's project 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.

WAC 246-310 does not contain specific WAC 246-310-240(2)(a) criteria as identified in WAC 246-310-200(2)(a)(i). There are known minimum building and energy standards that healthcare facilities must meet to be licensed or certified to provide care. If built to only the minimum standards all construction projects could be determined to be reasonable. However, the department, through its experience knows that construction projects are usually built to exceed these minimum standards. The department considered information in the applications that addressed the reasonableness of their construction projects that exceeded the minimum standards. Therefore, using its experience and expertise the department assessed the materials contained in the application.

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 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.

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion based on its consideration of alternatives considered. Additionally, since OOA intended to allow access to the ASC by physicians that are not members or employees of the group practice, the department recognized that that OOA's only alternative was to submit this application. [source: October 4, 2013, initial evaluation, pp19-20]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. Additionally, with OOA's intent to expand its services beyond orthopedic and pain management, again, OOA's only alternative is to submit this application. **This sub-criterion remains met.**

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

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

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

Initial Evaluation Summary

In its October 4, 2013, initial evaluation the department concluded that OOA met this sub-criterion based on its ability to meet the sub-criterion in sub-section WAC 246-310-220(2) above. [source: October 4, 2013, initial evaluation, pp20-21]

Reconsideration Review

There was no additional information reviewed in this reconsideration that would change the department's initial conclusion. **This sub-criterion remains met.**