



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

December 20, 2016

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Christina Lombardi, Regional Director
Clinical Operations and Market Integration, Seattle Region
Group Health Cooperative
201 16th Avenue East, D640
Seattle WA 98112-5260

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Susan E. Mullaney, Regional President Designate
Kaiser Foundation Health Plan of Washington
500 NE Multnomah Street
Portland, OR 97232

RE: CN Applications 17-01 & 17-02

Dear Ms. Lombardi and Ms. Mullaney:

We have completed review of the Certificate of Need (CN) applications submitted by Group Health Cooperative (GHC) and Kaiser Foundation Health Plan of Washington (KFHP-WA), proposing the continued operation of two ambulatory surgery centers following Kaiser's acquisition of controlling interest in Group Health Cooperative. The ambulatory surgery centers are the Group Health Capitol Hill Ambulatory Surgery Center and Group Health Capitol Hill Procedure Center.

For the reasons stated in the enclosed decision, both applications is consistent with the applicable criteria of the Certificate of Need Program, provided that co-applicants Group Health Cooperative and Kaiser Family Health Plan of Washington agree to the following conditions in their entirety.

Group Health Capitol Hill Ambulatory Surgery Center

Project Description

This certificate approves the continued operation of the eleven operating room ambulatory surgery center in Seattle, within Central King County following the transaction in which Kaiser Family Health Plan of Washington will become the sole member of Group Health Cooperative. The types of surgeries to be performed at the ambulatory surgery center include general surgery, orthopedics, otolaryngology, ophthalmology, neurosurgery, gastroenterology, dermatology, pulmonology, vascular surgery, urology, gynecology, plastic surgery, podiatry, cardiology (cardioversions), anesthesiology,

and interventional radiology. The surgery center provides care to patients one year of age and older that can be served appropriately in an outpatient setting. Patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Ambulatory Surgery Center and Swedish Health Services.

Conditions

1. Approval of the project description as stated above. Group Health Cooperative and Kaiser Family Health Plan of Washington further agree that any change to the project as described in the project description is a new project and requires a new Certificate of Need.
2. Percutaneous Coronary Interventions (PCI) as defined in WAC 246-310-705 may not be performed at the Group Health Capitol Hill Ambulatory Surgery Center.
3. Consistent with Revised Code of Washington 70.38.115(3), the Group Health Capitol Hill Ambulatory Surgery Center may not be sold, leased, or have a change in control without first obtaining a Certificate of Need.
4. The Group Health Capitol Hill Ambulatory Surgery Center shall cease dual-licensing of the facility immediately upon meeting requirements for Medicare certification. GHC will submit an amended hospital license application removing the Group Health Capitol Hill Ambulatory Surgery Center from the hospital's license within five working days of receiving certification.

Approved Capital Costs

There is no capital expenditure related to this project.

Group Health Capitol Hill Procedure Center

Project Description

This certificate approves the continued operation of the five operating room ambulatory surgery center in Seattle, within Central King County following the transaction in which Kaiser Family Health Plan of Washington will become the sole member of Group Health Cooperative. The types of procedures to be performed at the ambulatory surgery center include gastroenterology procedures, manometry, EBUS, and TEE. The surgery center provides care to adult patients that can be served appropriately in an outpatient setting. Patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Procedure Center and Swedish Health Services.

Conditions

1. Approval of the project description as stated above. Group Health Cooperative and Kaiser Family Health Plan of Washington further agree that any change to the project as described in the project description is a new project and requires a new Certificate of Need.
2. Consistent with Revised Code of Washington 70.38.115(3), the Group Health Capitol Hill Procedure Center may not be sold, leased, or have a change in control without first obtaining a Certificate of Need.

3. The Group Health Capitol Hill Procedure Center shall cease dual-licensing of the facility immediately upon receipt of AAAHC accreditation. GHC will submit an amended hospital license application removing the Group Health Capitol Hill Procedure Center from the hospital's license within five working days of receiving accreditation.

Approved Capital Costs

There is no capital expenditure related to this project.

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

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

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

Mailing Address:

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

Physical Address:

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

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

Sincerely,



Bart Eggen
Acting Director, Community Health Systems

Enclosure

CC:

Katherine Saral,
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EVALUATION DATED DECEMBER 20, 2016 OF THE TWO CERTIFICATE OF NEED APPLICATIONS SUBMITTED BY GROUP HEALTH COOPERATIVE AND KAISER FOUNDATION HEALTH PLAN OF WASHINGTON, PROPOSING THE CONTINUED OPERATION OF TWO AMBULATORY SURGERY CENTERS IN CENTRAL KING COUNTY.

APPLICANT DESCRIPTIONS

Group Health Cooperative

Group Health Cooperative (GHC) was founded in Seattle in 1947 as a provider of prepaid health coverage and health care services through its own medical providers and facilities. GHC is registered as a health maintenance organization (HMO)¹ with the Office of the Insurance Commissioner. GHC is currently registered with both the Washington State Secretary of State and the Department of Revenue. It is currently member-owned, and is governed by an elected Board of Trustees. [sources: application 17-02 p13, Secretary of State and Department of Revenue websites]

Group Health Cooperative's corporate structure also includes Group Health Options and Columbia Medical Associates, LLC. Group Health Options is a health care service contractor that affords members increased customer choice. Columbia Medical Associates, LLC is controlled by GHC and provides medical services within the Spokane area.

Group Health serves its members through numerous medical facilities that it owns and operates throughout Washington State, including an acute care hospital and ambulatory surgery centers in Seattle, Tacoma, and Bellevue. [source: application 17-02 p8]

Kaiser Family Health Plan of Washington

Kaiser Family Health Plan of Washington (KFHP-WA) is a Washington non-profit corporation, and a subsidiary of California-based Kaiser Foundation Health Plan, Inc. KFHP-WA does not currently have any operations. Kaiser Foundation Health Plan, Inc., along with Kaiser Foundation Hospitals, and Permanente Medical Groups operate the Kaiser Permanente Medical Care Program, or, Kaiser Permanente (KP). Kaiser Permanente operates 38 hospitals, 621

¹ Under RCW 70.38.025(7), a health maintenance organization means “a public or private organization, organized under the laws of the state, which:

- (a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services [Service] Act; or
- (b) (i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health services: Usual physician services, hospitalization, laboratory, X-ray, emergency, and preventative services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physician' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

clinics and outpatient facilities, and the Permanente Medical Groups employ approximately 18,000 physicians.

KP operates in seven regions in the United States, serving over ten million members. The regions include Northern California, Southern California, Hawaii, Northwest (including Oregon and Southwest Washington), Georgia, Mid-Atlantic (including Maryland, Virginia, and the District of Columbia), and Colorado.

In Washington State, KP currently operates 8 medical offices in Clark and Cowlitz counties. [sources: application 17-01 pp9-10, 12]

BACKGROUND INFORMATION

In 2015, GHC submitted applications to the department for the conversion of two hospital outpatient surgery departments into ambulatory surgery centers on the Group Health Central Hospital campus. Upon project approval, GHC began the process of transitioning space on the hospital campus to ambulatory surgical facility (ASF)² licensure and the Group Health Capitol Hill Ambulatory Surgery Center and Group Health Capitol Hill Procedure Center were established. The department attached a condition to each of these approvals, requiring that neither facility could be sold, leased, or have a change in control without first obtaining a Certificate of Need. This condition is consistent with the Revised Code of Washington (RCW) 70.38.115(3), which states:

A health care facility, or any part thereof, with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.

In early 2016, KFHP-WA and GHC entered into an acquisition agreement. Under this agreement, KFHP-WA will become the sole member of GHC. Upon the closure of this transaction, KFHP-WA will take the place of the GHC voting membership, and KFHP-WA will appoint a new board of directors. This transaction results in a change in controlling interest of the two ASCs, prompting Certificate of Need review for both facilities.

There is no capital expenditure specific to either project. The transaction in which KFHP-WA will acquire GHC involves two main financial pieces, neither of which is related to a transfer of facility ownership. First, KFHP-WA will invest \$1.8 billion into the non-profit “Group Health Community Foundation.” This foundation will be dedicated to the promotion of health for Washington State residents. Second, KFHP-WA will invest a further \$1 billion over ten years for “*capital improvements, infrastructure, and other improvements benefiting Group Health and its subsidiaries.*” [source: application 17-01 p16]

² Throughout this evaluation, the terms ASF and ASC (ambulatory surgery center) will be used interchangeably. ASF refers to the category of licensure, ASC refers to the facility itself. For Certificate of Need purposes, the difference in nomenclature is insignificant.

All required construction relating to the conversion of the space from hospital licensure to ASF licensure has already been undertaken with the original CN approval of this facility. [source: 17-01 September 29, 2016 screening response p3]

PROJECT DESCRIPTIONS

Group Health Capitol Hill Ambulatory Surgery Center

With this application, GHC and KFHP-WA propose the continued operation of the Group Health Capitol Hill Ambulatory Surgery Center following the completion of KFHP-WA's acquisition of GHC.

Group Health currently owns and operates the Group Health Capitol Hill Ambulatory Surgery Center. It is located on the Group Health Central Hospital Campus at 201–16th Avenue East in Seattle, Washington, within the Central King County secondary service planning area. As of the writing of this evaluation, this 11-OR CN-approved ASC is dually licensed as it transitions from licensure as a hospital outpatient department to an ASF. Once the space meets all ASF requirements, it will be removed from the hospital license.

The ASF would continue to operate in the same location and serve the same types of patients – ages one year and older that can be served appropriately in an outpatient setting. The number of ORs and associated support spaces would not change as a result of this project, including preoperative space, two recovery units, and five rooms for patient observation following surgery, not to exceed 23 hours and 59 minutes from the time of admission to discharge. Surgical specialties provided at this location include general surgery, orthopedics, otolaryngology, ophthalmology, neurosurgery, gastroenterology, dermatology, pulmonology, vascular surgery, urology, gynecology, plastic surgery, podiatry, cardiology (cardioversions), anesthesiology, and interventional radiology. Consistent with information in the original 2015 approval, patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Ambulatory Surgery Center and Swedish Health Services.

As the facility is already operational under GHC ownership, the project would commence immediately following the transaction closing, which is expected to occur on or around January 1, 2017. Under this timeline, year 2017 would be the ASCs first full year of operation under KFHP-WA control and 2019 would be year three. [sources: application 17-01 pp10, 16-18, CN historical files, Construction Review Services Project #60622984]

Group Health Capitol Hill Procedure Center

With this application, GHC and KFHP-WA propose the continued operation of the Group Health Capitol Hill Procedure Center following the completion of KFHP-WA's acquisition of GHC.

Group Health currently owns and operates the Group Health Capitol Hill Procedure Center. It is located on the Group Health Central Hospital Campus at 125–16th Avenue East in Seattle, Washington, within the Central King County secondary service planning area. As of the writing of this evaluation, this 5-OR CN-approved ASC is dually licensed as it transitions from licensure as a hospital outpatient department to an ASF. Once the space meets all ASF requirements, it will be removed from the hospital license.

The ASF would continue to operate in the same location and serve the same types of patients – ages 18 and older that can be served appropriately in an outpatient setting. The number of ORs and associated support spaces would not change as a result of this project. Surgical services provided at this location include gastroenterology procedures, manometry, EBUS, and TEE. Consistent with information in the original 2015 approval, patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Procedure Center and Swedish Health Services.

As the facility is already operational under GHC ownership, the project would commence immediately following the transaction closing, which is expected to occur on or around January 1, 2017. Under this timeline, year 2017 would be the ASCs first full year of operation under KFHP-WA control and 2019 would be year three. [sources: application 17-02 pp6, 17-18, October 21 screening response p3, CN historical files, Construction Review Services Project #60622973]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to Certificate of Need review as the other establishment of a new health care facility under the provisions of RCW 70.38.105(4)(a) and Washington Administrative Code (WAC) 246-310-020(1)(a)

EVALUATION CRITERIA

RCW 70.38.115(3) limits the criteria the department uses in its review of a facility owned by an HMO. The statute also prohibits the sale, lease, or change in controlling interest of an entity granted a CN under this statutory provision without first obtaining a CN approving the sale, acquisition, or lease. WAC 246-310, which guides all other CN decisions, does not contain service or facility standards for an HMO project. Therefore, the evaluation criteria for this review are limited to those found in the statute.

TYPE OF REVIEW

While not submitted under a published concurrent review cycle, these applications were reviewed concurrently. The concurrent review process promotes the expressed public policy goal of RCW 70.38 that the development or expansion of health care services is accomplished in a planned, orderly fashion and without unnecessary duplication. Specific to the two applications submitted jointly by GHC and KFHP-WA, the concurrent review allows the department to review the applications proposing ambulatory surgery services in the same planning area – Central King County – simultaneously to reach a decision that serves the best interest of the enrolled population of GHC in King County and surrounding areas.

In a concurrent review, the department issues one single evaluation regarding whether either or both of the projects should be issued a Certificate of Need. Because both projects represent the acquisition of an existing healthcare facility, these applications were reviewed under an expedited review timeline, outlined under WAC 246-310-150 and summarized below.

APPLICATION CHRONOLOGY

Action	Group Health Capitol Hill Ambulatory Surgery Center	Group Health Capitol Hill Procedure Center
Letter of Intent Submitted	April 28, 2016	April 28, 2016
Application Submitted	July 14, 2016	July 14, 2016
<u>Pre-Review Activities:</u>		
• DOH 1st Screening Letter	August 4, 2016	August 4, 2016
• Applicant’s Responses Received	September 29, 2016	September 29, 2016
• DOH 2nd Screening Letter	October 18, 2016	October 18, 2016
• Applicant’s Responses Received	October 21, 2016	October 21, 2016
Beginning of Review	October 26, 2016	October 26, 2016
Public Hearing Conducted	N/A	N/A
End of Public Comment ³	November 15, 2016	November 15, 2016
Rebuttal Comments Due ⁴	December 1, 2016	December 1, 2016
Department’s Anticipated Decision Date	December 21, 2016	December 21, 2016
Department’s Actual Decision Date	December 20, 2016	December 20, 2016

AFFECTED PERSONS

Washington Administrative Code 246-310-010(2) defines “affected person” as:

“...an “interested person” who:

- (a) Is located or resides in the applicant’s health service area;
- (b) Testified at a public hearing or submitted written evidence; and
- (c) Requested in writing to be informed of the department’s decision.”

As noted above, WAC 246-310-010(2) requires an affected person first meet the definition of an “interested person.” WAC 246-310-010(34) defines “interested person” as:

- (a) The applicant
- (b) Health care facilities and health maintenance organizations providing services similar to the services under review and located in the health service area;
- (c) Third-party payers reimbursing health care facilities in the health service area;
- (d) Any agency establishing rates for health care facilities and health maintenance organizations in the health service area where the proposed project is to be located;
- (e) Health care facilities and health maintenance organizations which, in the twelve months prior to receipt of the application, have submitted a letter of intent to provide similar services in the same planning area;
- (f) Any person residing within the geographic area to be served by the applicant; and
- (g) Any person regularly using health care facilities within the geographic area to be served by the applicant.

No entities or persons sought interested or affected person status.

³ Public comments accepted through the end of the public comment period.

⁴ No public comment was received. Therefore, the co-applicants were precluded from providing rebuttal.

SOURCE INFORMATION REVIEWED

- Group Health Capitol Hill Ambulatory Surgery Center application received July 14, 2016
- Group Health Capitol Hill Procedure Center application received July 14, 2016
- Group Health Capitol Hill Ambulatory Surgery Center screening responses received September 29, 2016 and October 21, 2016
- Group Health Capitol Hill Procedure Center screening response received September 29, 2016 and October 21, 2016
- Licensing data provided by the Department of Health's internal database, Integrated Licensing & Regulatory System, "ILRS"
- Group Health Cooperative website: <http://www.ghc.org>
- Kaiser Permanente website: <https://share.kaiserpermanente.org/>
- Washington State Secretary of State website: <http://www.sos.wa.gov>
- Washington State Department of Revenue website: <http://www.dor.wa.gov>
- Washington State Office of the Insurance Commissioner website: <http://www.insurance.wa.gov>
- Construction Review Services project files CRAS.FS.60622973 and CRAS.FS.60622984
- Certificate of Need historical files

CONCLUSIONS

Group Health Capitol Hill Ambulatory Surgery Center

For the reasons stated in this evaluation, the application submitted by Group Health Cooperative and Kaiser Family Health Plan of Washington that proposes the continued operation of the Group Health Capitol Hill Ambulatory Surgery Center in Central King County is consistent with the applicable review criteria, provided the co-applicants agree to the following in its entirety.

Project Description

This certificate approves the continued operation of the eleven operating room ambulatory surgery center in Seattle, within Central King County following the transaction in which Kaiser Family Health Plan of Washington will become the sole member of Group Health Cooperative. The types of surgeries to be performed at the ambulatory surgery center include general surgery, orthopedics, otolaryngology, ophthalmology, neurosurgery, gastroenterology, dermatology, pulmonology, vascular surgery, urology, gynecology, plastic surgery, podiatry, cardiology (cardioversions), anesthesiology, and interventional radiology. The surgery center provides care to patients one year of age and older that can be served appropriately in an outpatient setting. Patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Ambulatory Surgery Center and Swedish Health Services.

Conditions

1. Approval of the project description as stated above. Group Health Cooperative and Kaiser Family Health Plan of Washington further agree that any change to the project as described in the project description is a new project and requires a new Certificate of Need.
2. Percutaneous Coronary Interventions (PCI) as defined in WAC 246-310-705 may not be performed at the Group Health Capitol Hill Ambulatory Surgery Center.

3. Consistent with Revised Code of Washington 70.38.115(3), the Group Health Capitol Hill Ambulatory Surgery Center may not be sold, leased, or have a change in control without first obtaining a Certificate of Need.
4. The Group Health Capitol Hill Ambulatory Surgery Center shall cease dual-licensing of the facility immediately upon meeting requirements for Medicare certification. GHC will submit an amended hospital license application removing the Group Health Capitol Hill Ambulatory Surgery Center from the hospital's license within five working days of receiving certification.

Approved Costs

There is no capital expenditure related to this project.

Group Health Capitol Hill Procedure Center

For the reasons stated in this evaluation, the application submitted by Group Health Cooperative and Kaiser Family Health Plan of Washington that proposes the continued operation of the Group Health Capitol Hill Procedure Center in Central King County **is** consistent with the applicable review criteria, provided the co-applicants agree to the following in its entirety.

Project Description

This certificate approves the continued operation of the five operating room ambulatory surgery center in Seattle, within Central King County following the transaction in which Kaiser Family Health Plan of Washington will become the sole member of Group Health Cooperative. The types of procedures to be performed at the ambulatory surgery center include gastroenterology procedures, manometry, EBUS, and TEE. The surgery center provides care to adult patients that can be served appropriately in an outpatient setting. Patients in need of care beyond the 23 hours and 59 minutes allowable within an ASC would be transferred in accordance with the transfer agreement between the Group Health Capitol Hill Procedure Center and Swedish Health Services.

Conditions

1. Approval of the project description as stated above. Group Health Cooperative and Kaiser Family Health Plan of Washington further agree that any change to the project as described in the project description is a new project and requires a new Certificate of Need.
2. Consistent with Revised Code of Washington 70.38.115(3), the Group Health Capitol Hill Procedure Center may not be sold, leased, or have a change in control without first obtaining a Certificate of Need.
3. The Group Health Capitol Hill Procedure Center shall cease dual-licensing of the facility immediately upon receipt of AAAHC accreditation. GHC will submit an amended hospital license application removing the Group Health Capitol Hill Procedure Center from the hospital's license within five working days of receiving accreditation.

Approved Costs

There is no capital expenditure related to this project.

CRITERIA DETERMINATIONS

A. RCW 70.38.115(3)(a)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department determines that co-applicants Group Health Cooperative and Kaiser Family Health Plan of Washington **met** the applicable criteria set forth in RCW 70.38.115(3)(a) for both the Group Health Capitol Hill Ambulatory Surgery Center and Group Health Capitol Hill Procedure Center.

Revised Code of Washington 70.38.115(3)(a) provides only the following guidance for reviewing applications submitted by an HMO. It states:

“A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:

(a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll”

WAC 246-310 does not provide specific review criteria for an HMO operated or controlled ASC. Therefore, the department evaluated the information provided by the co-applications for reasonableness and adherence to the criteria found in statute.

For each application, GHC and KFHP-WA provided modified versions of the numeric need methodology for ASCs that is found under WAC 246-310-270.

Group Health Capitol Hill Ambulatory Surgery Center

The following rationale and table were provided by the co-applicants to demonstrate need for the existing, 11-OR multispecialty ASC.

*“Neither the CN statute nor Department rules provide a methodology for determining whether an ASC is required in order to meet the minimum needs of HMO members, but Department rules do provide an ASC need methodology for non-HMO applicants at WAC 246-310-270(9). Consequently, we have adapted the non-HMO ASC need methodology for use in this application, as explained and applied below. The adapted need methodology projects a **total need for 11 operating rooms.**”* [emphasis in original]

**Table 1
GHC Capitol Hill ASC Need Model**

Criteria	GHC and KFHP-WA Data
Existing Capacity	
Annual Capacity for 11 ORs	68,850 minutes per OR; 757,350 for ASC
Average Minutes/Procedures in ORs	65 minutes
Future Demand for Operating Rooms	
Actual 2015 Procedures (minus 19 neuro cases)	6,510 cases
2018 Procedure Forecast Base (Projected 5% annual enrollment growth over 3 years)	7,536 cases
Addition of 280 neurosurgery procedures @ 97 minutes/surgery (adjusted to reflect average minutes/procedure)	418 cases
Adjusted projected procedures in 3rd year	7,954 cases
Demand in 3rd year (in minutes)	517,009 minutes
OR Demand in 3rd year	7.5 ORs
Minimum OR Demand	8 ORs
Demand for Backup/Surge Capacity OR	2 ORs
Demand for Coordinated Care OR	1 OR
Total OR Demand in 3rd year	11 ORs
Net Need (surplus)	
Total OR Demand, 3rd year	11 ORs
OR Capacity	11 ORs
Net Need (Surplus)	0

[source: September 29, 2016 screening response, p6]

The applicants provided the following rationale for the 5% annual growth rate that is shown in Table 1 above:

“Recent enrollment experience has been significantly above the previous assumption of 6% growth over three years (<2% growth per year), as assumed in the Department’s 2015 Decision granting certificate of need (“CN”) approval for the ASC. There has been an increase in enrollment of 11.2% between 2015 and 2016 (See Table 2 below). Therefore, the 2015-2016 growth already surpassed the entire three year growth assumed in the previous model used in the Department’s 2015 decision.

In light of recent experience, we elected to remain conservative and have projected annual enrollment growth at 5%.” [source: September 29, 2016 screening response, p5]

The co-applicants provided the following additional discussion relating to the non-numeric need for outpatient ORs for their enrolled population.

“GHC takes responsibility for all of the medically necessary, covered health care services of its members. It distinguishes itself from other health care systems with the highly integrated and

coordinated manner by which it delivers its services. GHC's delivery model and perceived value in the competitive marketplace depends upon its ability to deliver care in its distinctively integrated and coordinated manner. To continue to do so, GHC requires continued access to more ORs than the minimum needed to accommodate projected OR procedures for its members, as explained below.

"GHC requires at least two backup ORs, in addition to the 8 ORs justified by the adapted need methodology. GHC operates 22 ORs in Seattle, Bellevue and Tacoma. In the event one or more ORs at those locations become unavailable because of equipment or systems problems or other reasons, good practice requires GHC to keep backup ORs available in order to maintain to the extent possible its regular outpatient surgery schedule and access for urgent care patients who require immediate outpatient surgery. GHC operates full-service urgent-care departments at its Capitol Hill, Bellevue and Tacoma campuses, and refers urgent care patients for outpatient surgery, e.g., for an appendectomy or surgical repair of a bone fracture. Further, it should be noted these two backup ORs will provide some limited OR surge capacity to handle a possible surge in patient numbers caused by a natural disaster or other event that would disrupt normal health care services in the region. This is further justification for the two ORs requested for backup demand.

"GHC also needs to maintain at least one more OR, in addition to the minimum needed to serve scheduled and urgent-care patients and maintain backup OR access, including limited surge capacity. Unlike a typical multi-specialty group ASC that operates on a fee-for-service basis, GHC's care model creates powerful incentives for it to improve patient outcomes and reduce health care costs. One of the ways GHC strives to attain these objectives is by coordinating the procedures its providers perform in the ORs. Care coordination in the GHC care model requires more than the minimum number of ORs projected by the adapted non-HMO ASC need methodology". [source: September 29, 2016 screening response, pp8-9]

The co-applicants provided specific examples of care coordination, below:

"As an example of care coordination, GHC will schedule needed plastic surgery to follow immediately after a regular surgical procedure. Coordination allows the patient to avoid a separate plastic surgery procedure and second recovery period and it promotes better outcomes. Coordination reduces health care costs by allowing two procedures to be accomplished with one OR setup and cleanup. Anesthesiologist time and drug costs can be substantially reduced. Health care costs can be reduced further if the regular surgeon can shift to another patient in another OR during the time scheduled for the plastic surgeon and OR cleanup, avoiding costly down time for the surgeon.

"Similar care coordination can obtain cost savings for procedures that involve a substantial amount of patient preparation or other non-surgical time in the OR, such as wrist surgeries.

"While a wrist surgery patient is being prepared in the OR, the surgeon could be performing surgery on another patient in another OR. With 8 ORs needed to serve scheduled and urgent care patients, two ORs for back-up/surge capacity, we estimate, given current and projected

growth, as discussed above, we will need at least one additional OR in order to continue coordinating surgical care.

“Other considerations support awarding more than the minimum ORs projected by the adapted non-HMO methodology. Like other providers, GHC anticipates an increasing prevalence of drug-resistant bacterial infections among its outpatient surgery patients. For certain surgery patients, additional measures are required to maintain a high level of patient safety and infection control, including terminal cleaning of the OR and all equipment following a procedure.

“Terminal cleaning is a time-consuming process and can remove an OR from the schedule for 1.5 hours. Although GHC attempts to schedule procedures that will require terminal cleanup at the end of the daily schedule, it is not always possible to do so, e.g., for an unscheduled urgent care patient. Needed OR capacity would be lost unless GHC has an OR available for use in such circumstances.” [source: September 29, 2016 screening response, p9]

Public Comment

None

Rebuttal

None

Department Evaluation

There are no adopted standards for the review of an HMO owned or controlled ASC. Therefore the department’s review will focus on the reasonableness of the assumptions and modifications that GHC made to the existing non-HMO methodology in their request for the continued operation of 11 ORs at the Group Health Capitol Hill Ambulatory Surgery Center. For reader ease, Table 1 has been replicated on the following page, with department comments following.

Table 1
GHC Capitol Hill ASC Need Model
(replicated from above)

Criteria	GHC and KFHP-WA Data
Existing Capacity	
Annual Capacity for 11 ORs	68,850 minutes per OR; 757,350 for ASC
Average Minutes/Procedures in ORs	65 minutes
Future Demand for Operating Rooms	
Actual 2015 Procedures (minus 19 neuro cases)	6,510 cases
2018 Procedure Forecast Base (Projected 5% annual enrollment growth over 3 years)	7,536 cases
Addition of 280 neurosurgery procedures @ 97 minutes/surgery (adjusted to reflect average minutes/procedure)	418 cases
Adjusted projected procedures in 3rd year	7,954 cases
Demand in 3rd year (in minutes)	517,009 minutes
OR Demand in 3rd year	7.5 ORs
Minimum OR Demand	8 ORs
Demand for Backup/Surge Capacity OR	2 ORs
Demand for Coordinated Care OR	1 OR
Total OR Demand in 3rd year	11 ORs
Net Need (surplus)	
Total OR Demand, 3rd year	11 ORs
OR Capacity	11 ORs
Net Need (Surplus)	0

[source: September 29, 2016 screening response, p6]

The co-applicants used existing patient origin data and actual number of surgeries to establish a use rate. This substitution is acceptable. Rather than using a set planning area population, the co-applicants instead used the actual number of enrollees that received surgical care at the facility. The applicant did not project growth in utilization, only growth in enrollment. The department agrees that the assumptions the co-applicants made in their adapted methodology can be substantiated and demonstrate numeric need for 9 ORs.

The application requests that the department consider non-numeric need for an additional 2 ORs, for a total of 11 ORs. Under ordinary circumstances, ORs beyond those projected in the numeric need would not be approved. However, this project is not being evaluated under WAC 246-310-270. Instead, the department must determine whether the requested ORs meet the requirements found in statute – that *“approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll.”*

The co-applicants identified several reasons for maintaining operation of all 11 ORs at the Group Health Capitol Hill Ambulatory Surgery Center, including care coordination, backup capacity,

and drug-resistant bacterial infections. These reasons are not unique to the co-applicants. However, this proposed project maintains the current level of access to outpatient surgery for current GHC enrollees and future Kaiser enrollees within the greater King and Snohomish County area. Therefore, the rationale provided by the co-applicants for two ORs beyond the numeric need is reasonable.

Based on the source information, the department concludes **this criterion is met.**

Group Health Capitol Hill Procedure Center

The following rationale and table were provided by the co-applicants to demonstrate need for the existing, 5-OR ASC.

*“Neither the CN statute nor Department rules provide a methodology for determining whether an ASC is required in order to meet the minimum needs of HMO members, but Department rules do provide an ASC need methodology for non-HMO applicants at WAC 246-310-270(9). Consequently, we have adapted the non-HMO ASC need methodology for use in this project, as explained and applied below. The adapted need methodology projects a **total need for 5 procedure rooms.**”* [emphasis in original]

**Table 2
GHC Capitol Hill Procedure Center Need Model**

Criteria	GHC and KFHP-WA Data	
Existing Capacity	4 Gastro Rooms	1 Pulm/Cardio Room
Annual Capacity per OR (68,850 min/room)	275,400 minutes	68,850 minutes
Average Minutes/Procedure in ORs	30 minutes	74 minutes
Future Demand		
Actual 2015 Procedures	4,350 cases	137 cases
2018 Procedure Forecast Base (Projected 5% annual enrollment growth over 3 years)	5,036 cases	159 cases
Add manometry procedures @ 30 min each	104 cases	n/a
Add scheduled but cancelled procedures @ 5.7%	293 cases	9 cases
Total adjusted PR procedures in 3rd year	5,433 cases	168 cases
Demand in 3rd year (minutes)	162,979 minutes	12,405 minutes
OR Demand in 3rd year	2.4 ORs	0.2 OR
Minimum OR Demand	3 ORs	1 OR
Demand for backup OR	0.5 OR	n/a
Demand for coordinated care OR	0.5 OR	n/a
Total OR Demand in 3rd year	4 ORs	1 OR
Net Need (Surplus)		
Demand for ORs	4 ORs	1 OR
Supply of ORs	4 ORs	1 OR
Net Need (Surplus)	0	0

[source: September 29, 2016 screening response, p5]

The applicants provided the following rationale for the 5% annual growth rate, shown in Table 2 on the previous page:

“The key assumption used in the utilization forecast above is the 5% annual growth trend applied to the gastroenterology and pulmonary/cardiology procedures throughout the forecast period, as well as the manometry projections from 2019 to 2021.

“The growth rate is driven off of assumed average enrollment growth projections. As discussed above in our response pertaining to enrollment projections, GHC has recently experienced an increase of 11.2% in members from King and Snohomish Counties between 2015 and 2016. Therefore, the 2015-2016 growth alone has surpassed the entire 6% growth over three years (<2% per year) that was assumed in the previous model used in the Department’s 2015 decision. In light of recent experience, we decided to remain conservative and have projected growth remaining at 5% year-over-year.” [source: September 29, 2016 screening response, p10]

The applicant provided the following information to support 5.7% cancellation rate shown in Table 2 above:

“Over the 6-month period from January through June, 2015, a combined average of 8 percent of GI appointments either were cancelled or resulted in no-shows. Due to the difficulty and expense of gathering data on many hundreds of individual patient encounters, and the further challenges of separating procedural encounters from clinic encounters, Group Health believes that the 8 percent number may somewhat overstate the percentage of Procedure Center GI cancellations and no-shows. However, Group Health believes that the 6 percent cancellation/no-show rate used in its CN application is a reasonable estimate, for purposes of describing the impact that unfilled – and unfillable – appointments for procedural services has on the overall capacity needs of the Procedure Center.” [source: October 21, 2016 screening response, p4]

The applicants provided the following additional discussion relating to the non-numeric need for outpatient ORs for their enrolled population.

“GHC takes responsibility for all of the medically necessary, covered health care services of its members. It distinguishes itself from other health care systems with the highly integrated and coordinated manner by which it delivers its services. GHC’s delivery model and perceived value in the competitive marketplace depends upon its ability to deliver care in its distinctively integrated and coordinated manner. To continue to do so, GHC requires continued access to more procedure rooms than the minimum demand estimate to accommodate projected procedures for its members, as explained below.

“GHC requires backup gastroenterology procedure capacity, in addition to the 3 procedure rooms justified by the need methodology. GHC maintains a total of 8 gastroenterology procedure rooms in Seattle and Bellevue. In the event one or more procedure rooms at either of those locations become unavailable because of equipment or systems problems or other reasons, good practice requires GHC to keep backup capacity available in order to maintain to the extent possible its regular outpatient procedure schedule. Gastroenterology procedure patients typically are required to endure a lengthy and uncomfortable preparation at home, prior to

arriving at GHC for the procedure. GHC's care model requires it to maintain sufficient capacity to be able to serve all such patients, even in the event one or more procedure rooms becomes unavailable. Maintaining the existing number of 4 gastroenterology rooms would provide some backup capacity. Further, it should be noted maintaining OR backup capacity will provide some, but very limited OR surge capacity to handle a possible surge in patient numbers caused by a natural disaster or other event that would disrupt normal health care services in the region. This is further justification for the OR backup demand." [source: September 29, 2016 screening response, p7]

The co-applicants provided specific examples of care coordination, below:

"GHC also needs to maintain at least one more procedure room, in addition to the minimum needed to serve scheduled patients, maintain backup procedure room access and maintain surge capacity. Unlike a typical multi-specialty group ASC that operates on a fee-for-service basis, GHC's care model creates powerful incentives for it to improve patient outcomes and reduce health care costs. One of the ways GHC strives to attain these objectives is by coordinating the procedures its providers perform in the procedure rooms. Care coordination in the GHC care model requires more than the minimum number of procedure rooms projected by the adapted need methodology for non-HMO ASCs.

"Care coordination in the gastroenterology procedure room setting requires having pairs of rooms available for scheduling with individual providers. For example, having two pairs of procedure rooms allows two physicians to perform procedures in a highly efficient and cost effective manner. GHC will set up one room for a patient while the physician is performing a procedure with another patient in another room. When the physician completes the procedure and cleanup begins, the physician can switch to the paired procedure room to begin another procedure with another patient, and so on during the daily schedule. This paired approach to scheduling and utilization is highly efficient and allows physicians and other providers to perform more procedures each day, thus reducing the cost of each procedure. Maintaining the current number of 4 gastroenterology rooms would provide two room pairs for coordinated scheduling.

"In the case of the one pulmonary room, it is not anticipated there will be sufficient additional need for backup and care coordination requirements to warrant additional procedure rooms. In this case the demen for one PR for pulmonary should be sufficient." [source: September 29, 2016 screening response, pp7-8]

Public Comment

None

Rebuttal

None

Department Evaluation

There are no adopted standards for the review of an HMO owned or controlled ASC. Therefore the department's review will focus on the reasonableness of the assumptions and modifications that GHC made to the existing non-HMO methodology in their request for the continued

operation of 5 ORs at the Group Health Capitol Hill Procedure Center. For reader ease, Table 2 has been replicated below, with department comments following.

Table 2
GHC Capitol Hill Procedure Center Need Model
(replicated from above)

Criteria	GHC and KFHP-WA Data	
Existing Capacity	4 Gastro Rooms	1 Pulm/Cardio Room
Annual Capacity per OR (68,850 min/room)	275,400 minutes	68,850 minutes
Average Minutes/Procedure in ORs	30 minutes	74 minutes
Future Demand		
Actual 2015 Procedures	4,350 cases	137 cases
2018 Procedure Forecast Base (Projected 5% annual enrollment growth over 3 years)	5,036 cases	159 cases
Add manometry procedures @ 30 min each	104 cases	n/a
Add scheduled but cancelled procedures @ 5.7%	293 cases	9 cases
Total adjusted PR procedures in 3rd year	5,433 cases	168 cases
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Minimum OR Demand	3 ORs	1 OR
Demand for backup OR	0.5 OR	n/a
Demand for coordinated care OR	0.5 OR	n/a
Total OR Demand in 3rd year	4 ORs	1 OR
Net Need (Surplus)		
Demand for ORs	4 ORs	1 OR
Supply of ORs	4 ORs	1 OR
Net Need (Surplus)	0	0

[source: September 29, 2016 screening response, p5]

Consistent with the Group Health Capitol Hill Ambulatory Surgery Center application, the co-applicants used existing patient origin data and actual number of surgeries to establish a use rate for the Procedure Center. This substitution is acceptable. Rather than using a set planning area population, the co-applicants instead used the actual number of enrollees that received surgical care at the facility. The applicant did not project growth in utilization, only growth in enrollment. The department agrees that the assumptions the co-applicants made in their adapted methodology can be substantiated and demonstrate numeric need for 3 gastroenterology ORs.

Through screening, the department requested that the co-applicants justify why a pulmonology/cardiology dedicated OR should be approved, rather than combining all endoscopic procedures in the 3 numerically justified ORs. In response, the co-applicants provided the following rationale:

“The Pulmonology/Cardiology and the Gastroenterology rooms differ in two significant ways, and thus are not interchangeable. First, the physical spaces have different features. For

example, Pulmonology procedures are performed in rooms with negative air flow, for infection control. Gastro rooms do not require these systems. Second, the types of rooms are equipped with different equipment, specific to the procedures to be performed. This includes different types of ‘scopes’ and different light sources, among other items.” [source: October 21, 2016 screening response p5]

The Certificate of Need program independently consulted with the office of Construction Review Services, and verified that physical requirements for rooms dedicated to gastroenterological endoscopy and for rooms dedicated to bronchial and esophageal endoscopy are different.

The application requests that the department consider non-numeric need for one additional OR, for a total of 5 ORs. Under ordinary circumstances, ORs beyond those projected in the numeric need would not be approved. However, this project is not being evaluated under WAC 246-310-270. Instead, the department must determine whether the requested ORs meet the requirements found in statute – that *“approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll.”*

The co-applicants identified several reasons for maintaining operation of all 5 ORs at the Group Health Capitol Hill Ambulatory Surgery Center, including cancelled procedures, care coordination, and backup capacity. These reasons are not unique to the co-applicants. However, this proposed project maintains the current level of access to outpatient surgery for current GHC enrollees, future Kaiser enrollees, in the greater King and Snohomish County area. Therefore, the rationale provided by the co-applicants for two ORs beyond the numeric need is reasonable.

Based on the source information, the department concludes **this criterion is met.**

B. RCW 70.38.115(3)(b)

Based on the source information reviewed and agreement to the conditions identified in the conclusion section of this evaluation, the department determines that co-applicants Group Health Cooperative and Kaiser Family Health Plan of Washington **met** the applicable criteria set forth in RCW 70.38.115(3)(b) for both the Group Health Capitol Hill Ambulatory Surgery Center and Group Health Capitol Hill Procedure Center.

Revised Code of Washington 70.38.115(3)(b) provides only the following guidance for reviewing applications submitted by an HMO. It states:

“A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:

(b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.”

WAC 246-310 does not provide specific review criteria for an HMO operated or controlled ASC.

Therefore, the department evaluated the information provided by the co-applications for reasonableness and adherence to the criteria found in statute. The scope of this application relates to the change in control from GHC to KFHP-WA. Therefore, the department must conclude that the operation of these ASCs continues to be consistent with the HMO's basic method of operation.

Group Health Capitol Hill Ambulatory Surgery Center and Group Health Capitol Hill Procedure Center

The co-applicants provided similar information within both CN applications under review. Therefore, both applications will be discussed simultaneously. The co-applicants addressed adherence to this criterion by first defining GHC's "basic method of operation," below:

GHC's Basic Method of Operation

...Group Health has served the needs of its members by providing health care services and coverage on a prepaid basis, using its own employed and closely affiliated providers and staff, and whenever possible furnishing such care in its own facilities. This 'model' of care is fundamental to Group Health's history, its values and its current operations. Any description of the "basic method of operation" of GHC must focus on these key elements of clinical and operational integration that make Group Health unique in this service area.

GHC Makes Its Services Available on a Long-Term Basis Through Physicians and Other Health Care Professionals Associated With It

The Central Hospital Outpatient Surgery Center where GHC has furnished ambulatory services for close to 20 years, is one example of how GHC's 'basic method of operation' has been carried out 'on a long term basis through physicians and other health care professionals associated with it.' [RCW 70.38.115(3)(b).] GHC's proposed conversion of the OSC to a freestanding ASC, and its planned ongoing provision of outpatient surgery services in the same clinical space, by its same on-campus providers, and to its members, is a continuation of this 'basic method of operation' of Group Health. [sources: October 21, 2016 screening response, application 17-01 p13, application 17-02 p11]

The co-applicants further described how the "basic method of operation would not change as a result of the pending acquisition.

"The way in which GHC can most cost-effectively deliver services to members – through an internal network of dedicated health care facilities and providers - will not change as a result of the Transaction. GHC and KFHP-WA share the same vision, values, and mission: to provide integrated health care services and health coverage, a common approach that is an important motivation for the Transaction. Indeed, KFHP-WA expects that GHC will put more intensive efforts into providing care to members through GHC-owned and operated facilities following the Transaction." [sources: October 21, 2016 screening response, application 17-01 pp12-13, application 17-02 p11]

The co-applicants went on to describe how efficiencies gained by using this method operation would not be available without the continued operation of the ASCs:

GHC Is Unable to Provide, Through Services of Facilities Which Can Reasonably Be Expected to Be Available to GHC, Its Health Services in a Reasonable and Cost-Effective Manner

...GHC’s clinical approach has no direct comparison in the Seattle service area, or across Washington state. Even if GHC could find providers of fee-for-service ASC care in the community that had excess capacity to care for GHC members, such services would not be comparable to those furnished within the GHC integrated delivery system, and would not be “reasonable and cost-effective” and also “consistent with the basic method of operation of the organization.”

Alternative services or facilities are not available in a ‘reasonable and cost effective’ manner which is consistent with the ‘basic method of operation’ of the health maintenance organization.

- *The provision of coordinated care across the continuum is a key element of the high quality care provided to Group Health consumers. Reliance on other ASC resources would diminish our ability to provide coordinated care and achieve quality goals.*
- *Our ability to control costs, and manage quality and safety, would diminish if services are provided outside Group Health facilities.*
- *Scheduling and coordinating care between Group Health providers and facilities, and a variety of non-Group Health surgery centers would add needless complexity to systems and processes. The added complexity would diminish our ability to coordinate care, and would raise risks related to service quality and patient safety.*
- *Our ability to use Epic and related electronic health record systems, for the seamless coordination of care for members, would be diminished, compromising our ability to coordinate care, achieve our high quality standards, and provide GHC members access to key portions of the members’ electronic health records.*
- *Group Health members are accustomed to receiving outpatient surgical care at Group Health owned and operated facilities. Referring members to other ASCs would significantly diminish the customer experience at Group Health.*
- *Group Health costs of care would increase and efficiencies would be reduced if Group Health providers were required to perform surgical procedures in surgery centers not on the Group Health Capitol Hill campus, where their offices are located.*
- *Group Health costs of care would increase—affecting GHC’s efforts to maintain affordable health care coverage—if ASC procedures needed to be performed in more costly hospital outpatient surgery centers.*
- *Group Health costs of care would increase if ASC procedures are performed in a hospital based surgery center, because an additional facility fee would be imposed.*
- *Will take a significant amount of time and resources to plan and execute a complete change in the provision of procedures at GH.*
- *Will result in layoffs of a significant number of healthcare team members currently providing care to GH members.*

[sources: October 21, 2016 screening response, application 17-01 pp13-14, application 17-02 pp11-12]

The co-applicants provided the following closing remarks:

“In conclusion, GHC has demonstrated the conversion of the outpatient surgery center to a freestanding ASC meets the statutory criteria for CN approval of its HMO application, outlined in RCW 70.38.115(3). GHC has shown that approval of this project is required to meet the needs of current HMO members and of expected new members. In addition, GHC has explained how its model of care in the primary service area—which relies on Group Health providers caring for members in GHC facilities—is critical to the “basic method of operation” of Group Health, and offers benefits such as enhanced clinical integration and the use of a common electronic health record, that are unavailable to GHC members from the broader fee-for-service provider community. In short, there are no “reasonable and cost-effective” alternatives to GHC’s model of ASC care that would be consistent with GHC’s basic methods of operation. Accordingly, GHC respectfully requests that this certificate of need application be promptly approved.” [source: October 21, 2016 screening response, application 17-01 p14]

Public Comment

None

Rebuttal

None

Department Evaluation

When GHC began the process of converting these two ASCs from hospital outpatient surgery departments to independent ASCs, the department concluded that this conversion was within the HMOs basic method of operation, and further determined that GHC would be able to provide health services in a reasonable and cost-effective manner through these ASCs.

These applications provided details related to the transaction under which KFHP-WA will acquire a controlling interest in GHC by replacing the voting membership. The information provided confirms that the basic method of operation would not change as a result of the transaction.

Furthermore, neither the department nor the co-applicants identified any alternatives to the proposed project that would be superior to the continued operation of the existing surgery centers.

Therefore, the department concludes that the approval of the 11-OR Group Health Capitol Hill Ambulatory Surgery Center and the 5-OR Group Health Capitol Hill Procedure Center will remain consistent with the HMO’s current method of providing outpatient surgery. For both applications, **this criterion is met.**