

**EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY
MULTISPECIALTY SURGENCY CENTER PROPOSING TO ESTABLISH A FREE-
STANDING AMBULATORY SURGERY CENTER IN SEATTLE**

PROJECT DESCRIPTION

This application proposes the establishment of a new ambulatory surgery center by allowing outside physicians to use the Multispecialty Surgency Center, an exempt ambulatory surgery center in Seattle. Because Multispecialty Surgency Center is located within the offices of its owner, Dr. Edwin D. Vyhmeister, and surgical privileges are limited to Dr. Vyhmeister and members or employees of his group practice, Northwest Hand Specialists, it is not considered an ambulatory surgery center (ASC) under the provisions of Washington Administrative Code 246-310. If, however, surgical privileges are extended to physicians who are neither members nor employees of Northwest Hand Specialists, Multispecialty Surgency Center will meet the definition of an ASC and will be required to obtain a Certificate of Need. The main entities of this proposal are Multispecialty Surgency Center, Northwest Hand Specialists, Inc., PS, Hand and Wrist Surgery Center, Ballinger Way, LLC, and Edwin D. Vyhmeister, MD. Each entity's roles and responsibilities are outlined below.

Multispecialty Surgency Center, LLC

Multispecialty Surgency Center, LLC was established specifically for this project. Multispecialty Surgency Center, LLC, will operate the project described in this application upon receipt of a Certificate of Need, and is entirely owned by Edwin D. Vyhmeister, MD. Hereinafter, Multispecialty Surgency Center, LLC will be referred to as "MSC."

Northwest Hand Specialists, Inc.

Northwest Hand Specialists, Inc., PS, is a group surgical practice located in Seattle, in King County. The physician owner is Edwin D. Vyhmeister, MD. Dr. Vyhmeister operates the surgical center under an exemption from Certificate of Need issued in August, 2002. [source: CN program records] Hereinafter, Northwest Hand Specialists will be referred to as "NWHS."

Hand and Wrist Surgery Center

Hand and Wrist Surgery Center is the business name used by NWHS for the ASC portion of its practice. Hand and Wrist Surgery Center is not a discrete entity, rather it is a part of NWHS. The facility currently called Hand and Wrist Surgery Center would be known as "Multispecialty Surgency Center" upon completion of this project. Hereinafter, Hand and Wrist Surgery Center will be referred to as "HWSC."

Ballinger Way, LLC

Ballinger Way, LLC, is the owner of the building in which the ASC is located, and is owned by Dr. Vyhmeister and four other partners. Ballinger Way, LLC is a separate entity from NWHS, and is not involved in the operation of the ASC in any role other than that of landlord. Hereinafter, Ballinger Way, LLC, will be referred to as "Ballinger Way."

As noted above, this application proposes to open use of a currently-exempt surgical facility to outside physicians. This action by MSC results in the facility becoming a freestanding ASC as defined in WAC 246-310-010. MSC does not anticipate a change in the number of ORs at the facility but it does anticipate expanding the scope of surgical services from the current hand and wrist emphasis to a wider array of surgical procedures. MSC envisions serving a population to include: "...people who need

surgical services for general surgery problems, upper extremity problems, urological problems, gynecological problems, gastroenterological problems, otolaryngology problems, ophthalmology problems, oral and maxillofacial surgery podiatry, anesthesiology and pain management, and plastic and reconstructive surgery issues.” [source: application, p5]

Given that the ASC was established in 2002 the department did not require MSC to identify the capital costs for its establishment.

APPLICABILITY OF CERTIFICATE OF NEED LAW

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

APPLICATION CHRONOLOGY

January 31, 2006	Letter of Intent Submitted
February 22, 2006	Application Submitted
February 22, 2006 through July 10, 2006	Department's Pre-Review Activities <ul style="list-style-type: none">• Screening activities and responses
July 26, 2006	Department Begins Review of the Application <ul style="list-style-type: none">• No public comments received during review
August 30, 2006	End of Public Comment
October 30, 2006	Department's Anticipated Decision Date
January 24, 2007	Department's Actual Decision Date

AFFECTED PARTIES

Throughout the review of this project, no other entities sought interested person status under WAC 246-310-010.

SOURCE INFORMATION REVIEWED

- Multispecialty Surgency Center, LLC's Certificate of Need Application dated February 21, 2006
- Multispecialty Surgency Center, LLC's supplemental information dated May 5, 2006, July 10, 2006, and August 7, 2006
- Historical charity care data obtained from the Department of Health's Office of Hospital and Patient Data Systems (2002, 2003 and 2004 summaries)
- Population data obtained from the Office Financial Management based on year 2000 census published September 2006.
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey
- Data obtained from Northwest Hand Specialists' and Hand and Wrist Surgery Center's website
- Quality of Care surveys for Hand & Wrist Surgery Center
- Certificate of Need Historical files

CRITERIA EVALUATION

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) and WAC 246-310-270 (ambulatory surgery).¹

CONCLUSION

For the reasons stated in this evaluation, Multispecialty Surgency Center's request to establish an ambulatory surgery center in the city of Seattle within King County is not consistent with the applicable Certificate of Need criteria and a Certificate is denied.

¹ 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) and WAC 246-310-240(2) and (3).

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that the application is not consistent with the applicable need criteria in WAC 246-310-210.

- (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

The applicant proposes to open its existing facility to a wide variety of surgical specialties. MSC contends that “The clear unmet health services needs of the defined population are access to urgent outpatient surgery areas that cater to virtually all surgical specialties.” [source: application, p5] MSC also states “The Multispecialty Surgency Center, LLC, would be open earlier and later than other ASCs, as well as on the weekend, thus better able to accommodate urgent cases.” MSC projects that the five current members of Northwest Hand Specialists, as well as five additional physicians identified in MSC’s screening responses will use the facility. The additional five surgeons specialize in ENT, upper extremity, orthopedic, and urologic procedures. MSC’s historical and projected volumes are outlined in Table I, below:

Table I
Hand and Wrist Surgery Center/Multispecialty Surgency Center Utilization
(Actual and Projected)

Year	Total Procedures
2003*	844
2004*	1,682
2005*	1,945
2006**	2,431
2007**	3,039
2008**	3,419
2009**	3,760

*Actual Volumes

**Projected Volumes

[source: Application, p6 and May 5, 2006, screening response, p4]

The Department of Health’s Certificate of Need Program uses the methodology found in WAC 246-310-270 determining the need for additional freestanding ASCs in Washington State. The methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient OR’s in planning areas using the current utilization of existing providers both CN-approved and exempt. The numeric portion of the methodology requires a calculation of annual capacity of existing CN-approved ORs, both outpatient and inpatient, and excludes specialized dedicated rooms. Examples of ‘dedicated’ rooms are open heart surgery rooms, delivery rooms, cystoscopic rooms, and endoscopy rooms.

The methodology separates the state in to several planning areas, described variously as individual counties, groups of counties, or sub-areas of counties. The applicant is proposing to establish an ASC in Seattle. The particular location proposed is located in the area described in the methodology as North King.

In its initial application, MSC did not provide any discussion of the ASC need methodology contained in WAC 246-310-270. When asked for its need calculations in screening, MSC

responded, “We were unsuccessful in using WAC 246-310-270(9) as the method to determine operating room need to the North King. This was due to the fact that although the area hospitals would share the number OR’s they have, they were unwilling to share the number of cases performed each year. Per my discussion with [the program analyst], the CON department will survey these numbers.” [source: applicant’s May 5, 2006, screening responses, p4] MSC did provide a discussion of other surgical facilities in the area, noting that only one other CN-holding ASC is located in North King. MSC provided anecdotal discussion of that facility’s utilization, stating, “This facility is running at full capacity with use by its owner/physicians and other surgeons in the Northwest Outpatient Medical Center. We have been approached by Northwest Hospital administration and surgeons in this Medical Center who are unable to obtain surgical time in the North Seattle Surgery Center, LLC.” [source: application, p7] To support this contention further, MSC provided an email from a physician to MSC’s consultant expressing frustration with scheduling at North Seattle Surgery Center. [source: May 5, 2006, screening responses, attachment 6] MSC did not provide any other evidence of the inaccessibility or unavailability of other area surgical capacity (either in hospitals or ASCs).

Given that MSC is located in north King County, the department applied the methodology to that secondary health services planning area. There are a total of 15 facilities with OR capacity currently operating in the north King planning area. The 15 providers are listed below.

North King Planning Area Providers

5 Hospitals	10 ASCs
Children’s Hospital and Regional Medical Center	Active Foot & Ankle Center
Kindred Hospital	EANW Surgery Center
Northwest Hospital and Medical Center	Foot & Ankle Center of Lake City
Swedish Health Services Ballard Campus	Fremont Endoscopy Center
University of Washington Medical Center	Hand & Wrist Surgery Center of Washington
	North Seattle Surgery Center
	Northwest Eye Surgeons/Seattle
	Northwest Nasal Sinus Center
	Seattle Endoscopy Center
	Seattle Orthopedic Surgery Center

As shown above, the 15 facilities include five hospitals and ten ASCs. Of the five hospitals, three provide surgical services to the general public – Northwest Hospital, Swedish Ballard, and University of Washington. Of the remaining hospitals, one – Children’s Hospital and Regional Medical Center – is dedicated to pediatric services, and the other – Kindred Hospital – is licensed as an acute care hospital but serves only long-term acute patients. Because of the specialized nature of Kindred and the fact that it has not reported any outpatient surgeries (and only minimal numbers of inpatient surgeries) in the last five years, it is not counted for this project.

Of the ten ASCs, nine (one of which is the applicant) are located within a solo or group practice (considered an exempt ASC) and therefore, the use of these ASCs is restricted to physicians that are employees or members of the clinical practices that operate the facilities. These nine facilities do not meet the ASC definition within WAC 246-310-010 and are not included in the capacity calculations of available ORs for the north King County planning area.

The remaining ASC – North Seattle Surgery Center (NSSC) – is an ASC as defined in WAC 246-310-010 and the OR capacity of that ASC is included in the capacity calculations of available ORs for the north King County planning area.

To assist in its application of the numeric methodology for this project, the department requested utilization information from the facilities identified above. Of these facilities, only Northwest Hospital and University of Washington Medical Center returned completed surveys.

Successful application of the numeric need methodology contained in WAC 246-310-270 is dependent upon several data items: The historical and projected population of the planning area, historical number of surgeries performed in the planning area, the number and types of OR's in planning area's ASCs and hospitals, and the average lengths of surgeries performed in the planning area. While WAC 246-310-270 provides default surgery lengths, the department relies upon applicants to provide values for the remaining data items to demonstrate that need exists for their projects. The department conducts its own surveys to attempt to determine whether the applicant's (or opposing parties') future need projections are reasonable. In this case, MSC provided general demographic information about the planning area, but did not provide any historical or projected population estimates for the planning area. MSC also did not provide any estimates of surgical volume or capacity in the planning area, relying instead on the department's survey, as discussed on page 5, above.

In order to apply the methodology in this case, the department reviewed population data prepared by the Office of Financial Management for the zip codes in the north King planning area². The department also reviewed inpatient and outpatient surgical volumes reported by planning area hospitals to the department's Comprehensive Hospital Abstract Reporting System (CHARS)³ and in response to the program's ASC utilization survey. Finally, the department reviewed operating room capacity for area hospitals and ASCs from the NSSC application, the department's survey, and web sites of area hospitals. The department's methodology, prepared using these inputs, projected a surplus of 15 OR's in the planning area in 2009. Based on the results of the projection methodology, there is no need for an additional ASC in the planning area.

During the review period, no community members or existing providers offered comment to the department about any effects (positive or negative) this project might have on current providers or the health care system in the area.

Because MSC did not provide any numeric justification for its project and only one physician's anecdotal experience in obtaining block surgical time at one facility, the department concludes that the applicant has not demonstrated any need for additional ORs in the planning area, nor has the applicant demonstrated that existing providers are not sufficiently available and accessible to meet current and projected needs for surgical services. Similarly, the department's need methodology in WAC 246-310-270 identified no need for additional OR capacity in the planning area.

Based on the above information, the department concludes that this sub-criterion is not met.

² Small area estimates obtained on the internet at <http://www.ofm.wa.gov/pop/smallarea/default.asp>

³ Found on the internet at: <http://www.doh.wa.gov/EHSPHL/hospdata/Quarterly/Default.htm>

- (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.

A facility's admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility, and any assurances regarding access. To demonstrate compliance with this sub-criterion, the applicant provided a copy of MSC's "Objectives for the Perioperative Experience" and MSC's Community Service Policy. These documents, provided by the applicant in Exhibits 8 and 9 of the applicant's screening states that services will be available to all persons regardless of race, income, ethnicity, sex or handicap.

The department uses a facility's Medicaid eligibility or contracting with Medicaid as the measure to determine whether low income residents would have access to the proposed services. Although it had not previously served Medicaid patients, MSC contracted with Medicaid in early 2006 and intends to serve Medicaid patients without restriction. In addition, MSC's "Charity Care Policy," provided as Exhibit 7 of the applicant's screening responses, states that MSC will "accept and bill all insurances." The policy goes on to state "Free or discounted surgical services will be offered for people who cannot afford care. All patients will be treated with compassion, dignity and respect. In addition, MSC's projected sources of reimbursement include Medicaid. Based on this information and the other information included in the application and charity care policy, the department concludes that low income residents would have access to the proposed services.

Similarly, the department uses a facility's Medicare certification as the measure to determine whether elderly patients would have access to the proposed services. Based on the facility's history as a Medicare-certified provider and revenue projections including compensation from Medicare, the department concludes that elderly patients would have access to the proposed services.

The department concludes that there is reasonable assurance that the proposed services will be available and accessible to all residents for whom they are appropriate, contingent upon the submission of an adopted admissions policy consistent with the draft provided during the course of review.

WAC 246-310-270(7) states that ASCs shall implement policies to assure access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed ASC. According to charity care data obtained from OHPDS, the 2002-2004 average for the hospitals in the planning area is 1.38% of gross revenue and 2.58% of adjusted revenue. [source: OHPDS 2002-2004 charity care summaries]

To demonstrate compliance with this charity care criterion, MSC submitted its charity care policy, however, the policy does not identify the percentage of charity care to be provided by the ASC. The applicant did not identify either historical or projected charity care in the pro-forma income statements provided in the application or with the applicant's screening responses. Without evidence of historical provision of charity care or projected amounts of charity care, the department cannot conclude that the applicant intends to comply with the charity care criterion and this sub-criterion is not met.

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

Based on the source information reviewed, the department determines that the applicant has not met the applicable financial feasibility criteria in WAC 246-310-220.

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

As stated in the project description portion of this evaluation, this facility was established in 2003 and the department did not require MSC to identify the capital costs for its establishment at that time.

To determine whether MSC would meet its immediate and long range operating costs, the department evaluated MSC's historical balance sheet for 2005 and projected balance sheet for the third year of operation (2009). A summary of the balance sheets is shown in Tables II and III below: [source: application, Appendix 13; July 7, 2006, screening responses]

**Table II
Northwest Hand Specialists
Balance Sheet for Historical Year 2005**

Assets		Liabilities	
Current Assets	\$ 1,054,180	Current Liabilities	\$ 0
Fixed Assets	1,398,619	Long Term Liabilities	1,086,536
Accumulated Depr.	(281,627)	Total Liabilities	\$ 1,086,536
Other Assets	7,305	Equity	1,091,942
Total Assets	\$ 2,178,478	Total Liabilities and Equity	\$ 2,178,478

**Table III
Multispecialty Surgency Center
Balance Sheet for Projected Year 2009**

Assets		Liabilities	
Current Assets	\$ 2,193,910	Current Liabilities	\$ 0
Fixed Assets	1,398,619	Long Term Liabilities	726,536
Accumulated Depr.	(281,627)	Total Liabilities	\$ 726,536
Total Assets	\$ 3,310,902	Equity	2,584,366
		Total Liabilities and Equity	\$ 3,310,902

Based on only the current and 2009 projected balance sheets, it would appear that MSC is a financially stable ASC and could reasonably be expected to meet its short and long term financial obligations. The department notes, however, that the projected balance sheets for 2007 through 2009 all contain values for fixed assets and accumulated depreciation that are identical to the actual 2005 values. No explanation for this unlikely scenario accompanied the projected balance sheets. The department concludes that it is likely that accumulated depreciation would increase in 2006 and subsequent years, resulting in smaller values for Total Assets, likely accompanied by smaller values for Owner's Equity. From the information provided, the department is unable to determine the appropriate amounts for these balance sheet items in 2009, rendering the applicant's projected balance sheets unreliable.

Based on the uncertain financial information above, the department cannot conclude that the long-term capital and operating costs of this project can be met; therefore this sub-criterion is not 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.

Tables IV and V below detail the historical, current, and projected revenues and expenses for MSC for years 2005 and 2007 through 2009. [source: August 7, 2006, supplemental information]

**Table IV
Multispecialty Surgency Center Revenue and Expense Summary
Historical 2005**

	Historical - 2005
# of Cases	1,945
Net Patient Revenue*	\$ 2,916,048
Total Expense	\$ 1,824,106
Net Profit or (Loss)	\$ 1,091,942
Net Revenue per Case	\$1,499.25
Total Expenses per Case	\$ 937.84
Net Profit or (Loss) per Case	\$ 561.41

* deductions for bad debt and charity care not identified

**Table V
Multispecialty Surgency Center Revenue and Expense Summary
Projected Years 2007 through 2009**

	Year One (2007)	Year Two (2008)	Year Three (2009)
# of Surgeries	3,039	3,419	3,760
Net Patient Revenue*	\$ 4,811,479	\$ 5,412,914	\$ 5,845,947
Total Expense	\$ 3,259,516	\$ 3,672,837	\$ 3,672,837
Net Profit or (Loss)	\$ 1,551,963	\$ 1,882,073	\$ 2,173,110
Net Revenue per Case	\$ 1,583.24	\$ 1,583.19	\$ 1,554.77
Total Expenses per Case	\$ 1,072.56	\$ 1,032.71	\$ 976.82
Net Profit or (Loss) per Case	\$ 510.68	\$ 550.47	\$ 577.95

*Deductions for bad debt and charity care not identified

Staff compared the projected costs and charges in Tables IV and V to the costs and charges identified in similar recent projects. That comparison reveals that the costs and charges identified above are similar to other recent ASC projects reviewed by the program with similar scope of services. The department concludes that these costs and charges are appropriate; however the applicant provided no estimates of charity care to be deducted from revenue or bad debt expenses. MSC did provide projected values for combined charity care and bad debt in its projected statements of cash flow, but the department is unable, from the information provided, to determine the appropriate amounts that should be assigned to the appropriate revenue and expense statement categories. Consequently, the department is unable to conclude that the projected revenues and expenses provided by MSC are appropriate.

MSC was established as an exempt ASC in 2003 and given that this project requests CN approval only to open the ASC for use by surgeons outside the group practice, there is no capital expenditure associated with this project. No construction is required or anticipated for the existing ASC.

The sub-criterion the applicant needs to meet is “The costs of the project...will probably not result in an unreasonable impact on the costs and charges for health services.” Based on the information provided above, the department is unable to conclude that the costs of the project satisfy this requirement. This sub-criterion is not met.

(3) The project can be appropriately financed.

As stated in the project description portion of this evaluation, there is no capital expenditure associated with this project. After reviewing MSC’s projected income statements and balance sheets, the department concludes that this project could be appropriately financed and this sub-criterion is met

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

Based on the source information reviewed, the department determines that the applicant has not met the applicable structure and process (quality) of care criteria in WAC 246-310-230.

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

Given that the ASC is currently operating, the applicant proposes only minor increases in staff if this project is approved. Table VI below shows the current and projected staffing of the ASC. [source: May 5, 2006, screening responses, Appendix 12]

**Table VI
Multispecialty Surgency Center - Current and Projected Staffing**

	2006	2007	2008	2009	2009
	Current	Year 1 Incremental	Year 2 Incremental	Year 3 Incremental	Year 3 Total
Director	1.00	0.00	0.00	0.00	1.00
Business Off Manager	1.00	0.00	0.00	0.00	1.00
Nursing Manager	1.00	0.00	0.00	0.00	1.00
RN	5.00	3.00	0.00	0.00	8.00
Surg Tech	2.00	2.00	0.00	0.00	4.00
Instrument Tech	0.00	0.00	1.00	0.00	1.00
OR Secretary	1.00	0.00	0.00	0.00	1.00
Billing	1.00	0.00	0.00	0.00	1.00
Patient Registration	1.00	0.00	0.00	0.00	1.00
Nursing Total	13.00	5.00	1.00	0.00	19.00

The applicant states that “The facility is currently fully staffed with qualified surgical R.N.s, anesthesiologists (including pediatric anesthesiologists), surgeons and scrub technicians. As additional staff is required, the facility will first change their per diem staff to full-time. After the per diem staff has been activated, the facility will hire additional staff as needed.” [source: Application, p9] The applicant further states that, because MSC and NWHs are co-located, they can share any ancillary and support staff as needed.

The department concludes that the number of additional trained health care workers to staff the facility fully by 2009 is modest and can reasonably be expected to be recruited in the Seattle area if current part-time staff members do not accept full time employment.

Based on the above evaluation, the department concludes that this sub-criterion is met.

- (2) The proposed service(s) will have an appropriate relationship, including organizational relationship, to ancillary and support services, and ancillary and support services will be sufficient to support any health services included in the proposed project.

To demonstrate compliance with this sub-criterion, MSC provided the agreements listed on the following page. [sources: indicated below]

- Executed Medical Director Agreement [Applicant's May 5, 2006, Screening Responses, Attachment 2]
- Executed Transfer Agreement between MSC and Stevens Hospital [May 5, 2006, screening responses, Exhibit 14]

After reviewing the documents above, the department concludes that the applicant demonstrated intent for the ASC to have appropriate relationships with ancillary and support services for the health care services to be provided. Additionally, the applicant intends to meet all of the necessary documentation required for the operation and management of the ASC.

- (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.

Since the establishment of the ASC in 2003, the Department of Health's Office of Health Care Survey (OHCS), which surveys ASCs within Washington State, has completed one compliance survey for that facility. The survey revealed no deficiencies. [source: compliance survey data provided by Office of Health Care Survey]

The owner of the facility is Edwin Vyhmeister, MD. A review of Dr. Vyhmeister's compliance history with Department of Health's Medical Quality Assurance Commission reveals no recorded sanctions [source: compliance history provided by Medical Quality Assurance Commission] The applicant also provided the names and credentials of the other physicians, nursing staff, and other credentialed health care workers at the ASC. The department's records contained no recorded sanctions against any of the individuals identified by the applicant.

Given the compliance history of MSC, and the compliance histories of the physicians and other staff associated with the ASC, there is reasonable assurance that MSC would continue to operate in conformance with applicable state and federal licensing and certification requirements. This sub-criterion is met.

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

As noted earlier in this evaluation, the existing ASC is already operating as an exempt ASC. Approval of this project would open the facility to other physicians offering procedures other than

the specialized hand and wrist surgeries currently provided at MSC. Although MSC has made representations that the ASC would only take surgical volume away from facilities that are already experiencing high utilization, the applicant has failed to demonstrate need for additional OR capacity in the north King planning area. The applicant has also failed to document that existing facilities are not sufficiently available or accessible (e.g., experiencing high utilization) to meet the community's need for outpatient surgical capacity. Based on these factors, the department concludes that this project may result in an unwarranted fragmentation of services. This sub-criterion is not met.

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

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

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

Based on the source information reviewed, the department determines that the applicant has not met the applicable cost containment criteria in WAC 246-310-240.

- (1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable. The applicant did not provide a discussion of this criterion in the initial application, stating only "This entity has been open and operating since 2003. The enclosed financials show an adherence to ongoing cost containment. No other capital expenditures are needed." [source: Application, p10]

When asked by the department to discuss the decision-making process that led the applicant to conclude that this project is the superior alternative, the applicant provided the following:

"The reason we don't believe the status quo is an option is due to the fact that other than the North Seattle Surgery Center, LLC, all other ASC's in the area are single-specialty ASC's without CN's. This prevents surgical specialties that don't have the wherewithal to build their own ASC, to be at the mercy of the two hospitals in the area. When urgent and elective care is left to the hospitals, patients end up waiting in line, while critical and acute surgical services are given priority. This adds time to treatment, recovery and return to the workforce and quality of life. As MSC is aware, this affects the community and taxpayers at large.

"With Swedish Ballard hospital diminishing its surgical services, Northwest Hospital and its associated ASC, the North Seattle Surgery Center, LLC will need additional help in meeting the needs of the community in North King and South Snohomish counties. MSC would like to be the assisting ASC." [source: April 20, 2006 screening responses, p6] The document provided by the applicant as Response 5 to its screening responses states that Swedish Health Services is intending to expand outpatient services at the Ballard facility and "...redevelop the medical/surgical unit into one dedicated to "low intensity" care..." It does not support the applicant's conclusion that fewer surgeries would occur at Swedish Ballard, or that any changes in the nature of surgical services provided at Swedish Ballard would impact Northwest Hospital and cause it to shift surgical volume to other providers.

As noted earlier in the evaluation, the applicant did not substantiate its assertion that the planning area needs additional OR capacity, or that existing providers are not sufficiently available and accessible to meet any projected increase in surgical volume in the near term. Similarly, the department projected no need for OR capacity in the planning area. Absent a demonstrable need for additional OR capacity or evidence that this project would meet any other unmet need, as well as the applicant's inability to meet the financial feasibility and structure and process of care criteria the department cannot conclude that this project is superior to existing providers. This criterion is not met.

APPENDIX

06-19 Multispecialty Surgency Center
Need Projection Methodology

Service Area Population 2009:	304,691	Per CN program files							
Surgeries @ 122.36/1,000:	37,281								
a.i.	94,250	minutes/year/mixed-use OR							
a.ii.	68,850	minutes/year/dedicated outpatient OR							
a.iii.	4	dedicated outpatient OR's x 68,850 minutes =	275,400	minutes dedicated OR capacity	3,679	Outpatient surgeries			
a.iv.	50	mixed-use OR's x 94,250 minutes =	4,712,500	minutes mixed-use OR capacity	37,033	Mixed-use surgeries			
b.i.		projected inpatient surgeries =	15,207	=	1,935,083	minutes inpatient surgeries			
		projected outpatient surgeries =	22,074	=	1,652,468	minutes outpatient surgeries			
b.ii.		Forecast # of outpatient surgeries - capacity of dedicated outpatient OR's							
		22,074 - 3,679 =	18,395	outpatient surgeries					
b.iii.		average time of inpatient surgeries	=	127.25	minutes				
		average time of outpatient surgeries	=	74.86	minutes				
b.iv.		inpatient surgeries*average time	=	1,935,083	minutes				
		remaining outpatient surgeries(b.ii.)*ave time	=	1,377,068	minutes				
				3,312,151	minutes				
c.i.		if b.iv. < a.iv. , divide (a.iv.-b.iv.) by 94,250 to determine surplus of mixed-use OR's							
		USE THIS VALUE							
		4,712,500							
		- 3,312,151							
		1,400,349	/	94,250	=	14.86			
c.ii.		if b.iv. > a.iv., divide (inpatient part of b.iv - a.iv.) by 94250 to determine shortage of inpatient OR's							
		Not Applicable - Ignore the following values and use results of c.i.							
		1,935,083							
		- 4,712,500							
		(2,777,417)	/	94,250	=	-29.47			
		divide outpatient part of b.iv. By 68,850 to determine shortage of dedicated outpatient OR's							
		1,377,068	/	68,850	=	20.00			