

**REMAND EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED
ON BEHALF OF SWEDISH HEALTH SERVICES PROPOSING TO ESTABLISH AN
AMBULATORY SURGERY CENTER IN ISSAQUAH, WITHIN KING COUNTY**

PROJECT DESCRIPTION

Swedish Health Services (SHS) is a private non-profit corporation that provides acute-care hospital services in King County at the following three campuses in Seattle:

First Hill Campus 747 Broadway	Ballard Campus 5300 Tallman Avenue NW	Providence Campus 500 - 17 th Avenue
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All three campuses hold a three-year accreditation from the Joint Commission. Additionally, on July 2, 2007, SHS received approval to establish a new 175-bed hospital in Issaquah. SHS is also a regional provider of specialized health services, providing adult and pediatric open heart surgery, pancreas, kidney and autologous and allogenic bone marrow transplant, and specialized pediatric services. SHS operates chemical dependency, rehabilitation, pain management, diabetes treatment and education, and sleep diagnostic centers. SHS also provides Medicare/Medicaid certified home health and hospice services to the residents of King County. [source: CN historical files and AR7]

On August 3, 2005, SHS submitted an application for the establishment of ambulatory surgery center (ASC) in Issaquah. The proposed ASC would have three operating rooms, support space, and physician offices. Services to be provided include orthopedic/podiatry, gastroenterology, urology, gynecology, ophthalmology, ENT, and general surgery. [source: AR9]

The ASC would be housed in a building that is already leased by SHS located at 2005 Northwest Sammamish Road in Issaquah. Currently, the building contains an emergency room, imaging center, lab, sleep lab, and clinic offices. Some of the common space for the ASC may be shared with other services in the building (for example, patient registration and waiting), however, most of the clinical and support space for the ASC will be newly constructed and dedicated to the ASC. [source: AR9]

When the application was submitted in August 2005, SHS anticipated the ASC would be operational and providing services by January 1, 2007. Under this timeline, year 2007 would be the facility's first full calendar year of operation; and year 2009 would be the third full year of operation. [source: AR 11]

The estimated capital expenditure for the project is \$7,640,001, of which 82% is related to construction costs; 12% is related to fees, and the remaining 6% is related to equipment (both fixed and moveable). [source: AR104]

APPLICABILITY OF CERTIFICATE OF NEED LAW

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

BACKGROUND INFORMATION ON THE PROJECT

On April 1, 2005, Proliance Surgeons, Inc. (Proliance) submitted an application to establish an ASC in Issaquah, within King County. On August 3, 2005, SHS submitted its Certificate of Need application for this project. The two applications were reviewed simultaneously and, on May 12, 2006, the Program released its evaluation approving both projects. [source: AR413-437]

On June 7, 2006, the Adjudicative Service Unit within the Department of Health received Overlake Hospital and Medical Center's "Request for Adjudicative Proceeding" related to the department's approval of the Swedish Health Services project.¹ The table below summarizes the pertinent actions from June 7, 2006, to December 19, 2007, related to the Swedish Health Services adjudicative appeal.²

Date	Action
June 7, 2006	Overlake Hospital and Medical Center submits "Request for Adjudicative Appeal"
August 30, 2007	Adjudicative Service Unit issues scheduling order identifying the adjudicative hearing date of September 6-7, 2007
September 6-7, 2007	Adjudicative hearing conducted in Kent Washington
December 19, 2007	Adjudicative Service Unit issues "Findings of Fact, Conclusions of Law, and Order on Remand"

The "Findings of Fact, Conclusions of Law, and Order on Remand" (hereinafter referenced as the "Remand Order") issued on December 19, 2007, remands the SHS project back to the Certificate of Need Program for further analysis and decision. The Remand Order directs the Program to determine a use rate to be used in the numeric methodology [WAC 246-310-270(9)] consistent with the information based on the east King County secondary health service planning area, from the appropriate time period.

The remand order also allows the Program to remand the application back to SHS to provide supplemental information consistent with the ruling. The remand ruling requires the Program to submit its updated evaluation within 120 days of the date of the ruling—or by April 17, 2008. This document serves as the Program's Remand Evaluation and Decision.

CRITERIA EVALUATION

To obtain Certificate of Need approval, Swedish Health Services must demonstrate compliance with the applicable 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). Additionally, Swedish Health Services must demonstrate compliance with WAC 246-310-270, the ambulatory surgery center numeric methodology and standards.³

¹ The Proliance Surgeons project was not appealed.

² Docket #06-06-C-2003CN.

³ Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this project: WAC 246-310-210(3), (4), (5), and (6).

AFFECTED PERSONS

During the initial review of the two applications—SHS and Proliance—two entities sought and received affected person status under WAC 246-310-010 during the review of this project:

- Overlake Hospital Medical Center, an acute care hospital located in Bellevue; and
- Overlake Surgery Center, an ambulatory surgery center located in Bellevue.

Additionally, because of the simultaneous review of the two applications, both Proliance and SHS were considered affected persons to one another's applications.

SOURCE INFORMATION REVIEWED (initial evaluation)

The source information listed below is specific only to the SHS application.

- Swedish Health Services' Certificate of Need Application submitted August 3, 2005 (AR2-238)
- Swedish Health Services' supplemental information dated October 6, 2005, (AR 245-330)
- Public Comment received at public hearing and throughout the review process (AR333-388; AR441-569)
- Issaquah Surgery Center, Swedish Health Services, Overlake Hospital and Medical Center, and Overlake Surgery Center's rebuttal comments dated December 22, 2005 (AR389-412; AR570)
- Historical charity care data obtained from the Department of Health's Office of Hospital and Patient Data Systems [2002, 2003, and 2004 summaries] (AR605-621)
- Population data obtained from the Office of Financial Management
- Facility survey information provided by the Department of Health's Office of Health (AR589-604)
- Physician licensing data provided by the Department of Health's Medical Quality Assurance Commission
- Information obtained from the websites of Proliance Surgeons and Swedish Health Services

As previously stated, the Remand Order also allowed the Program to remand the application back to SHS to provide supplemental information consistent with the ruling. Under this direction, the Program provided opportunities for both SHS and Overlake Hospital and Medical Center (OHMC) to submit information specific to the parameters within the Remand Order. Below is the additional source information reviewed under the Remand Order.

SOURCE INFORMATION REVIEWED (Remand Order data)

- Swedish Health Services' supplemental information submitted February 1, 2008
- Overlake Hospital Medical Center's supplemental information submitted February 1, 2008
- Swedish Health Services' reply information submitted February 15, 2008
- Overlake Hospital Medical Center's reply information submitted February 15, 2008

CONCLUSION

For the reasons stated in this evaluation, the application submitted by on behalf of Swedish Health Services proposing to establish an ambulatory surgery center in Issaquah, within the east King County planning area continues to meet the applicable review criteria. As a result, Certificate of Need #1330 issued on May 26, 2008, should be re-issued. The approved capital expenditure for the project is \$7,640,001

REMAND EVALUATION

As previously stated, the “Remand Order” issued on December 19, 2007, directed the Program to determine a use rate consistent with use rate information based on the east King County secondary health service planning area from the appropriate time period. Before determining a use rate for the project, the Program will provide the following background information.

The Program uses the numeric methodology found in WAC 246-310-270 for determining the need for additional ASCs in Washington State. The numeric methodology provides a basis of comparison of existing operating room (OR) capacity for both outpatient and inpatient OR’s in a planning area using the current utilization of existing providers. The methodology separates Washington State into 54 separate secondary health services planning areas. The SHS ASC would be located in Issaquah, within the east King County planning area.

The methodology estimates operating room (OR) need in a planning area using multi-steps as defined in WAC 246-310-270(9). This methodology relies on a variety of assumptions and initially determines existing capacity of dedicated outpatient and mixed-use operating rooms in the planning area, subtracts this capacity from the forecast number of surgeries to be expected in the planning area in the target year, and examines the difference to determine:

- a) whether a surplus or shortage of OR’s is predicted to exist in the target year, and
- b) if a shortage of OR’s is predicted, the shortage of dedicated outpatient and mixed-use rooms are calculated.

Assumptions Used, Methodology Applied, and Conclusions Reached in the Initial Evaluation

The application of the need methodology contained in WAC 246-310-270(9) is dependent upon several variables: surgical use rates in the planning area, projected population of the planning area in the future, existing supply of OR capacity, and the average times of inpatient and outpatient surgeries in the area. In the initial evaluation, the Program identified and surveyed 3 hospitals and 28 ASCs operating in the east King County planning area. The survey requested data for year 2001, 2002, and 2003. Both of the hospitals and 7 of the 28 ASC provided responses to the survey. To compensate for some missing surveys, the department reviewed surveys provided in a prior case⁴. With the addition of historical data, the calculated use rate for surgical services in the planning area was 80.38 surgeries per 1,000 residents (80.38/1,000). The Program determined this use rate was understated and should not be relied upon to be an accurate measure of the volume of surgical services provided in the planning area. For a variety of reasons, the Program concluded that the total surgical use rate of 102 surgeries per 1,000 population (102/1,000) was reasonable and applied that use rate to the east King planning area. In summary, for the initial evaluation the Program used the following assumptions to apply the methodology outlined in WAC 246-310-270(9).

⁴ Evergreen Orthopedic Surgery Center, June 21, 2005.

Assumption	Data Used
Planning Area	East King County
Population Estimates and Forecasts	519,901 for target year 2009 - based on east King planning area population forecasts identified by SHS.
Use Rate	102/1,000 - based on data provided by both SHS and Proliance in their respective applications.
Percent of surgery ambulatory vs. inpatient	75.14% ambulatory setting; 23.86% inpatient setting based on 2003 survey results.
Average minutes per case	Outpatient cases = 62.47 minutes; Inpatient cases 117.00 minutes based on 2003 survey results.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers # of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.

Using the assumptions identified above, the Program’s application of the numeric methodology in year 2006 using 2003 survey data identifies a need for an additional 19 to 20 outpatient OR’s in the planning area in 2009. As a result, the Program concluded that need for the five outpatient OR’s—the combined total of ORs proposed by SHS and Proliance—was met.

Assumptions and Methodology provided by SHS and OHMC for Remand

The Remand Order directs the Program to determine a use rate consistent with use rate information based on the east King County secondary health service planning area from the appropriate time period. The Remand Order also allows the Program to remand the application back to SHS to provide supplemental information consistent with the ruling. Under this direction, the Program provided opportunities for both SHS and OHMC to submit information specific to the parameters within the Remand Order. Below is a discussion of the information submitted by both.

SHS

Within its February 1, 2008, submission, SHS provided four variations of the methodology based on a variety of different assumptions and identified as Exhibits #1 through #4. All four of SHS’s assumptions consistently use the east King County planning area. The variations on the remaining assumptions are summarized on the following two pages.

Exhibit #1

Assumption	Data Used
Population Estimates and Forecasts	532,996 for target year 2009 - based on east King Planning Area population forecasts identified by Proliance and used in the Proliance methodology.
Use Rate	87.08/1,000 - based on 2005 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Percent of surgery ambulatory vs. inpatient	70.51% ambulatory setting; 29.49% inpatient setting based on the 2005 survey results referenced above.
Average minutes per case	Outpatient cases = 96.92 minutes; Inpatient cases 108.60 minutes based on the 2005 survey results referenced above.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Need for 29.07 Outpatient ORs in year 2009

Exhibit #2

Assumption	Data Used
Population Estimates and Forecasts	532,996 for target year 2009 - based on east King Planning Area population forecasts identified by Proliance and used in the Proliance methodology.
Use Rate	84.04/1,000 - based on 2004 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Percent of surgery ambulatory vs. inpatient	63.79% ambulatory setting; 36.21% inpatient setting based on the 2005 survey results referenced above.
Average minutes per case	Outpatient cases = 95.33 minutes; Inpatient cases 101.57 minutes Based on the 2004 survey results referenced above.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Need for 22.56 Outpatient ORs in year 2009

Exhibit #3

Assumption	Data Used
Population Estimates and Forecasts	532,996 – based on east King Planning Area population forecasts for Target year 2009 identified by Proliance and used in the Proliance methodology.
Use Rate	87.08/1,000 - based on 2005 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Percent of surgery ambulatory vs. inpatient	70.51% ambulatory setting; 29.49% inpatient setting based on the 2005 survey results referenced above
Average minutes per case	Outpatient cases = 96.92 minutes; Inpatient cases 108.60 minutes based on the 2005 survey results referenced above.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	27 outpatient ORs and 25 mixed used ORs - based on a 2005 listing of east King planning area providers, <u>plus</u> 10 additional ORs at newly approved ASCs in the planning area and 2 additional ORs at Snoqualmie Valley Hospital.
Results of Methodology	Need for 19.07 Outpatient ORs in year 2009

Exhibit #4

Assumption	Data Used
Population Estimates and Forecasts	532,996 for target year 2009 - based on east King Planning Area population forecasts identified by Proliance and used in the Proliance methodology.
Use Rate	84.04/1,000 - based on 2004 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Percent of surgery ambulatory vs. inpatient	63.79% ambulatory setting; 36.21% inpatient setting based on the 2005 survey results referenced above.
Average minutes per case	Outpatient cases = 95.33 minutes; Inpatient cases 101.57 minutes Based on the 2004 survey results referenced above.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	27 outpatient ORs and 25 mixed used ORs - based on a 2005 listing of east King planning area providers, <u>plus</u> 10 additional ORs at newly approved ASCs in the planning area and 2 additional ORs at Snoqualmie Valley Hospital.
Results of Methodology	Need for 12.56 Outpatient ORs in year 2009

OHMC

Within its February 1, 2008, submission, OHMC provided three variations of the methodology based on a variety of different assumptions and identified as Exhibits #A through #C. All three of OHMC’s assumptions consistently used the east King County planning area. The variations on the remaining assumptions are summarized below and on the following page.

Exhibit #A

Assumption	Data Used
Population Estimates and Forecasts	519,901 for target year 2009 - based on east King Planning Area population forecasts identified by SHS and used in the SHS methodology.
Use Rate	80.38/1,000 - based on 2003 survey results obtained during review of this project.
Percent of surgery ambulatory vs. inpatient	70.51% ambulatory setting; 29.49% inpatient setting based on 2003 survey results obtained during review of this project.
Average minutes per case	Outpatient cases = 62.47 minutes; Inpatient cases 117.50 minutes based on 2003 survey results obtained during review of this project.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Surplus of 1.95 mixed-use ORs in year 2009

Exhibit #B

Assumption	Data Used
Population Estimates and Forecasts	519,901 for target year 2009 - based on east King Planning Area population forecasts identified by SHS and used in the SHS methodology.
Use Rate	82.00/1,000 - based on a use rate used in a previous project that was determined to be reasonable by an HLJ during an adjudicative appeal.
Percent of surgery ambulatory vs. inpatient	70.51% ambulatory setting; 29.49% inpatient setting based on 2003 survey results obtained during review of this project.
Average minutes per case	Outpatient cases = 62.47 minutes; Inpatient cases 117.50 minutes based on 2003 survey results obtained during review of this project.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Surplus of 1.28 mixed-use ORs in year 2009

Exhibit #C

Assumption	Data Used
Population Estimates and Forecasts	519,901 for target year 2009 - based on east King Planning Area population forecasts identified by SHS and used in the SHS methodology.
Use Rate	82.00/1,000 - based on a use rate used in a previous project that was determined to be reasonable by an HLJ during an adjudicative appeal.
Percent of surgery ambulatory vs. inpatient	70.51% ambulatory setting; 29.49% inpatient setting based on 2003 survey results obtained during review of this project.
Average minutes per case	Outpatient cases = 50 minutes; Inpatient cases 100 minutes based on default minutes identified in the methodology [WAC 246-310-270(9)].
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Surplus of 7.41 mixed-use ORs in year 2009

Program’s Evaluation of the Assumptions and Methodology provided by SHS and OHMC

As previously stated, both SHS and OHMC based their assumptions and methodology on the east King County planning area. Therefore, the planning area is not in dispute. Below is an evaluation of the remaining assumptions provided by both SHS and OHMC.

Population Estimates and Forecasts

Both SHS and OHMC used target year 2009 in their methodologies. The Program concurs that year 2009 should remain the target year for this remand.

In all four SHS methodologies, SHS uses an east King County population of 532,996 for target year 2009—the population submitted and applied in the Proliance application reviewed simultaneously with SHS’s application. SHS states that for consistency sake, the same population should be used for both applications.

The three OHMC’s methodologies use the 2009 forecast population of 519,901—based on the projected east King Planning Area population identified by SHS and used by the Program in the SHS methodology.

Given that SHS provided its 2009 population estimate of 519,901, and did not submit data during the initial review of its project to revise its 2009 population estimate, the Program will continue to use 519,901 for year 2009 east King County population estimate for the SHS project.

Use Rate

A use rate is determined based on survey results of the providers for a given year. The formula for determining a use rate is: total operations divided by total population; the quotient is then multiplied by 1,000, resulting in a use rate per 1,000 residents. Total operations is the sum of all inpatient and

outpatient cases from all providers for a specific year; total population is based on the service area for the same specific year. The resulting use rate is then applied to the projected population for the target year. A use rate will change depending on the data used. For example, a use rate derived from 2003 data would be different from a use rate based on 2005 data. Further, because the use rate relies on completed survey responses, it is affected, sometimes substantially, by the percentage of completed survey responses received.

SHS's four methodologies rely on two different use rates. One use rate—87.08/1,000—is based on 2005 survey data obtained from an application submitted by Proliance for a Kirkland project.⁵ This SHS application was submitted in year 2005, and the opportunity for public comment closed on December 9, 2005. As a result, full year 2005 data was not available. A use rate based on year 2005 data would be inappropriate for this remand. The second use rate—84.04/1,000—is based on 2004 survey data obtained from the same Proliance-Kirkland project. While 2004 survey data was not collected during the review of this project, the data was available. As a result, 2004 data could be used in this remand evaluation.

OHMC's three methodologies also rely on two different use rates. One use rate—80.38—is the use rate derived from the 2003 survey data collected for this project. A use rate derived from 2003 survey data is not the most appropriate use rate to be used in this remand evaluation.

OHMC's second use rate of 82/1,000 was derived from a November 2002 ASC project in Bellevue. The project was approved in May 2003, and a competitor filed an adjudicative appeal on June 4, 2003. Within the November 2006 "Findings of Fact, Conclusions of Law, and Final Order on Remand" for the Bellevue project, the Health Law Judge determined that a use rate of 82/1,000 was reasonable for that case because it is based on "*state population information and the appropriate health planning area.*" [source: Docket #03-06-C-2001CN] While the 82/1,000 use rate was determined to be appropriate for the Bellevue project, the use rate was based on 2001 utilization survey data. A use rate based on 2001 data would be inappropriate to use for this remand project. An updated use rate should be used.

When this project was submitted in August 2005, the Program collected utilization data for years 2001, 2002, and 2003. It is unclear why year 2004 data was not collected because the data would have been available when the application was submitted in August 2005. In this remand evaluation, the Program concludes that 2004 data is the appropriate utilization data to determine a use rate for this project submitted in August 2005. However, given that 2004 data was not collected during the review of this project, the Program must rely on 2004 data collected for the Proliance Kirkland project. Year 2004 population data for King County is available from OFM. The east King County planning area population can be calculated using a method submitted by past applicants based on the assumption that east King County is approximately 28.1% of the total King County population. The use rate derived from the 2004 data would then be applied to target year 2009 OFM population projections released January 2002.⁶

⁵ In March 2006, Proliance submitted an application proposing to establish an ASC in Kirkland, also within the east King County planning area. The program collected utilization data from the existing providers in the planning area for years 2003, 2004, and 2005. The Proliance-Kirkland project was approved in November 2006.

⁶ In November 2007, OFM released updated forecast population data. For this remand evaluation, the Program will base its population data using the data that was available during the review of this project.

Percent of surgery ambulatory vs. inpatient

The percentage of inpatient and outpatient (ambulatory) cases is also determined based on the survey results of the providers for a given year. The formula for this calculation is: the number of inpatient cases divided by the sum of inpatient and outpatient cases. The result is the percentages of inpatient and outpatient cases for a given year. These percentages are then applied to the target population to determine the projected number of inpatient and outpatient cases for a planning area.

Given that the percentages are based on the number of cases for a given year, SHS's four methodologies used two different percentages—one derived from 2004 survey data and one derived from 2005 survey data. The percentages derived from 2005 survey data would not be appropriate to use in this remand evaluation.

All three of OHMC's methodologies rely on year 2003 survey data collected during the review of this project, as a result, the percentages in the three methodologies are the same.

Using 2004 survey data, the Program's percentages are 37.48 for inpatient and 62.52 for outpatient. While SHS used 2004 survey data in two of its four methodologies, SHS inadvertently included outpatient cases and minutes for year 2003 for an exempt facility. Inclusion of this data would affect SHS's 2004 use rate and percentages of surgeries.

Average minutes per case

The average minutes per case is determined based on survey results of the providers for a given year. The average minutes per inpatient case is calculated using the total average minutes reported by the hospitals in the planning area. The average minutes for outpatient cases is calculated using the total average minutes reported by the hospitals providing outpatient data and the ASCs in the planning area. The calculated average minutes per case is then applied to the number of inpatient and outpatient cases projected in the target year.

The average minutes per case will change depending on the data used. For example, average minutes calculated using 2003 data would be different from the average minutes calculated using 2005 data. Further, because the average minutes per case relies on completed survey responses, it is affected, sometimes substantially, by the percentage of completed survey responses received.

Given that this calculation is based on the number of cases for a given year, SHS's four methodologies used two different average minutes per case—one derived from 2004 survey data and one derived from 2005 survey data. For 2004 data, SHS's inclusion of 2003 cases and minutes would affect the resulting average minutes per case. Again, any results derived from 2005 survey data would be inappropriate for use in this Remand evaluation.

Two of OHMC's three methodologies rely on year 2003 survey data collected during the review of this project, as a result, the average minutes per case in the three methodologies are the same. The remaining methodology relied on the default average minutes per case of 50 minutes per outpatient case and 100 minutes per inpatient case.⁷

⁷ WAC 246-310-270(9)b(iii) states "*Determine the average time per inpatient and outpatient surgery in the planning area. Where data are unavailable, assume one hundred minutes per inpatient and fifty minutes per outpatient surgery. This excludes preparation and cleanup time and is comparable to "billing minutes."*

Using 2004 survey data, the Program calculated an average of 56.0 minutes per outpatient case and 113.5 minutes per inpatient case.

OR Annual capacity in minutes

WAC 246-310-270(9)(a) states:

Existing capacity.

- (i) Assume the annual capacity of one operating room located in a hospital and not dedicated to outpatient surgery is ninety-four thousand two hundred fifty minutes. This is derived from scheduling forty-four hours per week, fifty-one weeks per year (allowing for five weekday holidays), a fifteen percent loss for preparation and clean-up time, and fifteen percent time loss to allow schedule flexibility. The resulting seventy percent productive time is comparable to the previously operating hospital commission's last definition of "billing minutes" which is the time lapse from administration of anesthesia until surgery is completed.*
- (ii) Assume the annual capacity of one operating room dedicated to ambulatory surgery is sixty-eight thousand eight hundred fifty minutes. The derivation is the same as (a)(i) of this subsection except for twenty-five percent loss for prep/clean-up time and scheduling is for a thirty-seven and one-half hour week. Divide the capacity minutes by the average minutes per outpatient surgery (see (a)(vii) of this subsection). Where survey data are unavailable, assume fifty minutes per outpatient surgery, resulting in a capacity for one thousand three hundred seventy-seven outpatient surgeries per room per year.*

Both SHS and OHMC used 94,250 minutes annual capacity for hospital (inpatient) ORs and 68, 850 minutes annual capacity for ASC (outpatient) ORs. The Program uses the same capacity numbers as required in rule.

Existing providers/# of Operating Rooms

This is also referenced as “existing capacity.” It is the count of inpatient or mixed use (hospital) ORs and the count of outpatient (hospital and ASC) ORs. In the methodology, the existing capacity is subtracted from the projected need.

Two of SHS’s four methodologies used 23 mixed-use ORs and 17 outpatient ORs. This is the capacity configuration calculated and used in the Program’s methodology for this project based on the survey data collected in year 2005. The remaining two SHS’s methodologies used 25 mixed use and 27 outpatient. The 25 mixed use includes the previously counted 23 ORs, plus 2 ORs not in use during 2003 at Snoqualmie Valley Hospital. The 27 outpatient capacity counts the 17 previously mentioned ORs, plus 10 additional ORs at ASCs in the planning area that were approved after May 12, 2006—the initial decision date of this project. All three of OHMC’s methodologies use 23 mixed-use ORs and 17 outpatient ORs as capacity.

As previously stated, the Program will use year 2004 survey data for this remand evaluation; however, the Program collected the 2004 data in year 2006, therefore, the existing capacity identified in the completed surveys reflect existing capacity at the time of the survey (year 2006), rather than 2004. For this remand evaluation, the Program will use 23 mixed-use ORs and 17 outpatient ORs derived from the capacity surveys collected in year 2005 and reflective of the 2005 capacity in those surveys. [source: AR 622-650]

Program's Remand Methodology

Appendix A attached to this evaluation is the complete methodology used in this Remand Evaluation. The table identified as Appendix A below is a summary of the assumptions and data used in the numeric methodology. Appendix B is a copy of the utilization surveys with 2004 data used to determine use rates for the numeric methodology.

Appendix A

Assumption	Data Used
Population Estimates and Forecasts	519,901 for target year 2009 - based on east King Planning Area population forecasts identified by SHS and used in the SHS methodology.
Use Rate	85.180/1,000 - based on 2004 survey results obtained for a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Percent of surgery ambulatory vs. inpatient	63.65% ambulatory setting; 36.35% inpatient setting based on 2004 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
Average minutes per case	Outpatient cases = 56.00 minutes; Inpatient cases 113.50 minutes based on 2004 survey results from a Proliance Surgeons application submitted in year March 2006 proposing to establish an ASC in Kirkland.
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule).
Existing providers/# of Operating Rooms	17 outpatient ORs and 23 mixed use ORs - based on a 2005 listing of east King planning area providers.
Results of Methodology	Need for 5.93 additional outpatient ORs

For the reasons stated in this evaluation, the application submitted by on behalf of Swedish Health Services continues to meet the applicable review criteria to establish a 3-OR ambulatory surgery center in Issaquah, within the east King County planning area. As a result, Certificate of Need #1330 issued on May 26, 2008, should be re-issued.