

EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED ON BEHALF OF WESTERN WASHINGTON ENDOSCOPY CENTERS, LLC PROPOSING TO ESTABLISH AN AMBULATORY SURGERY CENTER IN EAST PIERCE COUNTY

PROJECT DESCRIPTION

The three main entities for this project are: Western Washington Endoscopy Centers, LLC, AmSurg Holdings, Inc., and Western Washington Endoscopy Center Investments, LLC. Each entity's roles and responsibilities are outlined below.

Western Washington Endoscopy Centers, LLC [WWEC]

On December 26, 2003, two separate entities--Digestive Health Specialists and AmSurg Holdings, Inc--formed a limited liability corporation known as WWEC. One purpose of establishing WWEC was to develop freestanding ambulatory surgery centers (ASCs). In 2005, its ownership was changed to 51% AmSurg Holdings, Inc. and 49% Western Washington Endoscopy Centers Investments, LLC. Digestive Health Specialists no longer has ownership interest in WWEC. [source: CN historical files and June 11, 2008, supplemental information, p1]

AmSurg Holdings, Inc.

AmSurg Holdings, Inc. is a subsidiary of AmSurg, a publicly traded company that was established in 1992 to develop, acquire, and manage single specialty ASCs in partnership with surgical and other physician group practices. Headquartered in Nashville, Tennessee, as of December 31, 2007, AmSurg owned a majority interest in approximately 176 ASCs in 31 states. [source: Application, p3; and AmSurg website: www.amsurg.com] For this evaluation, AmSurg Holdings, Inc. will be referenced as 'AmSurg'.

Western Washington Endoscopy Centers Investments, LLC [WWEC-I]

Western Washington Endoscopy Centers Investments, LLC was formed in late 2005. Its ownership is 13 physicians and Health Care Management Services Organization, Inc. The 13 physicians each own 6.92% ownership, for a total physician ownership of 89.96%. Health Care Management Services Organization, Inc. owns the remaining 10.04%. The 13 physicians are listed below.

Steven Alabaster	Walter Hassig	Jonathan Hurst	Thomas Reinertson
Garrick Brown	William Holderman	Ralph Katsman	Timothy Schubert
Charles Donner	Lin Huang	Oussama Moussan	Gary Taubman
			James Wagonfeld

For this evaluation, the 13 owning physicians will be referenced collectively as "the physicians." [source: June 11, 2008, supplemental information, p4]

Health Care Management Services Organization, Inc is a wholly owned subsidiary of Franciscan Health System. No physicians are owners of Health Care Management Services Organization, Inc. Outside of its 10.04% ownership of WWEC-I, Health Care Management Services Organization, Inc has no role in this project.

For this project, WWEC is the applicant. As September 30, 2008, WWEC owns and operates four ASCs in Washington State. The four ASCs are listed below by location.

ASC	Address	City/ County	Planning Area
Fogel Endoscopy Center	34503 – 9 th Ave S, #130	Federal Way / King	southeast
Puyallup Endoscopy Center	1703 S Meridian, #203	Puyallup / Pierce	east
Peninsula Endoscopy Center	2727 Hollycroft, #480	Gig Harbor / Pierce	central
Waldron Endoscopy Center	1901 South Union	Tacoma / Pierce	central

[source: Application, p4]

This project proposes to establish a second ASC in Puyallup, within Pierce County to be known as Sunrise Endoscopy Center (Sunrise). The new ASC would have three operating rooms (ORs), pre- and post-operating space, and support / staff areas. Typical procedures to be performed at Sunrise include colonoscopies, limited colonoscopies, and upper endoscopies. [source: Application, pp8-9; June 11, 2008, supplemental information, Attachment 6]

Sunrise will be located at 11216 Sunrise Boulevard East, #201, Building 3 in Puyallup. WWEC provided a copy of the signed lease agreement between WWEC (tenant) and Sunrise Medical Two, LLC (landlord) for the site. The lease agreement identifies the site and Pierce County tax parcel #04192740193. The lease agreement was executed on March 14, 2008. WWEC also provided a copy of the building permit for Sunrise. [source: Exhibits 7 and 8]

The estimated capital expenditure associated with the establishment of this ASC is \$3,530,000. Of that amount, 53% is related to building construction, 26% is related to equipment, 11% is related to financing costs; 6% is related to state sales tax, and the remaining 4% is related to fees. [source: Application p22]

If this project is approved, WWEC anticipates commencement of the project within six months of approval and the new ASC would be operational July 2009. Under this timeline, FY 2009 would be the facility’s first full year of operation; year 2011 would be the third full year of operation. [source: Application p 11]

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).

AFFECTED PERSONS

Throughout the review of this project, only Good Samaritan Hospital sought and received affected person status under WAC 246-310-010. Good Samaritan Hospital is located at 419 – 15th Avenue Southeast in Puyallup. Additionally, Good Samaritan Hospital has partial ownership in an ASC known as Good Samaritan Ambulatory Surgery Center located at 1322 Third Street Southeast in Puyallup.

APPLICATION CHRONOLOGY

March 3, 2008	Letter of Intent Submitted
May 6, 2008	Application Submitted
May 7, 2008 through June 22, 2008	Department's Pre-Review Activities <ul style="list-style-type: none">• 1st screening activities and responses• 2nd screening activities and responses
June 23, 2008	Department Begins Review of Application
July 28, 2008	End of Public Comment
	No Public Hearing Requested or Conducted
August 12, 2008	Rebuttal Documents Received at Department
September 26, 2008	Department's Anticipated Decision Date
September 26, 2008	Department's Actual Decision Date

SOURCE INFORMATION REVIEWED

- Western Washington Endoscopy Center's LLC Certificate of Need Application received May 6, 2008
- Western Washington Endoscopy Center's LLC supplemental information received June 11, 2008, and June 30, 2008¹
- Public comment received throughout the review of the application
- Western Washington Endoscopy Center's LLC rebuttal comments received August 11, 2008
- East Pierce County ASC operating room utilization survey responses
- Office of Financial Management population data for east Pierce planning area
- Historical charity care data obtained from the Department of Health's Hospital and Patient Data Systems (2004, 2005, and 2006 summaries)
- Licensing and/or survey data provided by the Department of Health's Office of Health Care Survey

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).²

¹ It is noted that both documents are dated June 6, 2008.

² 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).

CONCLUSION

For the reasons stated in this evaluation and agreement to the following terms, Western Washington Endoscopy Centers, LLC is approved to establish an ambulatory surgery center in Puyallup, within Pierce County.

1. Prior to commencement of the project, Western Washington Endoscopy Centers, LLC must provide to the department for review and approval an executed copy of the Patient Transfer Agreement between Western Washington Endoscopy Centers, LLC and Good Samaritan Hospital. The executed Patient Transfer Agreement must be consistent with the draft agreement provided in the application.
2. Prior to commencement of the project, Western Washington Endoscopy Centers, LLC must provide to the department for review and approval an executed copy of the Medical Director Agreement between Western Washington Endoscopy Centers, LLC and Jonathan Hurst, MD for medical director services at Sunrise Endoscopy Center. The executed Medical Director Agreement must be consistent with the draft agreement provided in the application.
3. Prior to commencement of the project, Western Washington Endoscopy Centers, LLC must provide to the department for review and approval an executed copy of the Ancillary Services Agreement between Western Washington Endoscopy Centers, LLC and Digestive Health Specialists for management services at Sunrise Endoscopy Center. The executed Ancillary Services Agreement must be consistent with the agreement and addendum provided in the application.

Provided that the applicant agrees to the terms outlined above, a Certificate of Need would be issued with the following conditions.

1. Western Washington Endoscopy Centers, LLC will ensure that Sunrise Endoscopy Center will provide charity care in compliance with the charity care policies provided in its Certificate of Need application and the requirements of the applicable law. Sunrise Endoscopy Center will use reasonable efforts to provide charity care in an amount comparable to the average amount of charity care provided by hospitals located in the Puget Sound Region during the three most recent years. For historical years 2004-2006, these amounts are 1.90% of gross revenue and 4.07% of adjusted revenue. Sunrise Endoscopy Center will maintain records documenting the amount of charity care it provides and demonstrating its compliance with its charity care policies and applicable law.
2. Sunrise Endoscopy Center is limited to providing only those endoscopic services described within the application and relied upon by the department in this evaluation.

The approved capital expenditure associated with this project is \$3,530,000.

A. Need (WAC 246-310-210)

Based on the source information reviewed, the department determines that the applicant has met the need criteria in WAC 246-310-210 and WAC 246-310-270.

(1) The population served or to be served has need for the project and other services and facilities of the type proposed are not or will not be sufficiently available or accessible to meet that need

The Department of Health's Certificate of Need Program uses the numeric methodology outlined 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 proposed ASC would be located in the east Pierce County planning area.

The methodology estimates 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.
- c) Data used to make these projections specifically exclude endoscopy rooms and procedures.³

Applicant's Methodology

The numeric portion of the methodology requires a calculation of annual capacity of existing ORs, both outpatient and inpatient, and excludes specialized dedicated rooms. Examples of 'dedicated' rooms are open heart surgery rooms, delivery rooms, cystoscopic rooms, and endoscopic rooms. Given that endoscopic rooms are specifically excluded from the utilization calculations, and this project proposes to establish an ASC dedicated to endoscopic procedures, the numeric methodology would not project need for ORs specific to this project.

To demonstrate compliance with this criterion, WWEC provided the following information. [source: Application: pp15-18]

'Consistent with [the department's] January 2005 evaluation, WWEC agrees that the methodology is not a predictor of future need for endoscopy capacity. However, it can be unequivocally demonstrated that proposed new Sunrise facility is needed—and historical growth is a key factor in demonstrating need. WWEC attributes the recent growth to several facts—most notably the increased screening provided for colon cancer. ...There has also been an increase of payers willing to reimburse for colon

³ WAC 246-310-270(9)(a)(iv).

cancer screenings. ..As such, demand for these services continues to grow at rates much higher than other health care services.”

WWEC further provided Claritas⁴ population data used to demonstrate its assertion that the east Pierce planning area is expected to experience significant future growth. WWEC also provided patient origin data for its existing endoscopic ASC located in Puyallup. This patient origin data shows that approximately 80% of the Puyallup Endoscopy Center’s patients reside in the east Pierce planning area. [source: Application, p16 and Exhibit 9]

Even though WWEC asserted that the department’s numeric methodology outlined in WAC 246-310-270(9) is not a fair predictor of need for the dedicated endoscopic ORs proposed in this project, as required by application guidelines, WWEC applied the numeric methodology to this project. The assumptions used by WWEC are summarized below. [source: Application p18; Exhibit 10]

Assumption	Data Used
Planning Area	East Pierce County
Population Estimates and Forecasts	Claritas population projections; Target year 2011
Use Rate	Divide 2007 estimated current surgical cases by estimated 2007 populations results in the service area use rate of 49.94/1,000 population
Percent of surgery ambulatory vs. inpatient	36.7% ambulatory (outpatient) and 63.3% inpatient
Average minutes per case	Default minutes identified in WAC 246-310-270 Inpatient 100 minutes Outpatient 50 minutes
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes (per methodology in rule)
Existing providers	Existing providers not identified in the application, OR Capacity: 5 dedicated outpatient and 5 inpatient ⁵

Using the assumptions outlined above, WWEC concluded a need for 2.84—rounded to 3—dedicated outpatient ORs by the end of target year 2011.

Department’s Methodology

The department recognizes that dedicated endoscopy ORs are deliberately excluded from the numeric methodology outlined in WAC 246-310-270(9). To assist in its review of this project, CN staff reviewed the National Directory of Health Planning, Policy and Regulatory Agencies. This directory provides a summary of projects that require CN review for all 50 states and the District of Columbia. CN staff contacted the seven states identified in the

⁴ Claritas [pronounced 'CLAIR-uh-toss'), Inc. is a marketing information resources company dedicated to helping companies engaged in consumer and business-to-business marketing. Claritas, Inc. provides clients' with the data, tools, applications, and expertise needed to examine, target and execute profitable marketing opportunities. [source: Claritas Inc. website]

⁵ WWEC initially identified 5 dedicated outpatient and 5 inpatient ORs in the planning area and based its numeric methodology on that OR capacity. In its August 11, 2008, rebuttal documents, WWEC revised its planning area OR capacity to 6 dedicated outpatient and 6 dedicated inpatient ORs, but did not recalculate the numeric methodology based on the revised capacity.

directory as the most comprehensive scope of review for health care projects.⁶ All seven states require CN review of ASC projects and include dedicated endoscopy facilities within the review. However, none of the seven states apply specific methodologies or standards to dedicated endoscopy facilities.⁷ In summary, none of the seven states could provide specific assistance to a review for a dedicated endoscopy facility.

To further assist in its review of this project, CN staff also reviewed the Guidelines for Office Endoscopic Services developed under the auspices of the Society of American Gastrointestinal Endoscopy Surgeons and its various committees. The standards include specific requirements related to physician privileges, patient safety, patient and procedure selection criteria, physical facilities, records maintenance, and quality assurance. Based on research and available information regarding endoscopy facilities, the department concludes that documents provided in the application meet or exceed the available guidelines.

In conclusion, the department concurs with the applicant that numeric methodology outlined in WAC 246-310-270(9) is not a predictor of need for the dedicated endoscopic ORs. However, as required by rule, the department also applied the numeric methodology to this project.

Given that the ASC would be located in east Pierce County, the department applied the methodology to that health service planning area. There are 11 providers in the east Pierce County planning area, which includes an operating ASC owned by the applicant. The 11 providers are listed below. [source: CN historical files]

East Pierce County Planning Area Providers

1 Hospital / City	10 ASCs / City
Good Samaritan Hospital, Puyallup (a MultiCare Health System facility)	Ambulatory Puyallup SurgiCenter, Puyallup Cascade Laser & Surgery Center, Puyallup ENT & Plastic Surgery Associates, Puyallup Good Samaritan Surgery Center, Puyallup Hillside Medical Surgery Center, Puyallup MicroSurgical Spine Center, Puyallup Puyallup Endoscopy Center, Puyallup (Applicant’s ASC) Puyallup Orthopedic Associates, Puyallup Robert Wright, MD/Meridian Surgery Center, Puyallup Urology Surgery Center, Puyallup

As shown above, the 11 facilities include one hospital and ten ASCs. Good Samaritan Hospital is the only hospital operating in the planning area. All OR capacity consistent with WAC 246-310-270(9) will be used in the numeric methodology calculations.

⁶ The seven states are: Alaska, Georgia, Maine, North Carolina, South Carolina, Vermont, and West Virginia.

⁷ In fact, five of the seven had not reviewed a dedicated endoscopy facility for at least 10 years (Georgia, Maine, North Carolina, South Carolina, and West Virginia), and the remaining two had never reviewed a dedicated endoscopy facility (Alaska and Vermont) since the existence of their respective CN Programs. Further, two of the states (South Carolina and Vermont) indicated that they were in the process of reviewing their CN standards and methodologies with the intent of recommending the establishment of specific standards for endoscopy facilities.

Of the ten ASCs shown above, six 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. Since these six facilities do not meet the ASC definition in WAC 246-310-010, the ORs are not included in the capacity calculations of available ORs for the east Pierce planning area.

Of the four remaining ASCs, one—Puyallup Endoscopy Center—is owned and operated by the applicant, WWEC. On February 9, 2005, CN #1301 was issued to WWEC for the establishment of this facility. A condition attached to the department’s approval requires the facility to limit its services to endoscopic procedures. Given that endoscopy ORs are specifically not included in the OR capacity count in the methodology, the 2 ORs at Puyallup Endoscopy Center would not be counted.

The remaining three facilities—Good Samaritan Surgery Center, MicroSurgical Spine Center, and Puyallup Orthopedic Associates—are ASCs as defined in WAC 246-310-010 and the OR capacity of the four ASCs will be included in the capacity calculations of available ORs for the east Pierce planning area.⁸

To assist in its application of the numeric methodology for this project, on June 19, 2008, the department requested utilization information from all 11 facilities identified above. Responses were received from 7 of the 11 facilities.⁹ The department relied on the following assumptions to apply its methodology.

Assumption	Data Used
Planning Area	East Pierce County
Population Estimates and Forecasts	Office of Financial Management population data for east Pierce County. Target year 2011
Use Rate	Divide 2007 estimated current surgical cases by estimated 2007 populations results in the service area use rate of 59.78/1,000 population
Percent of surgery ambulatory vs. inpatient	Based on DOH survey results, 81.1% ambulatory (outpatient) and 18.9% inpatient
Average minutes per case	Based on DOH survey results, Outpatient cases = 57.05 minutes; inpatient cases 73.11 minutes
OR Annual capacity in minutes	68,850 outpatient surgery minutes; 94,250 inpatient or mixed-use surgery minutes
Existing providers	Based on 2008 listing of east Pierce County providers OR capacity: 7 dedicated outpatient and 6 mixed use

The department’s application of the numeric methodology using available survey responses results in a need for 5.59—rounded to 6—additional outpatient ORs in the east Pierce

⁸ Good Samaritan Surgery Center was issued CN #951 on August 23, 1988; MicroSurgical Spine Center was issued CN #1317 on September 5, 2005; and Puyallup Orthopedic Associates was issued CN #1227 on May 4, 2001.

⁹ Completed utilization surveys were not provided by Ambulatory Puyallup SurgiCenter; ENT & Plastic Surgery Associates, Puyallup Orthopedic Associates, and Urology Surgery Center.

planning area in year 2011. The department's methodology is Appendix A attached to this evaluation.

In summary, the methodology results in a need for additional OR capacity in the east Pierce County planning area. However, if this project is approved, the addition of two ORs dedicated to endoscopic procedures would not be counted in the OR supply, and therefore would have no impact on the need calculations or the future need for additional ORs in the planning area.

Three entities provided comments specific to this project related to the need criteria. Below is an excerpt of the comments.

Franciscan Health System [July 25, 2008, public comment]

"We believe the surgery center will serve a rapidly growing population."

MultiCare's Good Samaritan Hospital [July 24, 2008, public comments and survey responses]

"Good Samaritan Hospital has available surgery and endoscopy capacity, but is neutral with respect to the currently contemplated CN application, so long as the approved scope would be limited to gastroenterology endoscopy procedures."

Good Samaritan Surgery Center, LLC [source: July 24, 2008, survey response comments]

"GSSC does not currently provide gastrointestinal endoscopy, so no impact is anticipated if only GI procedures are intended. GSSC welcomes the applicants to consider using GSSC. We stand ready to support them with access to our facility, or at Sunrise."

In addition to the specific comments summarized above, four ASCs in the planning area also indicated on their utilization survey that if the ASC were to be limited to endoscopic procedures as asserted in the application, no impact would be expected for the four ASCs. [source: Utilization surveys from Cascade Laser and Surgery Center, Hillside Medical Surgery Center, MicroSurgical Spine Center, and Meridian Surgery Center.]

Based on information provided in the application, WWEC intends to provide only endoscopic procedures at the Sunrise facility. To ensure that WWEC will operate Sunrise in accordance with information provided in the application, approval of this project would be contingent upon WWEC agreeing to provide only endoscopic services at Sunrise as described within the application and relied upon by the department in this evaluation. Provided that WWEC would agree to limit the procedures to endoscopic, the department concludes that this sub-criterion is met.

- (2) All residents of the service area, including low-income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups and the elderly are likely to have adequate access to the proposed health service or services.

WWEC is currently a provider of health care services to residents of King and Pierce counties, including low-income, racial and ethnic minorities, handicapped and other underserved groups. WWEC also currently participates in the Medicare and Medicaid programs with its four operational endoscopy ASCs. To determine whether all residents of the service area would have access to Sunrise's proposed services, the department required

WWEC to provide a copy of its current or proposed admission policy. The 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 treatment.

To demonstrate compliance with this sub-criterion, WWEC provided a copy of its current Admission Policy that would also be used at Sunrise. The policy outlines the process/criteria that WWEC uses to admit patients for treatment or care at the ASC. The policy also states that any patient requiring care will be accepted for treatment at any WWEC ASC without regard to gender, age, disability, race, ethnicity, religion, or source of payment. [source: June 30, 2008 supplemental information, Attachment 2]

To determine whether low income residents would have access to the proposed services, the department uses the facility's Medicaid eligibility or contracting with Medicaid as the measure to make that determination. To determine whether the elderly would have access or continue to have access to the proposed services, the department uses Medicare certification as the measure to make that determination.

WWEC currently provides services to Medicare and Medicaid eligible patients at its existing ASCs. Documents provided in the application demonstrate that WWEC intends to maintain this status. For this project, a review of the policies and data provided for Sunrise identifies the facility's financial resources as including both Medicare and Medicaid revenues. [source: June 11, 2008, supplemental information, Attachment 4]

A facility's charity care policy should confirm that all residents of the service area including low-income, racial and ethnic minorities, handicapped and other underserved groups have, or would have, access to healthcare services of the applicant. The policy should also include the process one must use to access charity care at the facility.

WWEC demonstrated its intent to provide charity care at Sunrise by submitting its current charity care policy used at its existing operational ASCs and proposed to be used at Sunrise. The charity care policy outlines the process a patient would use to access this service. Further, WWEC included a 'charity care' line item as a deduction from revenue within the pro forma financial documents for Sunrise and WWEC as a whole. [source: June 11, 2008, supplemental information, Attachment 4 and June 30, 2008, supplemental information, Attachments 2 and 4]

For charity care reporting purposes, the Department of Health's Hospital and Patient Data Systems (HPDS), divides Washington State into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. Sunrise would be located in Pierce County within the Puget Sound region. For charity care reporting purposes, the affected hospital includes MultiCare Health System's Good Samaritan Hospital located in Puyallup with Pierce County. For this project, the department reviewed charity care data for Good Samaritan Hospital and the 18 existing hospitals currently operating within the Puget Sound Region.

According to 2004-2006¹⁰ charity care data obtained from HPDS, the three-year average for the Puget Sound Region is 1.90% for gross revenue and 4.07% for adjusted revenue. The three-year charity care data reported by Good Samaritan Hospital is 1.65% of gross revenue and 3.53% of adjusted revenue. [source: HPDS 2004-2006 charity care summaries]

WWEC's pro formas indicate that Sunrise will provide charity care at approximately 4.09% of gross revenue, and 4.33% of adjusted revenue. [source: June 30, 2008, supplemental information, Attachment 4] These averages are above the average charity care provided in the Puget Sound Region and Good Samaritan Hospital for gross and adjusted revenues. To ensure WWEC would provide the percentages projected in the application, if this project is approved, a condition related to the percentage of charity care to be provided at the ASC is necessary.

Based on the documents provided in the application and WWEC's agreement to the condition related to charity care, the department concludes that all residents, including low income, racial and ethnic minorities, handicapped, and other under-served groups would have access to the services provided by the hospital. This sub-criterion is met.

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

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

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

If this project is approved, WWEC anticipates Sunrise would become operational July 2009. WWEC operates its ASCs using a July – June fiscal year, as a result, FY 2009 would be the facility's first 12 months of operation and year 2011 would be three full years of operation. [source: June 11, 2008, supplemental information, p11] To determine whether Sunrise would meet its immediate and long range operating costs, the department reviewed its assumptions, projected revenue/expense statements, and projected balance sheets for the first three full years of operation.

WWEC provided the following statements related to the assumptions used as a basis for the projected number of procedures at Sunrise. [source: June 11, 2008, supplemental information, pp9-10]

- *Internal WWEC data was used to develop the utilization projections contained in Table 8 [of the application].*
- *Actual historic annual growth at Puyallup [Endoscopy Center] during the period of 2001-2007 was 15%. WWEC assumed 7.5% growth (or half of the historic rate) in its future projections.*
- *Total WWEC Puyallup [Endoscopy Center] volumes were initially calculated (assuming no capacity constraints). WWEC assumed that 56% of the total projected procedures would occur at Puyallup and 44% at Sunrise. This level of activity was assumed to represent the distribution of physician time.*

¹⁰ Year 2007 charity care data is not available as of the writing of this evaluation.

- *Puyallup [Endoscopy Center] is currently operating above 100% of capacity. At this level, the facility becomes inefficient and patient access is compromised as there is no ability to accommodate the unexpected. This operating level results in delays as patients must wait longer than typical to even schedule their procedures. The assumption that 56% of the total WWEC east Pierce activity would occur at Puyallup and 44% would occur at Sunrise is based upon how the physicians are expected to distribute their time between centers for the first three years of operation.*

The assumptions relied on by WWEC to project the financial viability of Sunrise appear to be reasonable.

Table 1 below is a summary of Sunrise’s projected revenues and expenses for the first three full years of operation. [source: June 11, 2008, supplemental information, Attachment 4]

**Table 1
Sunrise Revenue and Expense Summary**

	FY 2009	FY 2010	FY 2011
Number of Procedures	4,200	4,500	4,750
Net Revenue*	\$ 1,892,666	\$ 2,025,988	\$ 2,138,180
Total Expense	\$ 1,592,619	\$ 1,633,066	\$ 1,680,861
Net Profit or (Loss)	\$ 300,047	\$ 392,922	\$ 457,319
Net Revenue per Procedure	\$ 450.63	\$ 450.22	\$ 450.14
Total Expenses per Procedure	\$ 379.20	\$ 362.90	\$ 353.87
Net Profit or (Loss) per Procedure	\$ 71.43	\$ 87.32	\$ 96.27

*Includes deductions for charity care and bad debt.

As shown in Table 1 above, Sunrise projects a profit in each of the facility’s first three full years of operation. Under the ownership agreements between WWEC and AmSurg, as a 51% owner, AmSurg receives 51% of the income of the ASCs. The expenses shown in Table 2 above include deductions to AmSurg under that arrangement.

Digestive Health Specialists provides management services at all four operational WWEC ASCs under an “Ancillary Services Agreement.” The agreement identifies services to be provided by Digestive Health Specialists for each ASC. Examples of services provided include appointment of a general manager, management of day-to-day operations, accounting and billing services, and general marketing of the ASCs. Compensation for these services is included in the “purchased services” and “other” line items in the revenue/expense statement. [source: Application, Exhibit 14; June 11, 2008 supplemental information, pp13-14 & Attachment 8]

Additionally, as stated in the need section of this evaluation, Sunrise’s projected charity care percentages are above the 3-year regional average and Good Samaritan Hospital’s 3-year average. [source: June 30, 2008, supplemental information, p2]

WWEC also provided projected revenue and expenses statements for WWEC as a whole if this project is approved. Those statements, which include deductions for bad debt, charity

care, management services, and AmSurg, show that WWEC would continue to operate at a profit with the establishment of a new ASC in Puyallup. [source: Application, Exhibit 13]

Table 2 below shows a summary of the balance sheets provided by the applicant. [source: June 30, 2008, supplemental information, Attachment 5]

Table 2
Sunrise ASC Projected Balance Sheets for FY 2009-2011
FY 2009

Assets		Liabilities	
Current Assets	\$ 318,778	Current Liabilities	\$ 106,148
Other Assets (Fixed)	2,327,000	Other Liabilities (long term debt)	2,029,140
Total Assets	\$ 2,645,778	Total Liabilities	\$ 2,135,288
		Equity	510,490
		Total Liabilities and Equity	\$ 2,645,778

FY 2010

Assets		Liabilities	
Current Assets	\$ 364,395	Current Liabilities	\$ 107,209
Other Assets (Fixed)	2,056,880	Other Liabilities (long term debt)	1,623,312
Total Assets	\$ 2,421,275	Total Liabilities	\$ 1,730,521
		Equity	690,754
		Total Liabilities and Equity	\$ 2,421,275

FY 2011

Assets		Liabilities	
Current Assets	\$ 389,816	Current Liabilities	\$ 108,281
Other Assets (Fixed)	1,784,868	Other Liabilities (long term debt)	1,217,484
Total Assets	\$ 2,174,684	Total Liabilities	\$ 1,325,765
		Equity	848,919
		Total Liabilities and Equity	\$ 2,174,684

Based on the projected balance sheets shown above, it is clear that Sunrise would be financially stable. Further, a review of the balance sheets provided in the application indicates that WWEC as a whole would also be financially stable with the addition of this new ASC in Puyallup. [source: June 30, 2008, supplemental information, Attachment 5]

There were no comments provided by interested or affected persons related to this sub-criterion. Based on the financial information above, the department concludes that the immediate and long range capital and operating costs of the project can be met. This sub-criterion is met.

(2) The costs of the project, including any construction costs, will probably not result in an unreasonable impact on the costs and charges for health services.

WWEC provided a breakdown of the expected capital costs to establish the ASC. The construction costs for the project are approximately \$2 million, which includes building

construction, architect and engineering fees, and sales tax associated with construction. [source: Application, p22]

WWEC has relied on its own experience, as well as the experience of AmSurg, to develop the construction costs identified. AmSurg has developed ASCs throughout the United States and ensures the project will be completed on time and within the identified budget. [source: Application, p22]

The department also compared the projected costs and charges identified in Table 1 of this evaluation to those of recent ASC applications. That comparison reveals that the costs and charges identified are comparable to those shown in like-type ASC applications.

Based on the information provided above, the department concludes that the cost of the project will not result in an unreasonable impact on the costs and charges for health services within the service area. This sub-criterion is met.

(3) The project can be appropriately financed.

WWEC provided the following capital expenditure breakdown for the project. [source: Application, p22]

Item	Cost
Building construction	\$ 1,851,039
Equipment	906,179
Fees	152,874
Financing costs	404,000
Sales Tax	215,908
Total	\$ 3,530,000

The funding for the project will be debt financed, and Sunrise will be assigned 100% of the debt. An amortization schedule with full terms of repayment was provided in the application. The schedule shows the debt will be fully paid in six years. The amortized repayment schedule, while ambitious, is not unrealistic. Further the cost of the debt financing is included in the expense line items in the Sunrise revenue and expense statements shown in Table 1 of this evaluation. [source: June 11, 2008, supplemental information, Attachment 5] Even with the ambitious repayment schedule, the department concludes that Sunrise could meet its immediate and long range capital and operating costs of the project.

Based on the information provided above, the department concludes that the project can 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 met the structure and process of care criteria in WAC 246-310-230.

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

WWEC anticipates Sunrise would become operational July 2009. Under this timeline, FY 2009 would be the facility's first full year of operation. [source: June 11, 2008, supplemental information, p11] Table 3 below summarizes the projected staffing at Sunrise for FY 2009 through 2011. [source: Application, p25]

**Table 3
Sunrise ASC FY 2009-2011 Staffing**

Type of Staff	FY 2009	FY 2010 Increase	FY 2011 Increase	Total Staff
Clinical Director	1.00	0.00	0.00	1.00
RNs	3.00	1.00	0.00	4.00
LPNs/Techs	3.00	1.00	0.00	4.00
Scheduler	1.00	0.00	0.00	1.00
Reception/Admission	1.00	0.00	0.00	1.00
Business office	1.00	0.00	0.00	1.00
Total FTEs	10.00	2.00	0.00	12.00

As shown in Table 3 above, WWEC anticipates hiring the majority of its needed staff in year one, with a minor increase in year two. By the end of the third year of operation, Sunrise would be operating with the equivalent of 12 FTEs.

To demonstrate that staff would be available and accessible for this project, WWEC provided the following statements:

“WWEC does not anticipate any unusual difficulty in recruiting and retaining staff for the proposed endoscopy center. With the growth of Puyallup, WWEC has been very successful in recruiting new staff. In order to be effective in staff recruitment and retention, WWEC offers competitive wage and benefit packages. In addition, it is anticipated that some of the initial staff will transfer from the existing Puyallup [Endoscopy Center] facility.” [source: Application, p26]

Once Sunrise becomes operational, WWEC anticipates that 56% of their total east Pierce cases would occur at the existing Puyallup facility, and 44% would occur at Sunrise. This anticipated breakdown is based on the WWEC physicians' distribution of time between the centers. As a result, transferring staff from the Puyallup facility to Sunrise would be reasonable. There were no comments provided by interested or affected persons related to this sub-criterion.

Based on the information provided above, the department concludes that staff for the new ASC in Puyallup can be recruited and retained. 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.

WWEC currently operates four endoscopic ASCs in King and Pierce counties. Established ancillary and support agreements are already in place for all facilities. This proposed ASC would be a second facility in Puyallup, where the Puyallup Endoscopy Center already operates. Established agreements and relationships would continue with the establishment of Sunrise in Puyallup. WWEC intends to include Sunrise in any existing agreements where appropriate, and establish new agreements where necessary.

WWEC provided copies of its existing transfer agreement with Good Samaritan Hospital used at the Puyallup Endoscopy Center. WWEC intends to enter into a second agreement with the hospital for the Sunrise facility and provided a copy of the draft agreement that would be used. The draft agreement identifies roles and responsibilities for both entities. [source: June 11, 2008, supplemental information, Attachment 9] If this project is approved, WWEC would have to agree to provide a copy of the final Transfer Agreement with Good Samaritan Hospital.

Jonathan Hurst, MD, one of the owning physicians, will provide medical director services at Sunrise. Dr. Hurst provides medical director services at Puyallup Endoscopy Center. WWEC provided a copy of the draft medical director agreement between itself and Dr. Hurst. The draft agreement outlines the roles and responsibilities of both WWEC and the medical director. Consistent with its existing endoscopic ASCs, there is no additional compensation for WWEC physicians to provide medical director services. [source: June 30, 2008, supplemental information, Attachment 1] If this project is approved, WWEC would have to agree to provide a copy of the final Medical Director Agreement with Dr. Hurst.

Digestive Health Specialists provides management services at all four operational WWEC ASCs under an “Ancillary Services Agreement.” WWEC provided a draft “Addendum to the Ancillary Services Agreement” that incorporates the new Sunrise ASC into the agreement. [source: Application, Exhibit 14 and June 11, 2008 supplemental information, Attachment 8] If this project is approved, WWEC would have to agree to provide a copy of the final Ancillary Services Agreement that incorporates the Sunrise ASC.

While WWEC does not have formal agreements with vendors for laundry and bio-medical supplies, WWEC does have established working relationships with local providers for those services. WWEC intends to expand those relationships to include Sunrise. [source: Application, p27 and June 11, 2008, supplemental information, p15 & Attachment 9]

Based on the information provided in the application and provided that WWEC agrees to the terms related to the draft agreements, the department concludes that Sunrise would have appropriate ancillary and support relationships as required. This sub-criterion is met.

(3) There is reasonable assurance that the project will be in conformance with applicable state licensing requirements and, if the applicant is or plans to be certified under the Medicaid or Medicare program, with the applicable conditions of participation related to those programs.

WWEC has been operating four Medicare certified ASCs in the state of Washington since at least 2004. WWEC does not own or operate any other health care facilities in Washington or any other state. The Department of Health's Office of Health Care Survey (OHCS), which surveys ASCs within Washington State, has completed at least one compliance survey for each of the four operating ASCs.¹¹ The survey revealed no substantial non-compliance issues for any of the facilities. [source: compliance survey data provided by Office of Health Care Survey]

The Department of Health's Medical Quality Assurance Commission credentials medical staff in Washington State and is used to review the compliance history for all medical staff, which includes physicians, RNs, and LPNs, associated with WWEC. A compliance history review of all medical staff associated with WWEC, including the proposed medical director, Jonathan Hurst, MD, reveals no recorded sanctions for all. [source: compliance history provided by Medical Quality Assurance Commission]

Given that AmSurg, Inc. has 51% ownership in WWEC, the department reviewed the quality of care history associated with AmSurg. As of December 31, 2007, AmSurg owned at least 10% interest in approximately 176 ASCs in 32 states, including Washington State.¹² To evaluate this sub-criterion, the department requested quality of care histories from the states where AmSurg, or any of its subsidiaries, owns or operates healthcare facilities--which represents a total of 171 ASCs. Through either return of the quality of care survey or by accessing the Center for Medicare and Medicaid Services website, the department was able to obtain information for 20 of the 32 states, representing 84% of the ASCs.¹³ A review of data from the 20 states revealed no substantial non-compliance issues for any of the AmSurg facilities.

Given the compliance history of the WWEC's operational facilities in King and Pierce County, the compliance history of AmSurg, and the compliance history of the medical staff associated with the ASCs, including the medical director, there is reasonable assurance that WWEC would operate a new ASC in conformance with applicable state and federal licensing and certification requirements. This sub-criterion is met.

¹¹ Waldron Endoscopy Center surveyed May 2005; Peninsula Endoscopy Center surveyed January 2004; Puyallup Endoscopy Center surveyed January 2006; and Fogel Endoscopy Center surveyed April 2004.

¹² States include: Alabama, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming.

¹³ States that did not respond are: Alabama, Arkansas, Illinois, Michigan, Minnesota, Missouri, New Jersey, New Mexico, North Carolina, Ohio, and Wyoming.

- (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.

To demonstrate compliance with this sub-criterion, WWEC acknowledged that it currently operates an endoscopy ASC in Puyallup. The addition of another endoscopy ASC in Puyallup would complement the services already offered.

Further, established ancillary and support agreements are already in place for its Puyallup Endoscopy Center. These relationships would continue with the establishment of Sunrise in Puyallup. WWEC intends to include Sunrise in any existing agreements where appropriate, and establish new agreements where necessary.

WWEC provided copies of its existing transfer agreement with Good Samaritan Hospital. The transfer agreement would be amended to include Sunrise. Additionally, while WWEC does not have formal agreements with various vendors, including laundry and bio-medical supplies, WWEC does have established working relationships with local providers for those services. WWEC intends to expand those relationships to include Sunrise. [source: Application, p27 and June 11, 2008, supplemental information, p15 & Attachment 9]

Based on this information provided above, the department concludes that approval of this project would not cause unwarranted fragmentation of the existing healthcare system. Therefore, this sub-criterion is 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 evaluated in sub-section (3) above, and based on that evaluation, the department concludes that this sub-criterion is met.

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

Based on the source information reviewed, the department determines that the applicant has 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.

Before submitting this application, WWEC considered and rejected four alternatives. The alternatives and WWEC's rationale for rejecting them is summarized below. [source: Application, p28 and June 11, 2008, supplemental information, pp15-18]

Do nothing or status quo

WWEC rejected this option because of the high utilization experienced at Puyallup Endoscopy Center. WWEC considers the patient diverts and 'bumping', along with the delays in care, to be unacceptable in the long term.

Expand the existing Puyallup Endoscopy Center

This option was explored in great detail because it would be less costly than establishing a second ASC in the same planning area as the Puyallup Endoscopy Center. The option was ultimately rejected, for the most part, because the site of the existing ASC is insufficient to accommodate the expansion of two to three more ORs. Additionally, WWEC recognizes that expansion of an operational ASC would be very disruptive to its operations.

Actively divert east Pierce County residents to other WWEC ASCs

This option was rejected after WWEC conducted an informal survey of its patients and local referring physicians. The results of the survey revealed that requiring patients to travel from Puyallup to a facility in either Tacoma (WWEC's Waldron Endoscopy Center) or Gig Harbor (WWEC's Peninsula Endoscopy Center) would be disruptive to patients and physicians alike. Additionally, the referral of patients to other ASCs may not remedy the delays of care experienced by patients because the referred patients would have to be incorporated into the current schedules of the receiving ASCs. This option did not have a great potential of alleviating any patient diverts, bumping, or delays in care.

Relocate the existing Puyallup Endoscopy Center to a new site and expand the number of ORs to accommodate the projected patients

WWEC recognizes that this option would have limited the need for a Certificate of Need application for the establishment of a new facility. This option was rejected because WWEC has a long term lease for the existing Puyallup Endoscopy Center that expires in year 2013. The costs to break the lease was determined to prohibitive. With the growth in endoscopy procedures in east Pierce County, WWEC did not consider waiting until the lease expired then relocating the facility to be a feasible option.

Based on the information summarized above, WWEC considered four viable options before submitting this application. While the option of expanding the existing Puyallup Endoscopy Center would not have required prior Certificate of Need review and approval, waiting until year 2013 before relocating and expanding does not appear to be a reasonable option. As a result, the department concludes that WWEC chose the best alternative for the community.

Comments provided by the existing providers in the planning area asserted that they did not oppose this project if the procedures to be provided were limited to endoscopic procedures. Further the comments confirmed that, with the exception of WWEC's own Puyallup facility, endoscopic procedures are not offered at the existing ASCs in the planning area. Based on the information provided above and provided that the applicant would agree to the terms and conditions identified on page 4 of this evaluation, the department concludes that this project is the best available alternative for the community. This sub-criterion is met.

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

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

As stated in the project description portion of this evaluation, this project involves construction. This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Within that evaluation, the department determined the sub-criterion was met, therefore, this sub-criterion would also be considered met.

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

This sub-criterion is also evaluated within the financial feasibility criterion under WAC 246-310-220(2). Within that evaluation, the department determined the sub-criterion was met, therefore, this sub-criterion would also be considered met.

Based on the above evaluation, the department concludes that costs, scope, and methods of construction and energy conservation are reasonable, and this sub criterion is met.