

**EVALUATION OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY
SWEDISH HEALTH SERVICES PROPOSING TO AMEND CERTIFICATE OF NEED #1379
BECAUSE OF A CHANGE IN THE APPROVED SITE**

APPLICANT DESCRIPTION

Swedish Health Services (SHS) is a not-for-profit corporation and a 501(c)(3) exempt organization with 100% ownership of Swedish Medical Center.¹ Swedish Medical Center is also a Washington private, not-for-profit corporation and a 501(c)(3) exempt organization. Swedish Medical Center provides Medicare and Medicaid acute care services at the following three campuses in King County.²

SHS-First Hill Campus	747 Broadway, Seattle
SHS-Ballard Campus	5300 Tallman Avenue Northwest, Seattle
SHS-Cherry Hill Campus	500 – 17 th Avenue, Seattle

The First Hill and Ballard campuses are operated under a single hospital license that combines both campuses. The Cherry Hill campus is operated under a single license separate from the other two campuses. Below is a brief description of each campus. [source: Department of Health's hospital licensing files and CN historical files]

SHS-First Hill Campus

This campus houses 697 acute care beds. Services provided at the First Hill campus include general acute care services, chemical dependency, rehabilitation, obstetrical, level 2 intermediate care, and level 3 neonatal intensive care. Additionally, the First Hill campus provides a variety of tertiary services, including adult and pediatric open heart surgery, pancreas, kidney, and autologous / allogenic bone marrow transplant, and specialized pediatric services. In 2007, Swedish Medical Center received Certificate of Need approval to establish a liver transplant program at its First Hill campus. The First Hill campus holds a three-year accreditation from the Joint Commission.³

SHS-Ballard Campus

Swedish Medical Center's Ballard campus is licensed for 133 acute care beds. Services provided at this campus include general acute care. The Ballard campus holds a three-year accreditation from the Joint Commission.

On November 19, 1993, Swedish Medical Center was issued Certificate of Need #1099 approving the establishment of a 30 bed transitional care unit (TCU) within space at the Ballard campus. At that time, the Ballard campus was licensed for 163 acute care beds. CN #1099 approved the redistribution of 30 acute care beds to skilled nursing use. From the implementation of CN #1099 to June 14, 2006, Swedish's Ballard campus operated 133 general medical surgical beds and 30

¹ Swedish Health Services also has ownership percentages in a variety of other healthcare entities, such as home health, ambulatory surgery, and urgent care clinics. Since these entities are not pertinent to this project, they will not be discussed in this evaluation.

² On April 30, 2010, Swedish Health Services submitted a joint application with the hospital district that operates Stevens Hospital in Edmonds, within Snohomish County. The joint application proposes that SHS would enter into a 30 year lease agreement to operate Stevens Hospital. Since the joint application is in the early stages of the Certificate of Need review process and is not relevant to this amendment application, it will not be discussed in this amendment review.

³ The Joint Commission is an independent, not-for-profit organization that accredits and certifies more than 17,000 health care organizations and programs in the United States. Joint Commission accreditation and certification is recognized nationwide as a symbol of quality that reflects an organization's commitment to meeting certain performance standards.

beds dedicated to skilled nursing. On June 15, 2006, Swedish Medical Center closed its 30 bed TCU and banked those beds under the full facility closure provisions of RCW 70.38.115(13) and WAC 246-310-396.⁴ It is noted that Swedish Medical Center continues to pay the licensing fee for the 30 beds banked under full facility closure, however the 30 beds cannot be used for either skilled nursing or acute care use without prior Certificate of Need review and approval.

SHS-Cherry Hill Campus

With 385 acute care beds, this campus is operated under a separate hospital license from Swedish's First Hill and Ballard campuses. The Cherry Hill campus also holds a three-year accreditation from the Joint Commission. Services provided at the Cherry Hill campus include general acute care, rehabilitation, obstetrical, and adult open heart surgery. Swedish Health Services has obtained a PPS exemption for a 36-bed rehabilitation unit and a 36-bed psychiatric unit.⁵

BACKGROUND INFORMATION

On July 21, 2004, Swedish Health Services submitted an application to establish a 175-bed acute care hospital in the city of Issaquah, within King County. On May 10, 2005, the department denied Swedish's application.⁶ After the completion of adjudicative and judicial appeals, on May 31, 2007, the department issued its remand decision related to Swedish's Issaquah Hospital project. The remand decision approved the establishment of a new 175-bed hospital at one of the following two approved sites in Issaquah. [source: CN Program's May 31, 2007, remand evaluation]

Primary - Highlands Site:

SHS identified Issaquah Highlands as its primary site, which is identified as assessor parcel # 272406-9206 and located east of Highlands Drive in the southern portion of area 4 of Issaquah Highlands. For this site, SHS has a signed option for 15 acres of undeveloped land. If this site were selected, SHS would allocate 12 acres to a five-story hospital and the remaining 3 acres to medical office buildings. [source: CN Program's May 31, 2007, remand evaluation, p3]

⁴ The eight-year bed banking for these 30 beds expires on June 15, 2014.

⁵ Prospective Payment System (PPS) is a method of reimbursement in which Medicare payment is made based on a predetermined, fixed amount. The payment amount for a particular service is derived based on the classification system of that service (for example, diagnosis-related groups [DRGs] for inpatient hospital services). CMS uses separate PPSs for reimbursement to acute inpatient hospitals, home health agencies, hospice, hospital outpatient, inpatient psychiatric facilities, inpatient rehabilitation facilities, long-term care hospitals, and skilled nursing facilities. Since October 1, 1983, most hospitals have been paid under the hospital inpatient PPS. However, certain types of specialty hospitals and units were excluded from PPS because the PPS diagnosis related groups do not accurately account for the resource costs for the types of patients treated in those facilities. Facilities originally excluded from PPS included rehabilitation, psychiatric, children's, cancer, and long term care hospitals, rehabilitation and psychiatric hospital distinct part units, and hospitals located outside the 50 states and Puerto Rico. These providers continued to be paid according to Section 1886(b) of the Social Security Act, as amended by Section 101 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982. They are frequently referred to as TEFRA facilities or PPS exempt. These facilities are paid on the basis of Medicare reasonable costs per case, limited by a hospital specific target amount per discharge. Each hospital has a separate payment limit or target amount which was calculated based on the hospital's cost per discharge in a base year. The base year target amount is adjusted annually by an update factor. [source: CMS website]

⁶ Overlake Hospital Medical Center (OHMC) also submitted an application to establish an acute care hospital in Issaquah. OHMC's project was also denied. Through the course of adjudication and judicial appeal, OHMC dropped its appeal. Since the OHMC application is not relevant to this amendment project, it will not be discussed in this evaluation.

Alternate - Gateway Site:

Issaquah Gateway Land is the alternate site and is identified as assessor parcel # 202406-9119. This site is located northeast of southeast Newport Way and north of Oakcrest Drive. For this site, SHS has a signed option for 30 acres of undeveloped land. If this site were selected, SHS would allocate 24 acres to a four-story hospital and the remaining 6 acres to medical office buildings. [source: CN Program's May 31, 2007, remand evaluation. pp3-4]

PROJECT DESCRIPTION

With this application, SHS proposes to amend CN#1379 because of a change in the approved site for the hospital. Under CN Program rules, if the certificate holder changes the site for an approved project, an amended CN is required. Within its amendment application, SHS stated that the new site is within the same development as the Highlands site, on a different lot. Specifically, the new site is across the street from the approved site, specifically described as:

"Issaquah Highlands West 45, Blocks 29, 30, 31, and 32."

[source: Amendment application, p8]

SHS states no other changes to this project have occurred. As a result, this evaluation will only address the change in the approved site.

APPLICABILITY OF CERTIFICATE OF NEED LAW

This project is subject to review under WAC 246-310-570(1)(f) because the site for the project has changed.

CRITERIA EVALUATION

WAC 246-310-200(1)(a)-(d) identifies the four determinations that the department must make for each application. WAC 246-310-200(2) provides additional direction in how the department is to make its determinations. It states:

"Criteria contained in this section and in WAC 246-310-210, 246-310-220, 246-310-230, and 246-310-240 shall be used by the department in making the required determinations.

(a) In the use of criteria for making the required determinations, the department shall consider:

- (i) The consistency of the proposed project with service or facility standards contained in this chapter;*
- (ii) In the event the standards contained in this chapter do not address in sufficient detail for a required determination the services or facilities for health services proposed, the department may consider standards not in conflict with those standards in accordance with subsection (2)(b) of this section; and*
- (iii) The relationship of the proposed project to the long-range plan (if any) of the person proposing the project."*

In the event the WAC 246-310 does not contain service or facility standards in sufficient detail to make the required determinations, WAC 246-310-200(2)(b) identifies the types of standards the department may consider in making its required determinations. Specifically WAC 246-310-200(2)(b) states:

"The department may consider any of the following in its use of criteria for making the required determinations:

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington state;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*
- (vi) The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application."*

The review for an amendment project is limited to only those criteria that would be affected by the amendment, provided that the amendment does not significantly alter the project. While SHS's initial project was delayed and the site has changed, the project was not significantly altered under CN rules. As a result, the department's review will focus on financial feasibility (WAC 246-310-220) and cost containment (WAC 246-310-240). Additionally, all terms and conditions of the initial approval that are not requested to be explicitly modified as part of an applicant's request for an amendment remain in effect.

CN #1379 was issued with a detailed description of the three phases of the project, two conditions, and no terms. The first condition related to the charity care to be provided at the new hospital; the second condition related to the number of beds to be added in each of the three phases, ending with a 175-bed hospital. The detailed description and both conditions were not requested to be amended in this application.

APPLICATION CHRONOLOGY

January 6, 2010	Letter of Intent submitted
February 1, 2010	Application submitted
February 2, 2010 through February 5, 2010	Department holds application until the remainder of the 30-day Letter of Intent period
February 6, 2010 through April 18, 2010	Department's Pre-Review Activities 1 st screening activities and responses
April 19, 2010	Department Begins Review of the Amendment Application <ul style="list-style-type: none">• public comments accepted throughout review (no public comments were submitted);• no public hearing conducted under the expedited review rules
May 10, 2010	End of Public Comment
May 25, 2010	Rebuttal Comments Submitted by SHS ⁷
June 14, 2010	Department's Anticipated Decision Date
June 14, 2010	Department's Actual Decision Date

⁷ Since no public comments were submitted, no rebuttal comments were submitted.

AFFECTED PERSONS

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

"...an "interested person" who:

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

Throughout the review of this project, no entities sought and received affected person status under WAC 246-310-010(2).

SOURCE INFORMATION REVIEWED

- Swedish Health Services' Certificate of Need amendment application submitted February 1, 2010
- Swedish Health Services' supplemental information received March 29, 2010
- The department's May 31, 2007, remand evaluation approving Swedish Health Services' initial application to establish a 175-bed hospital in Issaquah
- The department's July 2, 2007, "Intent to Issue a Certificate of Need"
- Quarterly Progress Reports completed and submitted by Swedish Health Services related to the department's "Intent to Issue a Certificate of Need" and CN #1379 [Reports submitted quarterly beginning in September 2007, and each quarter thereafter for years 2008 and 2009, plus March 2010 quarterly report.]
- Certificate of Need #1379 issued on July 31, 2008
- DOH meeting notes with representatives of Swedish Health Services dated October 25, 2007, February 2, 2009, and January 27, 2010
- DOH conference call notes with representatives of Swedish Health Services dated April 28, 2009, June 19, 2009, and February 1, 2010
- Joint Commission website [www.jointcommission.org]

CONCLUSION

For the reasons stated in this evaluation, the application submitted on behalf of Swedish Health Services proposing to amend Certificate of Need #1379 because of a change in the approved site is approved, and an amended Certificate of Need should be issued.

In its May 3, 2007, remand evaluation, the department concluded that Swedish Health Services' project was consistent with application criteria of the Certificate of Need Program if the applicant provided written agreement with two conditions. One of the conditions related to the amount of charity care to be provided at the new hospital. Approval of this amendment application would also include a condition related to the amount of charity care to be provided at the new hospital.

The second condition is related to the three phases of the project and the number of beds to be added at each phase. The intent of any condition related to phases identified in an application is to ensure that a Certificate of Need holder will strive to commence and complete its approved project in accordance with the timelines identified in the application. If a project falls behind schedule for any reason, the condition also ensures that the Certificate holder will not "hold on" to any bed approvals to prevent any future applications for the same type of project.

This amendment project does not request modification of either of the two conditions. As a result, the department's approval of this amendment project will include the two conditions as identified in the remand evaluation approving the project.

For the reasons stated in this evaluation, Swedish Health Services proposal to change the approved site for the hospital to a new site at "*Issaquah Highlands West 45, Blocks 29, 30, 31, and 32*" is consistent with applicable criteria of the Certificate of Need Program. A Certificate of Need should be issued with the same two conditions identified in the department's initial approval. The two conditions are restated below.

Conditions

1. Swedish Health Services' new Issaquah hospital must provide charity care in compliance with the charity care policies provided in this Certificate of Need application and the requirements of the applicable law. Specifically, Swedish Health Services will use reasonable efforts to provide charity care in an amount comparable to the average amount of charity care provided by all hospitals in the King County Region (less Harborview) during the three most recent years as of the writing of the department's original evaluation. For historical years 2001-2003, these amounts are 0.82% gross revenue and 1.44% adjusted revenue. Swedish Health Services will maintain records at the facility documenting the amount of charity care it provides and demonstrating compliance with its charity care policies and applicable law.
2. Construction of the facility is to be in three phases. Phase one shall consist of 80 beds. Phase two shall consist of 40 beds. Phase three shall consist of 55 beds. If phase three is not completed within seven years of the completion of phase one, any remaining bed authorization not meeting licensing requirements shall be forfeited. If construction of phase three consists of any amount less than the 55, the bed capacity meeting the licensing requirements at that time shall be the facility's final Certificate of Need authorized bed count.

The approved capital expenditure for this project remains at \$197,129,572.

A. 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.

WAC 246-310 does not contain specific WAC 246-310-220(1) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what the operating revenues and expenses should be for a project of this type and size. Therefore, using its experience and expertise the department evaluates if the applicant's pro forma income statements reasonably project the proposed project is meeting its immediate and long-range capital and operating costs by the end of the third complete year of operation.

SHS's Remand Evaluation Summary

In its May 31, 2007, remand evaluation supporting the issuance of CN #1379, the department concluded that this sub-criterion was met based on the following factors:

- 1) a review of SHS's projected hospital utilization as an 80 bed hospital (phase one), 120-bed hospital (phase two) and a 175-bed hospital (phase three). This review included proposed revenues, expenses, and net profit for years 2009 through 2018;
- 2) financial ratio analysis provided by the department's Hospital and Patient Data Systems (HPDS) dated May 5, 2005; and
- 3) a review of SHS's historical audited financial reports dated December 31, 2003.
[source: Department's remand evaluation, pp19-20]

SHS Amendment Application Review

In the initial application, the 175-bed hospital would be implemented in three phases.

Phase one included build out of space for 80 inpatient beds. Services to be provided in phase one include intensive care, acute care, pediatric, and OB/birthing. SHS did not intend to provide Level 2 intermediate care or Level 3 neonatal intensive care services. The 80-bed facility would also have 6 combined inpatient/outpatient operating rooms.

Commencement of phase two is dependent on the 80-bed hospital's utilization. This phase includes the completion of the shelled-in space for 40 more beds and obtaining licensure for those beds. This phase also includes the addition of two more ORs, for a total of 8 combined inpatient/outpatient operating rooms.

Phase three is dependent on the successful utilization of phase two and includes the build out and completion of space for the remaining 55 beds. At 120 beds, the proposed hospital would increase its ORs by two for a total of 10 combined inpatient/outpatient ORs. The chart on the following page shows the configuration of all 175 beds in each of the three phases.

Service/Department	Phase 1 # of beds	Phase 2 # of beds	Phase 3 # of beds
Intensive care	12 beds	24 beds	32 beds
Acute care	52 beds	76 beds	112 beds
OB/birthing	8 beds	12 beds	23 beds
Pediatric	8 beds	8 beds	8 beds
Total Beds	80 Beds	120 Beds	175 Beds
Total ORs	6 in/out patient	8 in/out patient	10 in/out patient

In the initial application, the Highlands site was 15 acres, with 12 acres allocated to a five story hospital and the remaining 3 acres allocated to medical office buildings.

The new site is approximately 12.5 total acres, and 10 acres will be used for the hospital and hospital related parking and the remaining 2.5 acres will be used for medical office buildings and associated parking. The physical structure of the hospital has not changed. It will still be a five story building, divided into two wings and connected by a walkway. Additionally, the phases as described in the initial application and summarized above have not changed as a result of the site changed. [source: March 29, 2010, supplemental information, pp1-2]

SHS states the change in the site results in no change in the projected revenues or expenses of the hospital in any of the three phases. Based on the information above, the department concludes this sub-criterion remains met.

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

WAC 246-310 does not contain specific WAC 246-310-220(2) financial feasibility criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs what an unreasonable impact on costs and charges would be for a project of this type and size. Therefore, using its experience and expertise the department compared the proposed project's costs with those previously considered by the department.

SHS's Remand Evaluation Summary

In its May 31, 2007, remand evaluation supporting the issuance of CN #1249, the department concluded that this sub-criterion was met based on the following factors:

- 1) SHS's basis for establishing its construction costs for the 175-bed hospital; and
- 2) construction cost analysis provided by HPDS dated May 5, 2005.

[source: Department's remand evaluation, pp20-21]

SHS Amendment Application Review

In this amendment application, SHS states the change in the site results in no significant change in the capital costs, other than a reduction in the land costs of \$900,000. SHS also states that the project is in the early stages of building out phase one and costs will increase and decrease as the project moves forward. SHS intends to closely monitor the costs of the project. Further, if the capital costs of the project ultimately exceed the 12% of the approved costs of \$197,129,572 (the Highlands site), SHS would submit another amendment application. [source: March 29, 2010, supplemental information, pp3-4]

Based on the information above, the department concludes this sub-criterion remains met.

(3) The project can be appropriately financed.

WAC 246-310 does not contain specific source of financing criteria as identified in WAC 246-310-200(2)(a)(i). There are also no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that directs how a project of this type and size should be financed. Therefore, using its experience and expertise the department compared the proposed project's source of financing to those previously considered by the department.

SHS's Remand Evaluation Summary

In its May 31, 2007, remand evaluation supporting the issuance of CN #1379, the department evaluated SHS's funding for the project. In the initial application, SHS intended to fund the project through its cash reserves. The department concluded that this method of funding was reasonable and this sub-criterion was met based on the following factors:

- 1) SHS's phase-in approach to build the new hospital over the course of eight years;
- 2) SHS's basis for establishing its construction costs for each of the two identified sites; and
- 2) SHS's historical financial analysis provided by HPDS dated May 5, 2005.

[source: May 31, 2007, remand evaluation, pp21-22]

SHS Amendment Application Review

In this amendment application SHS still intends to fund the project through its cash reserves. To determine whether the funding continues to be available, the department reviewed SHS's most recent quarterly financial data submitted to the department's Hospital and Patient Data Systems office. The historical financial data covers full year 2009. Based on SHS's historical financial review, SHS continues to have the funds to finance the project. [source: Full year 2009 quarterly financial reports obtained from HPDS] This sub-criterion remains met.

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

Based on the source information reviewed, the department determines that the applicant has met the cost containment criteria in WAC 246-310-240.

(1) Superior alternatives, in terms of cost, efficiency, or effectiveness, are not available or practicable.

To determine if a proposed project is the best alternative, the department takes a multi-step approach. Step one determines if the application has met the other criteria of WAC 246-310-210 thru 230. If it has failed to meet one or more of these criteria then the project is determined not to be the best alternative, and would fail this sub-criterion.

If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

Step three of this assessment is to apply any service or facility specific criteria (tie-breaker) contained in WAC 246-310. The tiebreaker criteria are objective measures used to compare

competing projects and make the determination between two or more approvable projects which is the best alternative. If WAC 246-310 does not contain any service or facility criteria as directed by WAC 246-310-200(2)(a)(i), then the department would look to WAC 246-310-240(2)(a)(ii) and (b) for criteria to make the assessment of the competing proposals. If there are no known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b), then using its experience and expertise, the department would assess the competing projects and determine which project should be approved.

SHS's Remand Evaluation Summary

In its May 31, 2007, remand evaluation supporting the issuance of CN #1379, the department concluded that this sub-criterion was met based on the following factors:

- 1) a review of the options considered by SHS before submitting the initial application;
- 2) the department's numeric need methodology concluded need for additional bed capacity in the East King County planning area was demonstrated; and
- 3) SHS's application proposed to add acute care bed capacity to the planning area in three phases, thereby filling the need in the planning area without significantly over-bedding the planning area at any one time.

As a result, the department concluded SHS's project was the best alternative for the East King County planning area, and SHS's three-phase project was approved. [source: Department's remand evaluation, pp16, 17, & 25 and Appendices 10A, 10B, & 10C]

SHS Amendment Application Review

To evaluate SHS's amendment project, the department begins with the three steps identified above.

Step One

For this project, SHS has met the applicable review criteria under WAC 246-310-220. Therefore, the department moves to step two below.

Step Two

SHS is in the early stages of beginning construction of the new hospital at the new site. WAC 246-310-570(1)(f) requires a certificate holder to obtain an amended Certificate of Need if the approved site for the project has changed. Even though SHS identified a primary site and an alternate site in its initial application, neither site is the final site identified in this amendment application. Moving forward with this project, even with the change in site, is ultimately the best option for the residents of the community.

Step Three

This step is used to determine between two or more approvable projects which is the best alternative. While SHS's initial application did undergo a comparative review with Overlake Hospital Medical Center, this amendment application is not undergoing concurrent review.

Based on the information above, the department concludes this project continues to be the best available alternative for the residents of Issaquah and surrounding communities. 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; and

This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is 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 re-evaluated within the financial feasibility criterion under WAC 246-310-220(2) and is met.