



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

April 11, 2019

CERTIFIED MAIL # 7017 3380 0000 0863 8727

Martina Sze, Executive Vice President
US HealthVest
32 East 57th Street, 17th Floor
New York, New York 10022

RE: Certificate of Need Application #17-48

Dear Ms. Sze:

We have completed review of the Certificate of Need application submitted by US HealthVest proposing to establish a 70-bed psychiatric hospital in Whatcom County, within Washington State. Enclosed is a written evaluation of the application.

For the reasons stated in this evaluation, the department has concluded that the project is not consistent with the Certificate of Need review criteria identified below, and a Certificate of Need is denied.

Washington Administrative Code 246-310-220	Financial Feasibility
Washington Administrative Code 246-310-230	Structure and Process of Care
Washington Administrative Code 246-310-240	Cost Containment

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:

You or any person with standing may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

<u>Mailing Address:</u>	<u>Physical Address</u>
Department of Health	Department of Health
Certificate of Need Program	Certificate of Need Program
Mail Stop 47852	111 Israel Road SE
Olympia, WA 98504-7852	Tumwater, WA 98501

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Appeal Option 2:

You or any person with standing may request an adjudicative proceeding to contest this decision within 28 calendar days from the date of this letter. The notice of appeal must be filed according to the provisions of Revised Code of Washington 34.05 and Washington Administrative Code 246-310-610. A request for an adjudicative proceeding must be received within the 28 days at one of the following addresses:

Mailing Address:

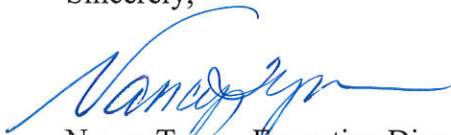
Department of Health
Adjudicative Service Unit
Mail Stop 47879
Olympia, WA 98504-7879

Physical Address

Department of Health
Adjudicative Service Unit
111 Israel Road SE
Tumwater, WA 98501

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

Sincerely,



Nancy Tyson, Executive Director
Health Facilities and Certificate of Need

Enclosure

EVALUATION DATED APRIL 11, 2019, OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY US HEALTHVEST, LLC PROPOSING TO ESTABLISH A 70-BED PSYCHIATRIC HOSPITAL IN WHATCOM COUNTY

APPLICANT DESCRIPTION

US HealthVest, LLC is an out-of-state corporation owned by a variety of entities. The majority of ownership is Polaris Partners with 40%. The remaining 60% ownership is divided among various entities, each with no greater than 18% ownership. Ownership shares range from 18% to less than 5%. [source: February 23, 2018, 1st screening response, p1]

US HealthVest, LLC was founded in year 2012, and is currently led by the following management team. [source: US HealthVest, LLC website]

Name	Role
Richard A. Kresch, MD	President and Chief Executive Officer
Neal Cury	Chief Operating Officer
James Cha	Chief Financial Officer
Martina Sze	Chief Development Officer
Lina Barker	Senior Vice President of Clinical Services
Randy Kaniecki	Senior Vice President
Miro Petrovic	Architect
Colonel David Sutherland	Special Advisor

US HealthVest, LLC is not registered to do business in Washington State, rather US HealthVest created three wholly owned subsidiaries for this project that are registered in Washington, with the principal office located in New York. [source: February 23, 2018, p1 and Washington State Secretary of State website]

Business Name	UBI #	Business Type	Business Status
Vest Whatcom Development, LLC	604 092 852	Foreign LLC	Active
Vest Whatcom Realty, LLC	604 090 495	Foreign LLC	Active
Vest Whatcom, LLC	604 090 493	Foreign LLC	Active

For this project, US HealthVest, LLC is the applicant and, if this project is approved, would be the certificate holder. Since US HealthVest, LLC is not a Washington State corporation or registered to do business in this state, if this project is approved, the hospital license would be issued to Vest Whatcom, LLC. For this evaluation, the applicant is referenced as “US HealthVest.”

PROJECT DESCRIPTION

This project proposes establishment of a 70-bed psychiatric hospital to be located in Bellingham, within Whatcom County. The site for the hospital will be purchased by Vest Whatcom Realty, LLC. The address of the proposed hospital has not yet been assigned, however, the description of the site is identified in the “Draft Purchase and Sale Agreement and Joint Escrow Instructions” provided in the application.

- Lot 3: 221 Birchwood A venue, Bellingham, WA 98225 (Parcel # 3803183250800000)
- Lot 4: 211 Birchwood A venue, Bellingham, WA 98225 (Parcel # 3803183500820000)

Seller is the owner certain real property known as Squalicum Creek Plaza, Lot 3 (Parcel # 3803183250800000) consisting of 1.62 gross acres and Lot 4 (Parcel # 3803183500820000) consisting of 1.74 gross acres consisting of 3.36 gross acres. Lot 3 and Lot 4 are located at 221 Birchwood Avenue, Bellingham, WA 98225, as legally described on Exhibit A attached hereto (collectively, the "Seller Property").

[source: Application, Exhibit 6 and February 23, 2018, 1st screening response, Attachment 1]

Services to be provided at the psychiatric hospital include a full range of psychiatric services including inpatient services, involuntary treatment services, day hospital/partial hospitalization and intensive outpatient services, as well as substance abuse treatment. In addition, the following targeted specialty services will be offered at the new psychiatric hospital. [source: Application, pp8-10]

- Adult Psychiatric
The adult program offers treatment for adults who have moderate to severe psychiatric and behavioral problems. Our programs are tailored to the patient's needs enabling them to more effectively cope with their emotions and behaviors. The program purpose is to promote the maximum cognitive, social, physical, behavioral, and emotional development in each of our patients. Methods of treatment include medication management, group and individual therapy and discharge planning.
- Senior Adult
Older adults often have unique and complex needs and experience physical and lifestyle changes that can negatively impact their emotional wellbeing. Psychiatric and behavioral concerns, combined with medical issues, complicate the diagnosis, care and treatment of seniors. Age-sensitive treatment and discharge planning is provided to assist our patients to achieve or regain the highest level of independence possible and help preserve their quality of life.
- Children and Adolescents
Young people may experience symptoms of mental illness or encounter situations where they respond with behaviors that are a danger to themselves or others. Youth programs are evidence-based and specifically designed to help children/adolescents and their families through difficult circumstances or issues using intensive evaluation, treatment and aftercare planning with a professional multidisciplinary team treatment approach. Treatment includes group, individual, and family therapy.
- Women Only
The Women's program addresses the unique mental health and chemical dependency needs of women in crisis through evidence-based therapeutic approaches. The program addresses such issues as trauma, depression related to reproductive issues, loss of pregnancy, postpartum depression, anxiety and obsessive disorders, relationship issues, eating disorders, and other serious disorders women may encounter. Only women attend the specialized therapy and educational groups. This gender specific approach enhances the effectiveness of therapy by providing a safe environment to process sensitive issues.
- Extra Mile Veteran Care
Our Extra Mile Veteran Care Program provides treatment for PTSD, substance dependence and mental health issues, such as depression and anxiety in an environment designed with the veteran in mind. We understand teamwork and veterans. Our specially trained therapists and technicians will work together with veterans to help them overcome barriers and restore balance to their lives.

- Active-Duty Military Program
The US Health Vest leadership team, formerly with Ascend Health, developed the Freedom Care Program in 2006. Between 2006 and 2012, the Freedom Care team provided military specialized care for 5000 service members. Our expertise in military culture, combat-related mental health, substance abuse, and military sexual trauma uniquely qualifies us to develop the next generation of military specialized care. We propose inpatient and outpatient programs designed to meet the unique needs of active military, veterans, retirees, and their families. A separate unit will be dedicated to active military and Veterans utilizing the most effective evidence-based protocols. US Health Vest's management team has enjoyed an exceptionally strong working relationship with many military bases in the area including Joint Base Lewis McChord. Given the concentration of the military in the area, and based on our past experience, we are proposing a military program at this hospital.
- Faith Based Mental Health & Chemical Dependency
Our proposed Faith Based specialty program provides unique inpatient and outpatient care where patients can include personal religious beliefs and their faith in God throughout the treatment process. The program merges sound professional counseling with Biblical principles to provide a Christian atmosphere for recovery from serious mental health and chemical dependency problems.
- Dual-diagnosis
Our dual-diagnosis program is an integrated therapy program that focuses on adults who face multiple mental health disorders or a combination of mental illness and drug or alcohol dependency, also known as co-occurring disorders. Patients receive motivational enhancement therapy, cognitive behavioral therapy, and 12-step facilitation therapy. The program allows patients to recognize and manage the issues related to their mental illness and chemical dependency problems.
- Pain Management
Pain is usually temporary; however, for some people pain persists over time and is considered chronic. Chronic pain can create a reliance on medication and cause emotional distress. It can also affect a person's ability to engage in occupational, social, or recreational activities. A lack of activity can contribute to increased isolation, depression, and physical deconditioning, all of which can make the experience of pain even worse. This program is designed not only to help patients reduce pain, but also to increase their activity level and improve their overall quality of life.
- Mother-Infant Program
The Mother-Infant program treats emotional and mental illnesses of new mothers. The program provides childcare, allowing new mothers to access treatment without separating from their baby. The Mother-Infant program will focus on the psychiatric illness, the mother's relationship with infant's Father/partner and with mother/infant bonding.
- American Indian
USHV, in its program development for Smokey Point is working with the local American Indian Tribes to develop integrated services that are culturally appropriate and culturally sensitive but not separate and distinct (to addresses the issues of segregation and discrimination that are felt by American Indians). This programming includes cultural competency training for staff as well as integrated spiritual and healing practice, specific to the culture.

If this project is approved, US HealthVest anticipates the 70-bed psychiatric hospital would be established in two phases. The two phases are described below and rely on a Certificate of Need approval date of September 2018. [source: February 23, 2018, Attachment 3]

Phase	Number of Beds	Operational Date
One	60 total	January 2020
Two	70 total (10 additional)	July 2023

Based on the timing of this decision and the phases identified in the application, the department expects full year one to be 2020 with 60 psychiatric beds; full year one with 70 psychiatric beds is 2024. The third year following project completion is year 2026.

The capital expenditure for both phases of this project is \$20,944,500. [source: Application, p37]

APPLICABILITY OF CERTIFICATE OF NEED LAW

This application proposes the establishment of a new psychiatric hospital. This action is subject to review as the construction, development, or other establishment of new health care facility under Revised Code of Washington (RCW) 70.38.105(4)(a) and Washington Administrative Code 246-310-020(1)(a).

EVALUATION CRITERIA

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 that 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:

- (b) “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 experience related to a proposed undertaking, with whom the department consults during the review of an application.*”

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); and 246-310-240 (cost containment).

TYPE OF REVIEW

This project was reviewed under the regular review timeline outlined in Washington Administrative Code 246-310-160. US HealthVest submitted this application on June 30, 2017. During the review, US HealthVest requested two extensions totaling 210 days to respond to the department’s first screening of the application. The table below shows the actual timeline for this review.

APPLICATION CHRONOLOGY

Action	US HealthVest, LLC
Letter of Intent Submitted	December 30, 2016
Application Submitted	June 30, 2017
Department’s pre-review activities <ul style="list-style-type: none"> • DOH 1st Screening Letter • Applicant’s Responses Received¹ • DOH 2nd Screening Letter • Applicant’s Responses Received 	<p>July 24, 2017</p> <p>February 23, 2018</p> <p>March 16, 2018</p> <p>April 30, 2018</p>
Beginning of Review	May 7, 2018
Public Hearing Conducted and End of Public Comment	July 19, 2018
Rebuttal Comments Received	August 3, 2018
Department's Anticipated Decision Date	September 17, 2018
Department’s Anticipated Decision Date with 210-day Extension	April 15, 2019
Department's Actual Decision Date	April 11, 2019

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.*”

¹ US HealthVest’s first extension requested 90 additional days to respond and the second extension requested an additional 120 days.

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

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

During the review of this project, many entities requested a copy of the application and subsequent correspondence. However, three entities specifically requested affected persons status. Below is a description of each and its affected person qualification.

Providence Health & Services

Two representatives from Providence Health & Services requested interested person status as defined above. One representative from the larger entity of Providence Health & Services; and one from Providence Regional Medical Center-Everett, an acute care hospital located in Snohomish County. Providence Regional Medical Center-Everett is a 530-bed hospital located in Everett, within Snohomish, County. It operates with two campuses—one on Colby Avenue and one on Pacific Avenue. Services provided by the hospital include acute care services typically provided by a hospital, plus open heart surgery and cardiac catheterization, levels II and III neonatal intensive care services, acute rehabilitation services, and a variety of outpatient services. [source: 2018 Hospital License Annual Update]

Department records show that representatives from Providence Health & Services or Providence Regional Medical Center-Everett did not attend the July 19 public hearing or submit written or oral comments for this project. Since no comments were submitted by either Providence Health & Services or Providence Regional Medical Center-Everett, the definition of an affected person is not met.

Rachel Erstad, SEIU Healthcare 1199NW

A representative from SEIU (Services Employees International Union) 1199NW requested interested person status. SEIU 1199NW is a statewide union of nurses and healthcare workers. According to its website, SEIU 1199NW represents more than 30,000 nurses and healthcare workers across Washington State. [source: SEIU 1199NW website] Since US HealthVest is requesting to establish a new hospital, it is not clear whether SEIU 1199NW would represent its employees. Therefore, the department does not have sufficient information to determine whether SEIU 1199NW could qualify as an interested person. A representative of SEIU 1199NW attended the public hearing in Bellingham and provided public comments.

Sara Hilsman, PeaceHealth St. Joseph Medical Center

A representative from PeaceHealth St. Joseph Medical Center requested the department conduct a public hearing on this project, attended the public hearing, and provided written comments regarding this project. PeaceHealth owns and operates a number of acute care hospitals, including St. Joseph Medical Center located in Bellingham. St. Joseph Medical Center is licensed for 255 acute care beds. Services provided include acute care services typically provided by a hospital, plus open heart surgery and cardiac catheterization, level II neonatal intensive care services, psychiatric services, and a variety of outpatient services. [source: 2018 Hospital License Annual Update] PeaceHealth St. Joseph Medical Center qualifies as an affected person for this project.

SOURCE INFORMATION REVIEWED

- US HealthVest, LLC's Certificate of Need application submitted June 30, 2017
- US HealthVest, LLC's screening responses received February 23, 2018
- US HealthVest, LLC's screening responses received April 30, 2018
- Compliance history for credentialed or licensed staff from the Medical Quality Assurance Commission and Nursing Quality Assurance Commission
- Compliance history for US HealthVest, LLC's hospitals obtained from the Washington State Department of Health – Office of Health Systems and Oversight²
- Department of Health Provider Credential Search website: <http://www.doh.wa.gov/pcs>
- Historical charity care data for years 2015, 2016, and 2017 obtained from the Department of Health's Hospital/Finance and Charity Care (HFCC) office
- Hospital/Finance and Charity Care (HFCC) Financial Review dated March 8, 2019
- Office of Financial Management population estimates released May 2018
- Department of Health internal database – Integrated Licensing & Regulatory Systems (ILRS)
- Joint Commission website at www.qualitycheck.org
- US HealthVest, LLC website: <https://www.ushealthvest.com>
- Washington State Secretary of State website: <https://www.sos.wa.gov>
- Washington State Department of Revenue website: <http://www.dor.wa.gov>
- Center for Medicare and Medicaid Services website: <https://www.cms.gov>
- Certificate of Need historical files

CONCLUSION

For the reasons stated in this evaluation, the application submitted by US HealthVest proposing to establish a 70-bed psychiatric hospital in Whatcom County is not consistent with applicable review criteria of the Certificate of Need Program and a Certificate of Need is denied.

² Formerly the Office of Investigations and Inspections.

CRITERIA DETERMINATIONS

A. Need (WAC 246-310-210)

Based on the source information reviewed and the applicant’s agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that Us HealthVest has met the need criteria in WAC 246-310-210.

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

WAC 246-310 does not contain an acute care bed forecasting method that focuses on psychiatric hospitals. The Hospital Bed Need Forecasting method contained in the 1987 Washington State Health Plan (SHP) has a numeric methodology for projecting psychiatric bed need; however the department is unable to obtain the required data to apply this methodology. As a result, the evaluation of the need criterion for psychiatric beds begins with an evaluation of the numeric need methodology provided by the applicant.

US HealthVest, LLC

The applicant’s numeric need methodology was based on the following factors: planning area, population estimates and forecasts, use rate, and current capacity. The table below shows in the factors used.

**Department Table 1
US HealthVest’s Methodology Assumptions and Data**

Assumption	Data Used
Planning Area	Three counties: Whatcom, Skagit, and San Juan
Population Estimates	Office Of Financial Management Population Data released May 2012. Age group of 5 years and older. Historical year 2015. Forecast years-showing 2020, 2025, 2030, 2032, and 2035.
Use Rate	27.25 per 100,000 population. In past psychiatric hospital applications, the applicant presented a numeric methodology based on an average use rate of other Northwest states. The department concurred that this was a reasonable determination of a use rate. US HealthVest used this same approach.
Current Capacity	33 psychiatric beds <ul style="list-style-type: none"> • PeaceHealth St. Joseph Medical Center, Whatcom County -20 • Skagit Regional Health, Skagit County – 13 Three county total is 33 psychiatric beds

Based on the assumption and data above, US HealthVest projected the number of psychiatric beds needed in in the three county area. The table below show years 2015 through 2030.

**Department Table 2
US HealthVest’s Psychiatric Bed Need Projections**

	2015	2020	2025	2030
3-County Population	327,699	348,261	371,610	395,253
Use Rate/100,000	27.25	27.25	27.25	27.25
Gross Bed Need	89.30	94.90	101.26	107.71
Minus Current Supply	33	33	33	33
Net Bed Need	56.30	61.90	68.26	74.71

As shown in the table above, when subtracting the current supply of dedicated psychiatric beds in the three county planning area, US HealthVest calculated a numeric need for additional psychiatric beds beginning in year 2015 that increases in forecast years 2020, 2025, and 2030.

US HealthVest provided the following statements related to the numeric need methodology. [source: Application, p21]

“In an effort to be conservative, Island County was not included in the primary service area, although Vest Whatcom expects significant in-migration from the County. In addition, Vest Whatcom recognizes that Skagit residents have choice for behavioral health services and it has been assumed that the North Skagit residents will be more likely to choose Whatcom Behavioral than will residents south of Mt. Vernon.”

Public Comment

None

Rebuttal Comment

None

Department’s Numeric Methodology Evaluation

US HealthVest elected to locate its psychiatric hospital in Whatcom County, and proposes to draw patients from the adjacent counties of Skagit and San Juan. In Whatcom County, patients are served by one hospital – PeaceHealth St. Joseph Medical Center. The hospital is licensed for 255 acute care beds and provides a full range of acute care services, including psychiatric services in 20 beds.

While Skagit County has access to 13 psychiatric beds at Skagit Regional Health in Mount Vernon, there are two additional hospitals operating in the county—Island Hospital in Anacortes and PeaceHealth United General Medical Center located in Sedro Woolley. Neither of these two hospitals have psychiatric beds.

Focusing on San Juan County, it is served by a 10 bed critical access hospital—PeaceHealth Peace Island Medical Center—that has no psychiatric beds.

US HealthVest states that it did not rely on population from Island County in its numeric methodology. While it is not unusual for residents of Island County to travel to either Skagit or Whatcom County for healthcare services, this is a conservative and reasonable approach to a numeric methodology for psychiatric beds to be located Whatcom County.

As previously stated, a numeric need methodology is based on specific factors. The table below shows in the factors used in the department’s numeric methodology.

**Department Table 3
Department’s Methodology Assumptions and Data**

Assumption	Data Used
Planning Area	Three counties: Whatcom, Skagit, and San Juan
Population Estimates	Office Of Financial Management Population Data released May 2017. Age group of 5 years and older. Historical year 2015. Forecast years-showing 2020, 2025, 2030.
Use Rate	27.25 per 100,000 population. The department concurred in past evaluations that this is a reasonable use rate for projecting numeric need for psychiatric beds.
Current Capacity	33 psychiatric beds <ul style="list-style-type: none"> • PeaceHealth St. Joseph Medical Center, Whatcom County -20 • Skagit Regional Health, Skagit County – 13 Three county total is 33 psychiatric beds

Based on the assumptions and data above, the department’s numeric methodology for years 2015 through 2030 is summarized in Table 4 below.

**Department Table 4
Department’s Psychiatric Bed Need Projections**

	2015	2020	2025	2030
3-County Population	327,642	356,814	379,337	404,259
Use Rate/100,000	27.25	27.25	27.25	27.25
Gross Bed Need	89.28	97.23	103.37	110.16
Minus Current Supply	33	33	33	33
Net Bed Need	56.28	64.23	70.37	77.16
Minus US HealthVest Beds	0	60	70	70
Unmet Bed Need	56.28	4.2	0.4	7.2

As shown in Table 4 above, subtracting the current supply from the gross need results in numeric need for 56 to 77 additional psychiatric beds in the three county planning area for the projection years shown.

In its numeric methodology, the department also subtracted the applicant’s number of psychiatric beds in each of the projection years shown above. Even with an additional 60 beds in year 2020 and another 10 beds added in year 2024 (shown in year 2025 above), the numeric need for an additional 7 psychiatric beds is projected for year 2030.

When comparing the applicant’s and department’s methodology, there are differences in population data. The difference may be attributed to the source of population data used. When this application

was submitted in June 2017, the most recent population forecast data was May 2012. In mid-year 2018, Office of Financial Management released the updated population forecast data, which is the data now used by the department. The differences in the population data are not significant when applied to the numeric methodology. In summary, while the two methodologies are very similar the department considers its numeric methodology more accurate than that provided by the applicant because of the updated population data.

The department's numeric methodology calculates a numeric need for the number of psychiatric beds requested by US HealthVest. Based on the 27.25/100,000 residents, the department concludes that US HealthVest provided information to demonstrate numeric need for psychiatric beds to serve the three county area.

Below is the additional information considered to evaluate the need for this project.

US HealthVest, LLC

To further support approval of its project, US HealthVest provided the additional rationale for its project. [source: Application, pp21-29]

This project has been developed to address at least the following in the Service Area:

- *The general need for additional psychiatric beds*
- *The need to reduce outmigration and improve access*
- *The need for programming for specific cohorts and populations, and*
- *The need for additional ITA beds*

General Need for Additional Psychiatric Beds to Reduce Outmigration and Improve Access

There has been a documented shortage of psychiatric beds throughout Washington State for a number of years, and in the last few years, both the legislature and State agencies have been encouraging development. Numerous national and state reports have documented the magnitude of the under bedded situation in Washington related to inpatient psychiatric bed capacity. The American College of Emergency Physician's (ACEP) report "America's Emergency Care Environment, A State-by-State Report Card" (2014 Edition) stated:

'Washington continues to receive a failing grade for Access to Emergency Care. One major area of concern is the lack of resources and inpatient capacity for mental health patients.'

As shown in Table 4, the 2014 ACEP's Report Card demonstrates that Washington is well below both the nationwide and the northwest average bed-to-population ratio. In the ACEP's 2009 Report Card, Washington ranked absolute last in the nation for the number of psychiatric care beds per 100,000 people. The 2014 Report Card, the latest available, ranked Washington 48th. Table 4 compares the 2009 and 2014 reports. The Washington State's Certificate of Need Program (CN Program) has consistently used the 2009 Report's Northwest average ratio of 27.3 beds per 100,000 as its method for estimating inpatient hospital psychiatric bed need throughout the State.

"The population of the proposed Service Area has grown more than 22% since 2000, and by nearly 5% just since 2010 while the psychiatric bed capacity, which is already low, actually declined. In our discussions with providers and leaders in the Service Area, there is widespread consensus that

the need for inpatient treatment resources has increased greatly. There is also a commitment, most pronounced in Whatcom County to develop programs to divert and/or prevent incarceration of individuals with mental illness and substance use disorders. The new hospital will support this commitment.

Applicant's Table

Table 4

**Psychiatric Care Beds per 100,000 Population
Washington Compared to the Average of All States and Pacific Northwest States**

	Average All States	Alaska	Idaho	Montana	Oregon	Avg. other NW States	WA
2009 Report	29.9	20.4	29	30.8	28.8	27.3	8.2
2014 Report	26.1	34.3	13.8	32.1	8.7	22.2	8.3

Source: The National Report Card on the State of Emergency Medicine. American College of Emergency Physicians, 2014 Edition.

As a result of various State legislative initiatives to address this demonstrated unmet need, new psychiatric beds and providers, including US Health Vest, have responded by developing projects in King, Snohomish, Clark, Pierce, Spokane Counties and, most recently, Thurston County. A 2015 issue brief, prepared by the Washington State Hospital Association (WSHA) noted that 240 to 266 new beds were either open or in the process of opening in the near term future. Since then, an additional 454 psychiatric beds statewide have been approved through the State CN Process. This new capacity has increased the State bed to population ratio from the 8.3 cited in Table 4 to approximately 18. However, none of this new capacity has been proposed for the Service Area.

With 33 inpatient beds and a current (age 5+ years) population of about 330,000, the Service Area's current bed to population ratio is 10.0. This level is only 36% of the bed to population target ratio used by the CN Program, and about 44% below the new State ratio of 18.

In order for the proposed Service Area to achieve the targeted psychiatric bed-to-population ratio of 27.3 beds per 100,000, it needs a total of 89 beds today. The current supply is 33 beds, including 20 beds at PeaceHealth St. Joseph Medical Center and 13 beds at Skagit Valley Hospital. While these two hospitals should be lauded for their commitment to care and treatment for psychiatric patients, the need for more capacity is still significant. As shown in Exhibit 8, there is a net need today of 56 beds, which increases to 77 beds by 2032.

In addition, need for additional mental and behavioral healthcare capacity in the Service Area was identified in the 2016 Community Health Needs Assessments (CHNAs) produced by the various providers in Skagit, Whatcom, and San Juan counties. "Advocate for and actively support the development of a comprehensive continuum of behavioral health services that includes access to and referral for crisis stabilization, transitional housing, substance abuse treatment services, and psychiatry that is available to children and seniors" was included as a priority in the PeaceHealth system CHNAs (covering Skagit, Whatcom, and San Juan counties); overuse of the emergency department for behavioral health related visits was also noted.

The CHNA prepared by Island Hospital (San Juan and Skagit Counties) detailed a need for additional behavioral health services:

"Skagit Valley Public Hospital District #1, DBA: Skagit Valley Hospital provides inpatient psychiatric services, which is an invaluable resource to community members. However, although Skagit Valley Hospital is in close proximity, the psychiatric inpatient beds are often full, which may require an individual to wait for access or to travel to a more distant facility. Additionally, that facility does not house children, adolescents or geriatrics. Based on these, community members expressed a need for additional inpatient and outpatient beds for acute mental health and substance abuse problems. In addition, community members indicated a need for local post-acute treatment options, specifically:

- Clinical access that offers counseling and similar services 24-hours-a-day to either help people avoid acute problems or deal with the long-term aftermath of acute problems.
- Short-term (less than one year) congregate or assistive housing for people to recover from substance abuse and mental health problems.
- Local acute-care opportunities for children, adolescents and geriatrics."

A need for additional providers serving Medicaid patients was also discussed:

"... North Sound Behavioral Health is the sole provider of mental health and substance abuse care for Medicaid-eligible individuals in our community. Although community members expressed gratitude and happiness with North Sound's services, they indicated a need for additional providers to meet the needs of low-income individuals suffering from behavioral health problems."

The Need to Reduce Outmigration and Improve Access

A review of CHARS data demonstrates that a significant percentage of patients from the Service Area use psychiatric inpatient beds that are located outside of the Service Area. Although varying over the years, in the last few years, the outmigration has been in the range of 27-36%.

Applicant's Table

Table 5-All ages
2014-2016 San Juan, Skagit and Whatcom County MDC 19 Resident Patient Days by Provider

Hospital	2014 Patient Days	2014 Market Share	2015 Patient Days	2015 Market Share	2016 Patient Days	2016 Market Share
PeaceHealth Saint Joseph Hospital	5,127	56.30%	5,014	46.7%	5,292	50.35%
Skagit Valley Hospital	1,530	16.80%	1,847	17.2%	2,247	21.38%
Sub-Total	6,657	73.1%	6,861	63.9%	7,539	71.73%
BHC Fairfax Hospital – Kirkland	1,276	14.00%	1,609	15.0%	1,298	12.35%
BHC Fairfax Hospital – Everett	144	1.6%	806	7.5%	272	2.59%
Seattle Childrens	350	3.8%	365	3.4%	327	3.11%
UW/Harborview Medical Center	82	0.9%	289	2.7%	174	1.66%
Cascade Behavioral Hospital	39	0.4%	134	1.2%	209	1.99%
UW/University Of Washington Medical Center	73	0.8%	106	1.0%	72	0.69%
Providence Sacred Heart Spokane	7	0.1%	96	0.9%	10	0.10%
Swedish Cherry Hill	43	0.5%	68	0.6%	34	0.32%
PeaceHealth United General	32	0.4%	65	0.6%	21	0.20%
Overlake Hospital	41	0.5%	59	0.6%	70	0.67%
Swedish Edmonds	134	1.5%	51	0.5%	66	0.63%
UW/Northwest Hospital	71	0.8%	64	0.6%	169	1.61%
Other	154	1.7%	153	1.4%	249	2.37%
Total	9,103	100.0%	10,726	100.0%	10,510	100.0

Source: WA State CHARS Database, MDC 19,

Importantly, outmigration rates for children and adolescents are even higher. As depicted in Table 6, in 2015-2016, nearly 100% of patients age 5-17 left the service area for treatment. For patients and their families, this level of outmigration is a serious burden as parents are travelling upwards of one to two hours each way to visit their child.

Applicant's Table

**Table 6
San Juan, Skagit and Whatcom County Resident Days, Age 5-17**

Hospital	2014 Patient Days	2014 Market Share	2015 Patient Days	2015 Market Share	2016 Patient Days	2016 Market Share
PeaceHealth St. Joseph Hospital	4	0.5%	18	1.4%	14	1.57%
Skagit Valley Hospital	9	1.1%	0	0.0%	11	1.23%
Subtotal	13	1.6%	18	1.4%	25	2.99%
BHC Fairfax Hospital - Kirkland	459	56.1%	861	69.2%	523	58.57%
Seattle Childrens	346	42.3%	365	29.3%	327	36.62%
Other	0	0.0%	0	0.0%	18	2.02%
Total	818	100.0%	1,244	100.0%	836	100.0%

Source: WA State CHARS, MDC 19

The magnitude of outmigration can be further demonstrated by the fact that since opening in the second week in June, Smokey Point Behavioral has already had 41 admissions. Of these, 13% have come from our proposed service area.

Assuming that a total of 33 beds between the two hospital locations is accurate, CHARS data suggests that the 2016 occupancy of St. Joseph's is 77% and Skagit Valley is 62%. Although both existing providers have some available capacity, available data indicates that there are patients being boarded in emergency rooms awaiting placement. For example, data collected in 2013 and 2014 indicated that there were 1-3 North Sound residents being boarded in an emergency department on any given day.

Applicant's Table

**Table 7
North Sound RSN Resident Boarding Volumes FY 2013, 2014,
Whatcom, San Juan, Skagit, Snohomish and Island Counties**

	FY2013	FY2014
# of Patients Boarded in ED	274	419
# of Patient Boarding Days	499	973

Source: Washington State Department of Social and Health Services, Division of Behavioral Health and Recovery, RSN Annual Reports. North Sound RSN (includes Whatcom, San Juan, Skagit, Snohomish and Island Counties)

The data in Table 7 stopped being compiled in 2014 and a new report was started in 2015. This report, compiled by Department of Social and Health Services, identifies single bed certifications in instances wherein no bed is available for persons meeting detention criteria. Data for 2016, obtained from the North Sound BHO found that there were nearly 1,040 single bed certifications in the North Sound BHO, a rate slightly higher than FY2014. As depicted in Table 8, of this number, 21 % were attributed to residents of the Service Area. Please note that for nearly a third of these certifications, residence was not known.

Applicant's Table 8

Table 8
North Sound BHO, Single Bed Certifications, 2016

County of Residence	Single Bed Certifications	% of Total
San Juan	2	0%
Skagit	42	4%
Whatcom	175	17%
Subtotal	219	21.1%
Unknown	307	29.6%
Other North Sound Counties	478	46.1%
Non North Sound Counties	33	3.2%
Total	1,037	100.0%

Source: North Sound BHO

In addition, a study undertaken by PeaceHealth found that for a 30 month period ending in June 2016, PeaceHealth St. Joseph Medical Center averaged almost 23 SBCs per month.

The Need for Additional Programming for Specific Patient Populations

US Health Vest has a proven history of developing and operating targeted programs that support service delivery and improved outcomes for underserved populations. For this service area, and based on the data, we elected to include the following programming:

Pediatric/adolescent:

As noted above, nearly 100% of children age 5-17 from the Service Area travel outside of the Service Area for hospitalization. There is growing research regarding the need for mental health services for children and adolescents. Data from the Centers for Disease Control and Prevention (CDC) indicates that mental health disorders among children are an important public health issue and have an estimated annual cost of \$247 billion. A 2013 CDC report found that, in 2010, mood disorders was one of the most common reason for hospital stays among children and that the rate of hospital stays for mood disorders increased 80% between 1997-2010. These recent studies estimate that one in five children (20%) have a diagnosable mental health disorder. A recent (2014) California study found that three out of four children with mental health needs do not receive treatment despite having health care coverage.

In addition, mental illness impacts 20 percent of our nation's youth; half of all lifetime cases of mental illness begin by age 14 and three-quarters by age 24. Unidentified and untreated early-stage mental illnesses in children and adolescents are associated with school failure, teenage childbearing, unstable employment, substance use, violence, and high risk of developing co-occurring mental disorders (NIMH, 2005). Despite the availability of effective treatment, there are

average delays of 8 to 10 years between the onset of symptoms and intervention—critical developmental years in the life of a child. The longer the lag time is between symptom onset and treatment, the more difficult and costly mental illness is to treat and the greater the burden becomes on our public health system.

The State of Washington conducts a Healthy Youth Survey every two years. The survey provides data on middle and high school students and is available by county. As detailed in Table 9, about a third of adolescents in the Service Area report depressive feelings (i.e. feeling sad or hopeless for at least two weeks in the past year), and about 10% attempted suicide in the past year.

Applicant's Table

**Table 9
Healthy Youth Survey
Reported Depressive and Suicidal Feelings/Actions, 2014**

County	Depressive Feelings	Suicidal Feelings	Attempted Suicide
San Juan			
8 th Graders	--	--	--
10 th Graders	46%	27%	9%
12 th Graders	43%	21%	10%
Skagit			
8 th Graders	30%	17%	11%
10 th Graders	36%	21%	11%
12 th Graders	34%	17%	9%
Whatcom			
8 th Graders	28%	18%	9%
10 th Graders	31%	19%	10%
12 th Graders	33%	18%	7%
Service Area			
8 th Graders	29%	18%	10%
10 th Graders	34%	20%	10%
12 th Graders	34%	18%	8%
Washington State			
8 th Graders	27%	18%	9%
10 th Graders	35%	21%	10%
12 th Graders	34%	18%	8%

Source: Washington State Healthy Youth Survey, 2014

As previously noted, PeaceHealth, in its 2016 Community Health Needs Assessments (CHNA) for St. Joseph Medical Center, United General Hospital and Peace Island Medical Center identified, as one of its priority areas, advocating for psychiatric services for children.

The US Health Vest management team has significant experience in providing services to children and adolescents. Consistent with AIA guidelines, Whatcom Behavioral will maintain physically separate and distinct physical space and programming for youth. Our youth programs are evidence-based and specifically designed to help children/adolescents and their families through difficult circumstances or issues using intensive evaluation, treatment and aftercare planning with a professional multidisciplinary team treatment approach. Treatment includes group, individual, and family therapy.

Active Military/Veterans

Whatcom Behavioral is proposing to have a unit dedicated to the specific needs of the active military and veteran populations. According to the Washington State Office of Veterans Affairs, an estimated 31,000 veterans reside in the Service Area; representing 9% of the total population (Table 1 O); slightly higher than the statewide rate.

Applicant's Table

**Table 10
Number of Veterans by County, 2014**

County	2014 Veterans	2014 Total Population	Pct of Total
San Juan	1,748	16,100	10.9%
Skagit	12,627	119,500	10.6%
Whatcom	16,447	207,600	7.9%
Total	30,822	343,200	9.0%

Source: Washington State Office of Veterans Affairs

While the above numbers represent all veterans, a 2012 report examining the behavioral health needs of veterans who served in Iraq and Afghanistan found that 30% were estimated to have a mental health need that required treatment. This report also found that fewer than half of the veterans needing services were being treated and that only 30% of those being treated received evidence-based care.

American Indians/ Alaska Natives

Consistent with the programming at our newly opened Smokey Point hospital, Whatcom Behavioral will have programming targeted for the American Indian population. Although the data is limited, since opening earlier this month, approximately 15% of the admissions to Smokey Point Behavioral have been tribal members, and most of these admissions have come from outside of Snohomish County. As Table 11 demonstrates, an estimated 6,800 American Indians/Alaska Natives reside in Whatcom County (3.2% of total population). Statewide, the American Indian/Alaska Native population represents just under 2% of the total population.

Applicant's Table

**Table 11
Number of American Indians and Alaska Natives by County**

County	2015 American Indians/Alaska Natives	2015 Total Population	Percent of Total
Whatcom	6,793	212,284	3.2%
Skagit	3,412	121,846	2.8%
San Juan	146	16,252	0.9%
Total	10,351	350,382	3.0%

Source: United States Census Bureau

Although a bit dated, a 2010 study found that American Indians experience serious psychological distress at a rate 1.5 times greater than the general population. This study also found that they experience PTSD more than two times the general population.

The Need/or Additional ITA Capacity:

PeaceHealth St. Joseph Medical Center current provides involuntary (ITA) services, but Skagit does not. Whatcom Behavioral will provide ITA services. Data provided by the Whatcom County Incarceration and Reduction Task Force indicates that between 2004 and 2014, the number of involuntary commitments (individuals) grew nearly six-fold from 57 in 2004 to 392 in 2014.

In addition, the Task Force found that:

"North Sound BHO staff calculated that the county has consistently had the second highest rate per capita of involuntary commitments in the entire state for more than five years. PeaceHealth has a Specialized Emergency Care Unit (SECU) designed to manage patients with serious mental illness who are waiting for involuntary beds. PeaceHealth makes frequent single bed certification (SBC) requests to the state to use SECU beds for treatment when regional psychiatric beds are full. During a 30 month period ending in June 2016, the total number of SBCs at PeaceHealth reached 703 or nearly 23 SBCs per month."

This data strongly suggests, that despite the commitment and effort on the part of PeaceHealth St. Joseph, demand for ITA has outpaced its capacity. A second provider with ITA will benefit the Service Area."

Public Comment

During the review of this project, the department received much public comment from residents and healthcare providers located in the three county planning area of Whatcom, Skagit, and San Juan. Many comments focused on the availability and accessibility of psychiatric services in the planning area. Much of the public comment repeated statements already provided. Below are excerpts of the some of the public comment received related to this sub-criterion.

The following excerpts are from letters of support for US HealthVest's project.

Donna Schoonover, MD Regional Pediatric Hospitalist at Seattle Children's Hospital

"I will not be able to attend the meeting on July 19 but would like to express my opinion. I am a pediatric hospitalist in Skagit County. We regularly have to admit pediatric patients awaiting inpatient placement in a child psychiatric unit. Many times these patients wait for weeks for an open bed. We do not have a child psychiatrist so they are not receiving treatment during their stays, and it is quite a delay for these vulnerable children and their stressed families. We desperately need more inpatient psychiatric beds for our region for these patients."

Aamer Kahn, Chemical Dependency Counselor at Nooksack Indian Tribe

"I am writing in support of US HealthVest's Certificate of Need application to expand behavioral health services in Whatcom County. The proposed 70-bed psychiatric hospital is crucial to address the shortage of psychiatric beds in the area.

- *It is extremely difficult for the Tribal Members to overcome travel issues to get inpatient services.*
- *I have professional experiences where patients in need of psychiatric or substance abuse services were unable to find treatment close to their community.*
- *Family involvement in treatment due to distance I travel time is a major barrier to successful treatment.*
- *Lack of timely aftercare options after hospitalization local to the patient's home is nonexistent in the area.*

I urge you to approve this certificate of need application. Thank you for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance use disorder services."

Tracie Smith, ATR-BC, CCPT, Licensed Mental Health Counselor Private Practice

"I am writing in support of US HealthVest's Certificate of Need application to expand behavioral health services in Whatcom County. The proposed 70-bed psychiatric hospital is crucial to address the shortage of psychiatric beds in the area.

*I've been in private practice working with children and adults in Whatcom County for approximately 4 years. In that time, I have sent numerous clients to the ER or had their parents accompany them to the ER for suicidal ideation and/or gestures as they were a threat to themselves and sometimes others. **In every single instance, clients and their families were told by ER workers, DMHPs or hospital social workers, that there were no beds available for Inpatient psychiatric services that would support their crisis level of need.** In at least 3 instances, this "wait it out" approach to teen suicidal gestures/ideation has ended in a loss of rapport between this therapist and the client due to an inability to support the level of need and an overall dissatisfaction with crisis mental health services in Whatcom county. Loss of support during a crisis can not only be detrimental but potentially deadly. Despite brainstorming with onsite ER staff, **in every instance, no accommodations were offered because all beds were filled statewide.** Thankfully, to my knowledge, none of the lives of my clients have been lost but it is simply a matter of time as the need for crisis services is not being met in our community or even in nearby communities. For my most vulnerable clients, I have worked diligently to connect them with residential care out of state, so that their needs can best be met.*

Aftercare options, like wrap around care or partial hospital care are often times full or unavailable in Whatcom County. Presently, there is a one year wait to get teens into a formal DBT program in Bellingham, WA. Simply put, the need is high for crisis care and wraparound care in our community and services are either inaccessible or simply not present.

I urge you to approve this certificate of need application. Thank you for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance use disorder services.” [emphasis in original]

Erika Creydt, MA, PsyD, Licensed Mental Health Counselor, Touchstone Behavioral Health

“I urge you to approve this certificate of need application, Thank you for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance use disorder services.”

Bridget Cantrell, PhD counselor at Cantrell Counseling & Associates

“I am writing in support of US Health Vest's Certificate of Need application to expand behavioral health services in Whatcom County. The proposed 70-bed psychiatric hospital is crucial to address the shortage of psychiatric beds in the area.

I have been providing mental health services in Whatcom and Skagit Counties since the late 90's and I have witnessed first-hand how connecting with emergency psychiatric care or substance abuse care for my patients is quite challenging at best. St. Joseph's Hospital is often full and many of my patients have had to wait for hours in the ER to be evaluated and then turned away for lack of available beds. They do their best to accommodate the vast needs but unfortunately the needs often outweigh the availability of inpatient services here in Whatcom County.

There have been times when my patients have been discharged and sent home which was clearly a poor clinical decision. There was even one time when one of my patients agreed to be transported from my therapy office to the ER by a kind Law Enforcement Officer, unfortunately it was 12 hours later that I finally connected with the physician who was in King County and had not ever seen him, but she determined that my patient was "embellishing" and "malingering." This was clearly not the issue. Needless to say, I had quite a spirited discussion with this physician who clearly did not have the best interest of my patient in mind. I advocated for him whom I had worked with for years. He was a Veteran and I knew that his symptoms were authentic and he was truly in a very serious decline psychiatrically. Thankfully the doctor heard my plea and finally relented. My patient was hospitalized for two weeks for stabilization due to the severity of his mental health issues. This was the correct clinical decision.

For our Veteran population, for which am very involved and work under several contracts as a mental health specialist for their needs, it is most difficult when they are in an acute phase of an exacerbation of their mental health issues to even think of driving to the city for care. They are more often than not, required to drive to the Seattle VA Emergency Room for evaluation which is over 90 miles from our location. Needless to say, many do not get the help they require for fear of either being charged for their care at the local ER because the visit was not pre-approved by the VA or they drive for over two hours in traffic to get to the ER at the VA in Seattle for an evaluation, some of whom have been declined a bed due once again to lack of availability. As you can imagine the

experience of driving to Seattle in horrendous traffic activates their Post-Traumatic Stress, and Anxiety to the point of being debilitated and clearly undermines any therapeutic intervention that would be offered once they get to their destination. They are triggered by the traffic. The idea of not knowing how they will be received and if their needs will be met is overwhelming.

The idea of a substance abuse program here in our county is so needed. I have personally been in the position where I am at a loss for finding substance abuse treatment for some of my patients, so this is also another aspect of treatment that is under represented.

Having a facility like this in Whatcom County is vital to the well-being of our patients and for their families. As a provider who is passionate about advocating for those who are often disregarded and undermined by the lack of short and long-term care I fully support this concept. The aftercare and follow up along with the collaboration with the milieu of providers is how we can assure the best possible outcome for those who require extensive and acute mental health and substance abuse treatment. Having a facility that offers after hour emergency psychiatric care for all ages is vital to a positive outcome for our entire community.

I urge you to approve this certificate of need application. Thank you so much for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance abuse services. This is truly exciting and a turn in a positive direction that I fully support.”

Catherine Owen Major, community member

“I attended the public hearing for the certificate of need for the US Health Vest, LLC psychiatric hospital in Whatcom County. I am still on the fence as to whether or not this facility should be built due to the concern over the “State Only Dollars” issue and the potential negative effect on current mental/behavioral health organizations currently in the county. I absolutely agree there is a huge need for more inpatient and outpatient treatment facilities in Whatcom County.

I feel very strongly that there needs to be a built agreement from US Health Vest that they would accept a community oversight board.

So many heartbreaking stories today and our family has its own story with my oldest son when we were living in Portland. He took his own life in 2013.

Thank you for the opportunity to participate in the public hearing.”

Carl Bruner, Ed.D, Superintendent of Mount Vernon Schools

“I am writing in support of US Health Vest's Certificate of Need application to expand behavioral health services in Whatcom County. The proposed 70-bed psychiatric hospital is crucial to address the shortage of psychiatric beds in the area.

Over the past several years, our school district and others in the region have seen an increase in the number of elementary-age children with serious behavioral and emotional issues in our classrooms. Often times these children come to us with a history of multiple adverse childhood experiences and act out in ways that threaten the safety of staff and other students. The lack of accessible mental

health resources to stabilize, diagnose, and plan for these children's needs leads to a cycle of exclusion and escalation.

While the number of elementary-age children who display externalizing behavior has increased, so has the number of adolescents exhibiting depression and self-injurious behaviors. The lack of access to readily available mental health resources for these youth and their families places these youth at serious risk for self-harm.

I urge you to approve this certificate of need application. Thank you for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance use disorder services.”

Lloy Schaaf, EdD, Assistant Superintendent of Teaching and Learning, Stanwood/Camano School District

“I am writing in support of US Health Vest's Certificate of Need application to expand behavioral health services in Whatcom County. The proposed 70-bed psychiatric hospital is crucial to address the shortage of psychiatric beds in the area.

Over the last few years, the increasing need to expand behavioral health services has become evident to our School District. Specifically, we have found ourselves in need of a facility that could work with children ages 5 and beyond with very few options in the area. The options for services are a great distant from our community and in several instances have been at capacity when families have made the contact.

We have found the Behavior Hospital at Smokey Point to be a great resource for our community as it is local and can serve as an outpatient facility as well. This facility has served our community from its inception. We look forward to having an additional facility in Whatcom County and one able to accept younger patients.

I urge you to approve this certificate of need application. Thank you for addressing the issues of access to care for people in our community who need inpatient psychiatric and/or substance use disorder services.”

The following excerpts are from letters expressing conditional support for US HealthVest’s project.

Arelene Feld, MA, MFT

“I'm in favor of granting the Certificate of Need. The whole community agrees that the need is enormous. There are numerous positives

- 1. The need is great.*
- 2. This hospital will fill a gap in the system that is intimately connected to jail diversion, a high priority for Whatcom Co.*
- 3. This will contribute to the new, improved changes to integrated care.*

My concerns are:

- 1. That this hospital will hire sufficiently trained and experienced staff. We will need a full time psychiatrist on site. The counselors must be licensed and experienced. Both should be correctly compensated.*
- 2. The needs of the patient should determine the length of stay. This means the county should have necessary funding available.*
- 3. We need well developed aftercare planning with good transitioning.*
- 4. Charity care. Supplement if necessary.*
- 5. Policies and practices: avoid early discharges.*
- 6. Draw up safety policies for ownership changes.*
- 7. Pay staff well in order to attract the best and to prevent too much instability in staff.*

To assure Whatcom County's standards are respected, I propose we require an Oversight Committee to monitor the hospital in an ongoing way."

Joy Gilfilen, President of Restorative Community Coalition

"Thank you for asking for public comments on the plans by the HealthVest, LLC to build a 70 bed mental health hospital here in Whatcom County at 221 Birchwood Ave.

I support such an action conditionally.

- 1) There is a high demand for a quality mental health facility/hospital. It is urgent. It was needed yesterday. Hundreds of people are being harmed by the lack of mental health care in this county, in this state. The facts are clearly here. And putting people in jails is more harmful and creates mental illness. We are currently losing people to withdrawals, suicide, to constant re-jailing and retraumatizing, to dual diagnosis problems, to abuse, to serious ACE's problems that escalate because there are seriously limited services. The costs are excruciating in dollars to the taxpayers, to the families, and to our communities. It hurts. We must solve these problems.*
- 2) Is it this company? We don't know yet. This is an outside investor running hospitals for profit. I call this kind of company a privateering company, for they essentially are middle men between government and the people. While this may be a good thing, there are negatives to consider. Unfortunately there is not enough oversight of private companies, who are in business to make money for their investors. This can create a contrarian business model, where the more they fail to help people, the more money that they make.*

That is a serious problem that needs to be mitigated and considered. If this is a good company, then let's create the accountability and oversight in Washington State to manage the situation and ensure good outcomes for everyone.

- 1) This means a true citizen oversight board that considers patient needs, not just the needs of the business, or of the government. If Health Vest is a good step in the right direction, but not quite good enough yet - let's help them raise the bar. Let's demand that. Our citizen oversight board needs to consist of people who have used the services, whose families have had to deal with the side effects of doing business with the company, who live with the impacts. We do not need that committee loaded with more administrators of government or businesses that profiteer from the business.*
- 2) The fact is, beside the failure of the justice system causing mass incarceration and excessive traumatization of our citizens, the problem is compounded when the primary mental health treatment often comes from administering drugs. Nationwide our current medical model of*

mental health has also failed. This provides a co-occurring institutional business model failure. We have an option today in Whatcom County to do something different. With a strong local alternative community of high end health providers, let's demand that this hospital be focused on returning people to work ASAP. This can be done by implementing the latest in neuro-scientific solutions, in holistic and functional medicine solutions, not just prescription drug therapies and what is called "traditional" services. Focusing on emotional resilience work, helping people recover from substance use disorders and dual diagnosis problems, doing the early childhood services, providing youth treatment, and so many other therapies we can pioneer change. And, it provides an excellent ROI of taxpayers and clients' money.

- 3) *One other concern is that we want no company that insists on any business exclusivity in the region. Our Community needs to have the rights to build our own local facilities, to be run by our own local health practitioners and mental health professionals who work with functional medicine and integrative approaches. While we need help now, we must not settle for mass produced mental health services that can produce inhumane results. Frankly, our entire community goal should be to help people truly stop the cycle and recover their stability as early in the cycle of emotional distress as possible. Our goal should be to help people stabilize so they can get back in the community ASAP - so they never go on to become repeat customers of the jail, nor to become addicted to drugs (legal or illegal), or headed for prison, abuse and mental illness. Truly what we need is a local solution, run by local people, to do wholistic healing ... but in the meantime ... this might work as a bridge."*

We need to invest in our local people and local solutions first so we do not fall into the trap of creating another corporate funnel that takes money out of the community."

The following excerpts are from letters that do not support approval of US HealthVest's project.

Anne Deacon, Human Services Manager for Whatcom County Public Health Department

"Negative impacts to current/future programs or infrastructure:

1. *Triage services offered by Whatcom Behavioral Health Hospital will duplicate state/local investment of our new facility in process.*
2. *47 new beds developed locally [or] in development that will compete for same money as US HealthVest.*
3. *Services at risk or lost – many of those funded by state only money:*
 - *Crises outreach services*
 - *Behavioral health services collaboration/co-delivered with law enforcement*
 - *Central access staff have been eliminated already due to Smokey Point*
 - *Room & board for mental health residential settings (assisted living facilities?)*

Rebuttal Comment

Below is an excerpt of US HealthVest's rebuttal comments submitted for the public comments received during the review. [source: US HHealthVest rebuttal comments, p2 & p4]

"The public record contains nearly 60, largely personalized letters of support. All but a very few are in strong support of the new hospital. Many tell personal stories of efforts to secure needed treatment for a family member. Others are from professionals and social service providers expressing near

exasperation about the lack of resources in the County, and the impact that lack has on the families they serve.

In addition, more than 80 persons signed in at the public hearing. Only three persons signed in as “opposed”. Two of these individuals identified their addresses as Renton and Seattle; well outside of the service area. Both of these individuals are employed by SEIU 1199; one Edon Misgina as a Union Organizer and the other, Rachel Ersted as a Research Analyst. Copies of their LinkedIn profiles are included as Attachment 1. Finally, a letter of opposition was submitted by Christina Perry, a former Smokey Point employee, regarding concerns related to staff and patient safety. These issues were resolved following the March 2018 Department of Health survey.

Thirty-two persons testified at the hearing, with the vast majority overwhelmingly in support of the new hospital. One testifier, representing the Whatcom County Health Department identified great need, but sought assurance from the CN Program that the State’s Medicaid funding for the proposed hospital will not jeopardize funding for their proposed Evaluation and Treatment (ENT) facility. The Health Department requested that the Department communicate with the Governor’s Office to assure consistency with the Governor’s vision of psychiatric services. For the record, USHV reminds the CN Program that in July of 2017, only 12 months ago, Governor Inslee was the keynote speaker at the opening of our Smokey Point Behavioral Hospital opening. Governor Inslee is a strong supporter of our model and its role in the delivery system. A YouTube video of his comment can be viewed at <https://www.youtube.com/watch?v=MgdNjkI6qoM>”

The project received nearly 60 personalized and compelling letters describing the magnitude and the extent of the unmet need in the service area. Support came from patients and families, physicians and mid-level providers, mental health providers (MSWs, LICSW, PhD, LMHA, CMHS, MAs), Bellingham Whatcom County Housing Authorities, Sea Mar Community Health Centers, a number of school districts, Nooksack and Stillaguamish Indian Tribes, the City of Bellingham Mayor, NAMI, Skagit Regional Health, religious organizations, skilled nursing providers and Whatcom Community College. Excerpts from the letters are included below:...”³

“USHV believes that upon review of the all of the materials, in particular, the letters of support submitted to date, the CN Program will conclude that need for the proposed Whatcom Behavioral Hospital has been demonstrated and that USHV is best positioned to meet this need. In fact, USHV’s proposal will meet or exceed all CN requirements. Furthermore, is prepared, as it has done in other community’s to establish a community advisory board.”

Department Evaluation

Information provided in the application and letters of support provided during the public comment portion of this review demonstrate that the existing 33 psychiatric beds is not sufficient access to psychiatric services in the three county planning area of Whatcom, Skagit, and San Juan counties. Many of the letters of support provided detailed accounts of difficulty accessing psychiatric services in the planning area. Representatives from PeaceHealth St. Joseph Medical Center also expressed support for this project.

³ Included in the rebuttal comments were excerpts of public comment submitted in support of the project. Those excerpts will not be repeated here.

The department also received letters referenced as ‘conditional support.’ These letters expressed support for the US HealthVest project, but also expressed concerns with the project. The concerns range from depth and breadth of services to be provided to the for-profit status of the applicant. The conditional support letters suggested the establishment of an “Oversight Committee” to ensure that the applicant provide the mental health services that are needed the planning area. The letters suggest that an “Oversight Committee” may ensure that once established, US HealthVest would maintain a long term presence in Whatcom County.

While an Oversight Committee is one option that US HealthVest may choose to operate the new psychiatric hospital, it is not a Department of Health requirement either under psychiatric hospital licensure or Certificate of Need. One requirement of psychiatric hospital licensure is the establishment of a governing body whose responsibilities are outlined in WAC 246-322-040, and restated below.

WAC 246-322-040

“The governing body shall:

- (1) Adopt written policies concerning the purposes, operation and maintenance of the hospital, and the safety, care and treatment of patients;*
- (2) Provide staff, facilities, equipment, supplies and services to meet the needs of patients within the purposes of the hospital;*
- (3) Establish and maintain a current written organizational plan delineating positions, responsibilities, authorities, and relationships of positions within the hospital;*
- (4) Appoint an administrator responsible for implementing the policies adopted by the governing body;*
- (5) Appoint a psychiatrist as medical director responsible for directing and supervising medical treatment and patient care twenty-four hours per day;*
- (6) Maintain an organized professional staff accountable to the governing body;*
- (7) Appoint and periodically reappoint the professional staff;*
- (8) Require and approve professional staff bylaws and rules concerning, at a minimum:*
 - (a) Organization of the professional staff;*
 - (b) Delineation of privileges;*
 - (c) Requirements for membership;*
 - (d) Specific mechanisms for appointing and reappointing members;*
 - (e) Granting, renewing and revising clinical privileges, including temporary ward privileges for community psychiatrists;*
 - (f) Self-government;*
 - (g) Required functions;*
 - (h) Accountability to the governing body; and*
 - (i) Mechanisms to monitor and evaluate quality of care and clinical performance; and*
- (9) Require that each person admitted to the hospital is under the care of a professional staff member with clinical privileges.”*

Based on the above information, US HealthVest is required to establish a governing body; however, the board is not required to include community membership on the board. Further, the Certificate of Need Program rules do not require specific positions on the membership board.

Letters of opposition submitted for this project focus on the current and future mental health infrastructure in Whatcom County. These letters expressed concern about the longevity of current residential treatment centers or facilities (RTC or RTFs) in Whatcom County. A residential treatment facility or RTF is a facility where twenty-four hour on-site care is provided for the evaluation, stabilization, or treatment of residents for substance use, mental health, or co-occurring disorders.

Psychiatric hospitals provide the most intensive level of treatment, offering 24-hour care in a secure unit of a treatment facility or hospital. This treatment option is best for those with severe mental health issues, who need constant monitoring for the sake of their own (or others) safety and well-being. The main goal of inpatient treatment is to stabilize symptoms while developing a continuing treatment plan so that the patient can receive the needed care in a less intensive setting. Length of stays at a psychiatric hospital are generally short-term, usually ranging from a few days to a week. US HealthVest projected an average length of stay to be slightly longer than 10 days.

The department does not expect approval of a 70-bed psychiatric hospital in Whatcom County would significantly impact either the planned or existing infrastructure of the mental health services in the planning area in a negative way.

Based on the source information reviewed, which includes the numeric need methodology, and US HealthVest's agreement to the conditions in the conclusions section of this evaluation, the department concludes that the applicant has demonstrated need for a 70-bed psychiatric hospital in Whatcom County. The psychiatric hospital would services residents in Whatcom, Skagit, and San Juan counties. **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.

To evaluate this sub-criterion, the department evaluates an applicant's admission policy, willingness to serve Medicare patients, Medicaid patients, and to serve patients that cannot afford to pay for services.

The admission policy provides the overall guiding principles of the facility for the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the planning area would have access to the proposed services. This is accomplished by providing an admission policy that states patients would be admitted without regard to race, ethnicity, national origin, age, sex, pre-existing condition, physical, or mental status.

Medicare certification is a measure of an agency's willingness to serve the elderly. With limited exceptions, Medicare is coverage for individuals age 65 and over. It is also well recognized that women live longer than men and therefore more likely to be on Medicare longer.

Medicaid certification is a measure of an agency's willingness to serve low income persons and may include individuals with disabilities.

Charity care shows a willingness of a provider to provide services to individuals who do not have private insurance, do not qualify for Medicare, do not qualify for Medicaid, or are under insured. With the passage of the Affordable Care Act in 2010, the amount of charity care decreased over time. However, with recent federal legislative changes affecting the ACA, it is uncertain whether this trend will continue. Specific to ASFs, WAC 246-310-270(7) requires that ASFs shall implement policies to provide access to individuals unable to pay consistent with charity care levels reported by the hospitals affected by the proposed project.

US HealthVest, LLC

US HealthVest provided copies of the following draft policies to be used at the new psychiatric hospital in Whatcom County. [source: Application, Exhibit 9]

- Draft Charity Care Policy
- Draft Admission Policy

Medicare and Medicaid Programs

US HealthVest states that once it is licensed, the new psychiatric hospital would obtain Medicare and Medicaid certifications. [source: Application, p4] Table 5 below is the project sources of revenue US HealthVest expects for the psychiatric hospital. [source: April 30, 2018, screening response, p2]

**Department Table 5
Projected Payer Mix**

Payer Group	Projected
Medicare	26.0%
Medicaid	23.0%
Managed Care/Commercial	23.0%
TriCare	25.0%
Other (self pay)	3.0%
Total	100.0%

Charity Care

US HealthVest also provided the following statements related to the charity care percentage to be provided at the psychiatric hospital. [source: Application, p31]

“In addition, in the pro forma financials, Whatcom Behavioral has projected charity care at 2.2% of total gross revenue each year. For hospital charity care reporting purposes, the Department divides Washington State into five regions, and calculates charity care by averaging the three most recent years of data. Whatcom Behavioral will be located in the Puget Sound Region.

According to 2013-2015 charity care data produced by the Department of Health (Department), the latest data currently available, the three-year charity care average for the Puget Sound Region, was 1.84% of total gross revenue and 4.82% of adjusted revenue. Whatcom Behavioral is proposing to be above the regional average. A copy of the draft charity care policy is included in Exhibit 9. This is the Department approved policy that is in use at Smokey Point Behavioral.”

Public Comment

During the review of this project, concerns were raised regarding whether the new psychiatric hospital would accept Medicaid patients. Excerpts from those public comments are below.

Alex McLean, resident of Whatcom County

"Bellingham and Whatcom County are in desperate need of some established resources for mental health and addiction.

I am concerned that this project does not currently accept Medicaid -- a real problem for its effectiveness and for access -- but I am hopeful that this can be resolved and the proposal can move forward in some fashion to deliver a dedicated facility and trained staff to our under-served community.

Thank you for your good work as we try to move forward and address this on-going crisis in Whatcom County."

Amy Glasser

"As said in the hearing; our population is poor and often on Medicaid and Medicare. We can't have state dollars diverted to this if that defunds other services we have and desperately need. State funds run out. I wanted this to be great but it isn't. As a social worker for 40 years, this program just won't help those clients most needing care."

Joanna Shelton, RN

"I am an RN in the ER at St Joe's in Bellingham. Bellingham and the surrounding area is in desperate need of a mental health facility. On any given day a large percentage of our beds are occupied by patients with mental health issues. There are very few places for them to turn, and this results in a decrease in timely care for people with physical emergent complaints. A for-profit facility will not likely prove very helpful as the majority of mental health patients are homeless and rely on Medicaid/Medicare. I am sure my sentiments are echoed by most caregivers, and something must be done to help these patients, which in turn will help all patients by freeing up beds in the ER."

Martha Giffen, community resident

"Please only allow them to build the facility only if Medicaid, not the state of Washington, will reimburse them for Medicaid patients.

Jack Louws, County Executive, Whatcom County Executive's Office

*"The state of Washington recently awarded our county \$7 million to support construction of two behavioral health units: a 16-bed Triage unit, and a 16-bed acute withdrawal management unit, both located in a new Crisis Recovery Facility. These units will be county owned, will be operated via contracts with two different treatment provider agencies, and services will be eligible for Medicaid funding. The intent of stabilization services delivered will be to divert individuals from inpatient hospitalization and provide step-down services upon discharge. **The county needs a firm commitment from the State that these projects already commenced will be fully funded.***

Whatcom County's support of this Certificate of Need relies on the state's commitment to guard against competition of scarce state funding that will jeopardize sustainable programming across a continuum. The County expects that the significant local and state dollars invested in our Crisis Recovery Facility will result in a facility that can access sufficient operational funds. We responded

to the community's urgent priority request for these services and must meet our commitment for fully operational programs.” [emphasis in original]

Rebuttal Comment

In response to the public comment regarding Medicaid and public funding, US HealthVest provide the following rebuttal comments. [source: US HealthVest rebuttal comments, pp12-14]

“The [Whatcom County] Health Department’s Comments are Misguided: This Project is Consistent with Policy Intent and will Support and Enhance the Delivery System.” [emphasis in original]

In its public comments, the Whatcom County Health Department raises several concerns involving the availability of public funding for psychiatric services. Those concerns are mistaken and misguided. Washington’s mental health system faces a variety of challenges presently and in the years ahead, including the need to expand access to both institutional and community-based care. The need for a multi-pronged approach to improving care and access for patients in the Whatcom-Skagit service area does not provide any basis for delaying or blocking a project that will serve the undeniable need for inpatient services in the region.

As an initial matter, the Health Department expresses concerns about the classification of Whatcom Behavioral Health as an Institution for Mental Diseases (IMD), which will restrict the availability of certain federal funding. The Health Department is correct that Section 1905(a)(B) of the Social Security Act prohibits certain federal “payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases” except for “individuals under age 21.” That restriction is nothing new; the IMD exclusion dates to the advent of Medicaid in 1965. The CN Program has never used the IMD exclusion as a reason to block inpatient psychiatric hospital projects. Nor should it: while small facilities have certain areas of strength, larger psychiatric hospitals have a number of advantages over smaller facilities, including both programmatic advantages (for instance, the ability to maintain separate specialized programs, more tailored group therapy sessions, etc.) and economies of scale (for instance, lower administrative costs per patient, the ability to have specialized staff for various patient populations, etc.). While the source of patient payments is clearly germane to a CN application, USHV has already fully explained the expected payor sources for its services at Whatcom Behavioral Health, including the expected portion of Medicaid revenues.

The Health Department’s comments also obscure the availability of Medicaid services for many patients age 21 to 64 through Medicaid managed care. The Legislature properly budgets for state dollars to fund appropriate services in psychiatric facilities classified as IMDs, through the regional behavioral health organizations (BHOs) contracted to administer those programs. In fact the state is actively seeking to expand such services, and federal funding for those services, through the Medicaid waiver program. Long term civil inpatient services will also be integrated into the managed care Medicaid model beginning in 2020 in a manner that maximizes the available federal funds. The State’s expanding reliance on managed Medicaid helps to reduce the burden of inflexible federal rules such as the IMD exclusion, thus ensuring access to care for all Medicaid recipients across the entire continuum of care.

In fact, USHV’s existing hospital at Smokey Point is serving a larger Medicaid patient population than we had projected, pointing to both the striking need for such services and the availability of

funding to meet the need. USHV has demonstrated an ongoing commitment to provide quality care to vulnerable patient populations including persons with mental illness generally as well as children, seniors, veterans, and low-income individuals in particular.

The Health Department's stated concern that Whatcom Behavioral Health will require state funding for its ITA services is particularly counterproductive. The statewide need for ITA services has been well-recognized for several years, and is well attested in the record. Whatcom service area patients are often held in community beds awaiting available ITA placement, and transferred long distances outside the service area for involuntary stays. The State's duty and commitment to provide proper treatment to involuntarily detained persons does of course require that adequate resources be made available for those services. There is no evidence to support the Health Department's speculation that ITA services will come at the expense of other mental health funding. USHV's application fully supports that ITA services will be provided in a manner that meets CN criteria.

The Health Department also raises a concern that USHV's construction of a new psychiatric hospital might interfere with the County's planned construction of 16-bed units in a triage facility. Funding for "new crisis triage or stabilization centers" has been funded by the Legislature through a mix of state and federal dollars.⁴ USHV's private funding for the construction of Whatcom Behavioral Health will not interfere with the availability of state funding. Nor is expanding access to services a zero-sum game: to the extent that the Legislature may need to expand Medicaid funding in future biennia to ensure full funding for the utilization of services, that need simply reflects the current crisis in which residents have no access to the services they need. Given that the State is currently seeking to expand access in IMDs, smaller facilities, and community-based care, there is no reason to believe that the Medicaid program's funding will not be adjusted accordingly when those new services come online.

The Health Department notes recent policy proposals around smaller behavioral health facilities. But contrary to the basic thrust of those comments, the public policy of Washington is in fact to support the expansion of access to inpatient and residential treatment in IMDs. Earlier this year the Washington Health Care Authority applied for an amended waiver for its Medicaid Transformation Project specifically for the purpose of expanding access to IMDs to treat substance abuse.⁵ As HCA stated in the cover letter to its amendment request, "Medicaid beneficiaries need more access to residential and inpatient treatment, not less," and the State's goal is thus to "encourage expansion of bed capacity[.]" Those public policy goals are fully in line with USHV's application."

Department Evaluation

While US HealthVest is a national provider of psychiatric healthcare services, it has been providing psychiatric healthcare services to the residents of Snohomish County in Washington State since March 2018.

For this project, US HealthVest submitted a draft Admission Policy specific to the Whatcom behavioral hospital. As a draft, the policy describes the process the psychiatric hospital would use to admit a patient and outlines rights and responsibilities for both the hospital and the patient. Included in the Admission Policy is the following non-discrimination language.

“All patients will be accepted for treatment without regard to race, religion, creed, ethnicity, gender, age, sexual orientation, or handicap, and SPBH will support and protect the fundamental human, civil, constitutional and statutory rights of the individual patient and recognize and respect personal dignity of the patient at all times.”

The Admission Policy is consistent with those approved by the department in past evaluations.

The draft Charity Care Policy provides the process one must use to access charity care, explains the eligibility for charity care, and allows for consultation with hospital staff regarding charity care. Within the application, US HealthVest provided a table showing the projected dollar amounts for charity care to be provided at the hospital. This information supports the applicant’s assurance it would continue to provide charity care if this project is approved.

Since US HealthVest provided drafts for the Admission Policy and the Charity Care Policy, if this project is approved, the department would attach conditions requiring submission of final documents prior to opening of the psychiatric hospital.

The financial data provided in the application shows both Medicare and Medicaid revenues. The department concludes that US HealthVest intends for this proposed surgery center to be accessible and available to Medicare and Medicaid patients based on the information provided.

Charity Care

Charity care is health care provided through a hospital at no cost or reduced cost to low income patients. Charity care is a state-mandated and partially state-funded program that allows uninsured or underinsured people to receive inpatient and outpatient care at a reduced cost.

For charity care reporting purposes, Washington State is divided into five regions: King County, Puget Sound (less King County), Southwest, Central, and Eastern. The new psychiatric hospital would be located in Bellingham, within the Puget Sound Region. Currently there are 23 hospitals operating within the region. Of the 23 hospitals, 3 are psychiatric hospitals and 20 are general acute care hospitals.

In year 2015, 21 hospitals were operating in the Puget Sound Region and all hospitals reported charity care data to the Department of Health. In year 2016, one psychiatric hospital, BHC Fairfax Hospital in Everett, did not report charity care data. 21 hospitals were operating in year 2016. For year 2017, 23 hospitals were operating in the region, and all 23 reported charity care data to the Department of Health.

Table 6 below compares the three-year historical average of charity care provided by all hospitals operating in the Puget Sound Region and US HealthVest’s projected percentage of charity care. [source: April 30, 2018, screening response, Attachment 3 and Hospital/Financial and Charity Care Program (HFCCP) 2015-2017 charity care summaries]

**Department Table 6
Charity Care Percentage Comparisons**

	Percentage of Total Revenue	Percentage of Adjusted Revenue
Puget Sound Region Historical 3-Year Average	1.00%	2.97%
US HealthVest Whatcom County Projected Average	2.26%	4.44%

As noted in Table 6 above, US HealthVest projects that its Whatcom County psychiatric hospital would provide charity care above the regional average for both total revenues and adjusted revenues.

Since US HealthVest proposes to establish a psychiatric hospital in the Puget Sound Region, for this evaluation, the department reviewed the charity care data for all psychiatric hospitals in the state. The table below shows the psychiatric hospitals that were operational in years 2015 through 2017.

**Department Table 7
2015 – 2017 Operational Psychiatric Hospitals in Washington State**

	Region	2015 Operational?	2016 Operational?	2017 Operational?
Cascade Behavioral Health	King	Yes	Yes	Yes
NAVOS	King	Yes	Yes	Yes
UHS/BHC Fairfax-Kirkland	King	Yes	Yes	Yes
UHS/BHC Fairfax-Kirkland			Did not report data	
UHS/BHC Fairfax Everett	Puget Sound	Yes	Yes	Yes
UHS/BHC Fairfax Everett			Did not report data	
UHS/BHC Fairfax Monroe	Puget Sound	No	No	Yes
USHV Smokey Point Behavioral Hospital	Puget Sound	No	No	Yes
Lourdes Counseling Center	Central	Yes	Yes	Yes
Total Statewide Psychiatric Hospitals Operational and Reporting Data		5	3	7

Table 8 below compares the three-year historical average of charity care provided by psychiatric hospitals operating statewide and US HealthVest’s projected percentage of charity care. [source: April 30, 2018, screening response, Attachment 3 and HFCCP 2015-2017 charity care summaries]

**Department Table 8
Charity Care Percentage Comparisons**

	Percentage of Total Revenue	Percentage of Adjusted Revenue
Psychiatric Hospitals Statewide Historical 3-Year Average	0.53%	1.90%
US HealthVest Whatcom County Projected Average	2.26%	4.44%

As noted in Table 8 above, US HealthVest projects that its Whatcom County psychiatric hospital would provide charity care above the statewide average of psychiatric hospitals for both total revenues and adjusted revenues.

While the focus of this sub-criterion is projected charity care percentages specific to US HealthVest’s psychiatric hospital in Whatcom County, US HealthVest has been providing psychiatric healthcare services in one hospital within Washington State. Smokey Point Behavioral Hospital became operational in March 2016. To further evaluate US HealthVest’s stated commitment to provide charity care at its Whatcom County hospital, the department reviewed its charity care commitment for its Smokey Point Behavioral Hospital psychiatric hospital. Below is the comparison of the actual and projected charity care for the psychiatric hospital. [source: January 14, 2014, Evaluation of the Certificate of Need Application submitted by US HealthVest proposing to establish a 75-bed psychiatric hospital in Snohomish County, p13 and HFCCP 2017 charity care summary]

**Department Table 9
Charity Care Percentage Comparisons**

	% of Total Revenue	% of Adjusted Revenue
Applicant-Projected	2.54%	4.99%
Applicant-Actual 2017	0.11%	0.14%

As shown in the comparison table above, in 2017, US HealthVest provided significantly less charity care than it projected in its application. Based on the information above, if this project is approved, the department will attach a charity care condition to the approval requiring US HealthVest to provide a minimum percentage of charity care. The condition will also require the hospital to maintain patient charity care applications received and the dollar amount of charity care discounts granted. The department requires these records to be located on site at the Whatcom County psychiatric hospital and available upon request.

Based on the information provided in the application and with US HealthVest’s agreement to the condition, the department concludes **this sub-criterion is met.**

- (3) *The applicant has substantiated any of the following needs and circumstances the proposed project is to serve.*
 - (a) *The special needs and circumstances of entities such as medical and other health professions schools, multidisciplinary clinics and specialty centers providing a substantial portion of their services or resources, or both to individuals no residing in the health service areas in which the entities are located or in adjacent health service areas.*
 - (b) *The special needs and circumstances of biomedical and behavioral research projects designed to meet a national need and for which local conditions offer special advantages.*
 - (c) *The special needs and circumstances of osteopathic hospitals and non-allopathic services.*

Department Evaluation

This criterion is not applicable to this application.

- (4) *The project will not have an adverse effect on health professional schools and training programs. The assessment of the conformance of a project with this criterion shall include consideration of:*
 - (a) *The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.*
 - (b) *If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools serving the area will have access to the services for training purposes.*

Department Evaluation

This criterion is not applicable to this application.

- (5) *The project is needed to meet the special needs and circumstances of enrolled members or reasonably anticipated new members of a health maintenance organization or proposed health maintenance organization and the services proposed are not available from nonhealth maintenance organization providers or other health maintenance organizations in a reasonable and cost-effective manner consistent with the basic method of operation of the health maintenance organization or proposed health maintenance organization.*

Department Evaluation

This criterion is not applicable to this application.

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

Based on the source information reviewed and applicant’s agreement to the conditions identified in the “Conclusion” section of this evaluation, the department concludes that US HealthVest has not 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.

US HealthVest, LLC

Within the application, US HealthVest provided the following assumptions regarding the projected number of patients, patient days, and average length of stay for the psychiatric hospital. [source: Application, p34] Before the department performs its review of the financial documents provided in this application, a review of the volume projections for the psychiatric hospital is necessary.

“Key assumptions used in the pro forma include:

- 1) 85% of days will be generated by Service Area residents.*
 - 2) Average length of stay was projected separately for the two age cohorts is estimated at 10.8 for the 5-17 and 10. 2 for the 18+.*
 - 3) The fill rate is based on the experience of US HealthVest's leadership in other similar markets.*
- Based on these assumptions, Table 14 provides the patient days estimates.”*

Applicant's Table

	2020	2021	2022	Jan June 2023	July - Dec 2023	Total 2023	2024	2025	2026
Ages 5-17									
Discharges	231	287	325	175	175	350	368	383	392
ALOS	10.8	10.8	10.8	10.8	10.8	10.8	10.8	10.8	10.8
Patient Days	2,495	3,100	3,510	1,890	1,890	3,780	3,974	4,136	4,234
ADC	6.84	8.49	9.62	10.36	10.36	10.36	10.89	11.33	11.6
No. of Beds	15	15	15	15	15	15	15	15	15
Occupancy	45.6%	56.6%	64.1%	69.0%	69.0%	69.0%	72.6%	75.5%	77.3%
	2020	2021	2022	Jan June 2023	July - Dec 2023	Total 2023	2024	2025	2026
Ages 18+									
Discharges	684	901	1,060	590	651	1,241	1,402	1,557	1,679
ALOS	10.2	10.2	10.2	10.2	10.2	10.2	10.2	10.2	10.2
Patient Days	6,977	9,191	10,812	6,018	6,640	12,658	14,300	15,881	17,126
ADC	19.1	25.2	29.6	33.0	36.4	34.7	39.2	43.5	46.9
No. of Beds	45	45	45	45	55	55	55	55	55
Occupancy	42.5%	56.0%	65.8%	73.3%	66.2%	63.1%	71.2%	79.1%	85.3%
	2020	2021	2022	Jan June 2023	July - Dec 2023	Total 2023	2024	2025	2026
Total									
Discharges	915	1,188	1,385	765	826	1,591	1,770	1,940	2,071
ALOS	9,472	12,291	14,322	7,908	8,530	16,438	18,274	20,017	21,360
Patient Days	26.0	33.7	39.2	43.3	46.7	45.0	50.1	54.8	58.5
ADC		29.80%	16.50%			14.80%	11.20%	9.50%	6.70%
No. of Beds	60	60	60	60	70	70	70	70	70
Occupancy	43.3%	56.1%	65.4%	72.2%	66.8%	64.3%	71.5%	78.3%	83.6%

Source: Applicant

Additional assumptions provided by US HealthVest relating to its Pro Forma Revenue and Expense Statement are below.

- *The expected sources of revenue were based on USHV's review of actual payer data for other dedicated psychiatric hospitals. [source: February 23, 2018, screening response, p5]*
- *Based on its current experience, USHV has allocated overhead as a percentage of net revenue (2.2%). The specific calculation is detailed in Table C below. [source: April 30, 2018, screening response Attachment 3]*
- *The medical director will be employed. A draft medical director job description is included in Attachment 5. [source: February 23, 2018, screening response, p6]*
- *Operating losses are projected in the first two years of the project (years 2020 and 2021) due to census ramping up during the startup period. This is typical for new hospitals. [source: February 23, 2018, screening response, p10]*

Focusing on specific line items in the Pro Forma Revenue and Expense Statement, US HealthVest provided the following clarifications. [source: February 23, 2018, pp10-11]

- *Other inpatient revenue: Inpatient revenue from managed care and TriCare.*

- *Other outpatient revenue: Outpatient revenue from managed care and TriCare.*
- *Other revenue deductions: Revenue deductions (the difference between gross revenue and net revenue) for managed care and TriCare.*
- *Patient Revenue: Revenue from charges for patient services.*
- *Incentive Compensation: Supplementary compensation above base salary for a certain level of performance.*
- *Medical Professional: Payments to physicians for services and director fees as well as physician consultation fees.*
- *Professional Fees: Payments to lawyers, accounting services and other consultants that perform various services for the hospital.*
- *Purchased Services: Payments to vendors for services that include lab, linen, housekeeping and IT services.*
- *Travel and Entertainment: Expenses incurred by employees for the purpose of business development.*
- *Other Expenses: Overhead expense allocation and dues and fees to agencies.*
- *No lease amounts for the lease of the building between Vest Whatcom, LLC and Vest Whatcom Realty, LLC because: Both Vest Whatcom, LLC and Vest Whatcom Realty, LLC are wholly owned subsidiaries. The pro forma financial (Attachment 3) combines the two entities. This is the same structure and the approved projects for Snohomish and Thurston.*
- *Medical director costs are included in medical professional fees.*
- *Other contract staff costs are included in Professional Fees.*
- *Corporate overhead expense allocation is included in the “other expenses” line item.*

Focusing on the Draft Lease Agreement, US HealthVest provided the following connection to the costs in the lease and the ProForma Revenue and Expense Statement. [source: source: April 30, 2018, screening response, p4]

“The financial projections for this project are for the consolidated operations of Vest Whatcom, LLC (OPCO) and Vest Whatcom Realty, LLC (REALTYCO). Both entities are wholly-owned by US HealthVest. Vest Whatcom, LLC is the entity that will own the business operations and Vest Whatcom Realty, LLC will own the building and will lease the building to Vest Whatcom, LLC. Vest Whatcom, LLC pays rent, as indicated in the intercompany Lease Agreement, to Vest Whatcom Realty, LLC. As these financials are consolidated, the rent expenses and the rent income typically are not shown. However, as a direct response to this screening question and based on conversations with CN Program staff on April 27, 2018, the revised pro forma financials (contained in Attachment 3) now depict both the rent expense and the rental income.

Specifically, the rent received by Vest Whatcom Realty, LLC is shown on the revised Pro Forma Income Statement under the “Other Income – Rent (Intercompany). The rent paid by Vest Whatcom, LLC is shown on the revised Pro Forma Income Statement, under expenses, in the “Rent – Intercompany” line item as an Expense. The addition of this information does not result in any change to the net income on the pro forma income statement.

The taxes and utilities, as indicated in the revised Draft Lease are projections, considered ‘additional rent’. The ‘additional rent’ will be paid by Vest Whatcom, LLC to Vest Whatcom Realty, LLC and are included on the Pro Forma Income Statement as utilities and non-income taxes.

As the Program is aware, the same structure was used in the two applications submitted for the Smokey Point Behavioral Hospital CN. The CN Program deemed this structure consistent with CN requirements in those prior applications.”

As previously stated in this evaluation, US HealthVest provided the following projected payer mix for the psychiatric hospital in Whatcom County. [source: April 30, 2018, screening response, p2]

**Department Table 10
Projected Payer Mix**

Payer Group	Projected
Medicare	26.0%
Medicaid	23.0%
Managed Care/Commercial	23.0%
TriCare	25.0%
Other (self pay)	3.0%
Total	100.0%

Based on the assumptions above, US HealthVest provided its projected revenue, expenses, and net income for the 70-bed psychiatric hospital. The projections are summarized in Table 11 below and show both phases of the project. [source: April 30, 2018, screening response, Attachment 3]

**Department Table 11
Projected Revenue and Expense Statement for Years 2020 - 2026**

	Year 2020	Year 2021	Year 2022
	Number of Beds = 60		
Net Revenue	\$9,071,152	\$11,552,655	\$13,335,550
Total Expenses	\$10,126,849	\$11,567,666	\$12,465,493
Net Profit/(Loss)	(\$1,055,697)	(\$15,011)	\$870,057

	Year 2023	Year 2024	Year 2025	Year 2026
	Number of Beds = 70			
Net Revenue	\$15,198,242	\$16,806,870	\$18,337,393	\$19,517,384
Total Expenses	\$13,560,642	\$13,946,206	\$14,961,039	\$15,488,495
Net Profit/(Loss)	\$1,637,600	\$2,860,664	\$3,376,354	\$4,028,889

The “Net Revenue” line item is gross inpatient and outpatient revenue, minus any deductions from revenue for contractual allowances, bad debt, and charity care. The “Total Expenses” line item shows operating expenses, including salaries/wages, benefits, insurance, rentals/leases, and all expected depreciation.

Public Comment

None

Rebuttal Comment

None

Department Evaluation

To evaluate this sub-criterion, the department first reviewed the assumptions used by US HealthVest to determine the projected number of patients, patient days, average length of stay, and average daily census for the projection years. When US HealthVest submitted this application it did not have an operational psychiatric hospital in Washington State. As a result, reliance on its own experience in other states to determine projected utilization and occupancy for the Whatcom County hospital is reasonable.

US HealthVest states it based its revenue assumptions on actual payer data for other dedicated psychiatric hospitals. Given that US HealthVest did not have an operational psychiatric hospital in Washington State when this application was submitted, this approach is also reasonable.

US HealthVest relied on its experience in other states to determine expenses associated with a 70-bed psychiatric hospital. Further, it has a specific formula to determine percentages for cost allocations and other set cost that can translate to a Washington State facility. This approach is reasonable.

Focusing on lease costs in the Pro Forma Revenue and Expense Statement, US HealthVest provided a detailed description of its accounting for the costs. This approach is reasonable and can be substantiated in the statement.

Medical director and other staff costs are included in the statement. These costs are also based on US HealthVest’s experience operating like-sized psychiatric hospitals in other states.

The pro forma financial statements show expenses exceeding revenues in the first two years of operation with 60 psychiatric beds. By the end of year three, the 60-bed psychiatric hospital is projected to be operating at a profit. For years one through three with 70-psychiatric beds, US HealthVest projects revenues to exceed expenses.

To demonstrate long term financial viability of the psychiatric hospital, US HealthVest provided its projected balance sheets for years 2020 through 2026. Table 12A below is year one with 60 psychiatric beds, Table 12B on the following page is year one with 70 psychiatric beds, and Table 12C on the following page is year three with 70 psychiatric beds. [source: February 23, 2018, screening response, Attachment 3]

**Department Table 12A
US HealthVest Whatcom County Psychiatric Hospital – 60 Beds
Projected Balance Sheet 2020 – Full Year One**

Assets		Liabilities	
Current Assets	\$1,644,675	Current Liabilities	\$396,876
Board Designated Assets	\$0	Other Liabilities	\$0
Property/Plant/Equipment	\$20,065,920	Long Term Debt	\$0
Other Assets	\$0	Equity	\$21,313,719
Total Assets	\$21,710,595	Total Liabilities and Equity	\$21,710,595

Department Table 12B
US HealthVest Whatcom County Psychiatric Hospital – 70 Beds
Projected Balance Sheet 2024 – Full Year One

Assets		Liabilities	
Current Assets	\$8,742,968	Current Liabilities	\$503,595
Board Designated Assets	\$0	Other Liabilities	\$0
Property/Plant/Equipment	\$18,427,657	Long Term Debt	\$0
Other Assets	\$0	Equity	\$26,667,030
Total Assets	\$27,170,625	Total Liabilities and Equity	\$27,170,625

Department Table 12C
US HealthVest Whatcom County Psychiatric Hospital – 70 Beds
Projected Balance Sheet 2027 – Full Year Three

Assets		Liabilities	
Current Assets	\$17,176,278	Current Liabilities	\$558,245
Board Designated Assets	\$0	Other Liabilities	\$0
Property/Plant/Equipment	\$17,454,240	Long Term Debt	\$0
Other Assets	\$0	Equity	\$34,072,273
Total Assets	\$34,630,518	Total Liabilities and Equity	\$34,630,518

Since the Whatcom County psychiatric hospital would be operating under the parent of US HealthVest, the department also review the projected balance sheets for US HealthVest as a whole. Table 13A below shows year one with 60 psychiatric beds and Table 13B shows year three with 70 psychiatric beds. [source: February 23, 2018, screening response, Attachment 11]

Department Table 13A
US HealthVest with 60-Bed Whatcom County Psychiatric Hospital
Projected Balance Sheet 2020 – Full Year One

Assets		Liabilities	
Current Assets	\$85,816,231	Current Liabilities	\$14,738,003
Board Designated Assets	\$0	Other Liabilities	\$22,916,636
Property/Plant/Equipment	\$104,554,238	Long Term Debt	\$27,133,795
Other Assets	\$58,782,192	Equity	\$184,364,227
Total Assets	\$249,152,661	Total Liabilities and Equity	\$249,152,661

Department Table 13B
US HealthVest with 70-Bed Whatcom County Psychiatric Hospital
Projected Balance Sheet 2027 – Full Year Three

Assets		Liabilities	
Current Assets	\$368,310,674	Current Liabilities	\$15,339,547
Board Designated Assets	\$0	Other Liabilities	\$11,674,557
Property/Plant/Equipment	\$84,901,335	Long Term Debt	\$9,985,520
Other Assets	\$58,782,193	Equity	\$474,994,578
Total Assets	\$511,994,202	Total Liabilities and Equity	\$511,994,202

To determine whether US HealthVest would meet its immediate and long range capital costs, HFCCP reviewed year 2016 and 2017 historical balance sheets for US HealthVest. Table 14A shows historical year 2016 and Table 14B shows historical year 2017. [source: HFCCP analysis, p2]

Department Table 14A
US HealthVest Historical Balance Sheet 2016
[source: 2016 Audited Financial Statements]

Assets		Liabilities	
Current Assets	\$68,879,082	Current Liabilities	\$13,146,304
Board Designated Assets	\$0	Other Liabilities	\$0
Property/Plant/Equipment	\$54,069,828	Long Term Debt	\$32,827,512
Other Assets	\$15,940,533	Equity	\$92,915,627
Total Assets	\$138,889,443	Total Liabilities and Equity	\$138,889,443

Department Table 14B
US HealthVest
Historical Balance Sheet 2017
[source: February 23, 2018, screening response, Attachment 12]

Assets		Liabilities	
Current Assets	\$26,039,294	Current Liabilities	\$10,174,228
Board Designated Assets	\$ 0	Other Liabilities	\$27,019,637
Property/Plant/Equipment	\$68,899,821	Long Term Debt	\$28,046,732
Other Assets	\$59,352,873	Equity	\$89,051,392
Total Assets	\$154,291,988	Total Liabilities and Equity	\$154,291,989

Note: 2017 historical balance sheet may not exactly balance due to rounding.

HFCCP also provided a discussion of the financial health of the applicant, US HealthVest, in the analysis. The discussion focuses on the projected capital expenditure of this project of \$20,944,500 and the historical balance sheets for US HealthVest. HFCCP’s information is below. [source HFCCP analysis, p3]

“The table below shows percentages of the certificate of need and total project expenditures compared to various assets of US HealthVest as of the end of 2017.

US HealthVest	2017
Capital Expenditure	\$20,944,500
Percent of Total Assets	13.57%
Percent of Current Assets	80.43%
Percent of Long-Term Debt	74.68%
Percent of Equity	23.52%

The applicant states that it will use reserves to fund this project. It noted in the initial application “Total cash on the balance sheet as of December 2016 is also sufficient to meet the startup requirements.”(source: Application, p40) In response to the department’s screening questions, USHV provided an updated balance sheet for the year ending December 31, 2017. Total current

assets for USHV were \$68,879,082 in 2016, but had decreased to 26,039,294 at the end of 2017. As of the end of 2017, the applicant did not demonstrate sufficient assets – current or other – to fund this project.

The applicant noted in its first screening responses,

“As referenced in the application, USHV enjoys the strong support of its investors and is able to raise additional funds as needed for its projects. USHV has already raised over \$105 million. USHV’s business plan calls for it to only raise funds from investors as projects require and USHV is currently in the process of raising additional funds from investors, which includes the proposed Whatcom Behavioral Hospital. USHV will have sufficient cash on hand to fully fund the project prior to commencement (by November 2018).”

The applicant further noted,

“As discussed in response to Question #43, USHV, Vest Whatcom’s parent company, has the ability to raise additional funds as needed for its projects. To date, USHV has raised over \$105 million. As the updated timeline in Attachment 3 indicates, by November 2018, the funds needed for this project will be made available.” (source: Applicant’s first screening responses, p13)

The department notes that, while investors have contributed \$105,618,818 to USHV as of 2017, the company has shown net losses each year, totaling \$16,567,425. Representations by the applicant that it will be able to generate additional funds, absent documentation of any commitment to contribute those funds and absent sufficient assets to build the new hospital are not evidence that the funding will actually exist when the project is commenced. The applicant did not provide any evidence that investors are willing to fund this project.”

For hospital projects, HFCCP provides a financial ratio analysis assesses the financial position of an applicant, both historically and prospectively. The financial ratios typically analyzed are **1)** long-term debt to equity; **2)** current assets to current liabilities; **3)** assets financed by liabilities; **4)** total operating expense to total operating revenue; and **5)** debt service coverage. Historical and projected balance sheet data is used in the analysis. US HealthVest’s 2017 balance sheet and proposed psychiatric hospital’s projected balance sheets were both used to review applicable ratios and pro forma financial information. Table 15 on the following page compares statewide data for historical year 2017, US HealthVest’s historical year 2017, and the proposed psychiatric hospital’s projected years 2021 through 2027. [source: HFCCP analysis, p4]

**Department Table 15
Current and Projected Debt Ratios
US HealthVest and Proposed Psychiatric Hospital**

Category	Trend *	State 2017	USHV 2017	Hospital 2021	Hospital 2022	Hospital 2023
Long Term Debt to Equity	B	0.443	0.315	---	---	---
Current Assets/Current Liabilities	A	3.326	2.559	4.144	4.733	6.810
Assets Funded by Liabilities	B	0.372	0.248	0.018	0.020	0.022
Operating Expense/Operating Revenue	B	0.980	1.042	1.116	1.001	0.935
Debt Service Coverage	A	4.753	0.433	---	---	---

Category	Trend *	State 2017	Hospital 2024	Hospital 2025	Hospital 2026	Hospital 2027
Long Term Debt to Equity	B	0.443	---	---	---	---
Current Assets/Current Liabilities	A	3.326	11.142	17.361	23.481	30.768
Assets Funded by Liabilities	B	0.372	0.020	0.019	0.018	0.016
Operating Expense/Operating Revenue	B	0.980	0.892	0.830	0.816	0.794
Debt Service Coverage	A	4.753	---	---	---	---

Definitions:	Formula
Long Term Debt to Equity	Long Term Debt/Equity
Current Assets/Current Liabilities	Current Assets/Current Liabilities
Assets Funded by Liabilities	Current Liabilities + Long term Debt/Assets
Operating Expense/Operating Revenue	Operating expenses / operating revenue
Debt Service Coverage	Net Profit+Depr and Interest Exp/Current Mat. LTD and Interest Exp

* A is better if above the ratio; and B is better if below the ratio.

After reviewing the financial ratios above, staff from HFCCP provided the following statements. [source: HFCCP analysis, p4]

“By the end of the third year three of the five ratios that can be calculated for the facility are in range. Two ratios are not used because no debt is associated with this project. The hospital is breaking even by the end of the third year. USHV corporate values are within range for only two of the ratios – Long Term Debt to Equity and Assets Funded by Liabilities. Of these three remaining ratios, Operating Expense/Operating Revenue is greater than 1, indicating that the USHV as a whole is experiencing operating losses.”

After reviewing the information submitted by US HealthVest for this sub-criterion, staff from HFCCP provided the following statements. [source: HFCCP analysis, p4]

“While the pro-forma financial statements the applicant provided for the hospital itself project that it will be operating at a profit after the first two years and demonstrates financial ratios that are more favorable than the average of Washington hospitals, the uncertainty of the applicant’s ability to raise the additional capital to build the new hospital remains.

Review of the financial and utilization information does not show that the immediate and long-range capital expenditure can be met. This criterion is not satisfied.”

Based on the historical and projected financial data provided above, the department concludes that approval of this project could have a negative financial impact on US HealthVest as a whole. **This sub-criterion is not met.**

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

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.

US HealthVest, LLC

In response to this sub-criterion, US HealthVest provided the following information. [source: Application, p41]

“US Health Vest's commitment to utilizing reserves to cover the capital, working capital and initial operating deficits provides the necessary funds without incurring financing costs. This in turn, reduces the costs of operation (no debt service). Therefore, while there is an "opportunity cost" associated with using reserves (the funds are no longer available for any other purpose), it remains the most cost efficient and prudent method of funding this project. In addition, US Health Vest also raises equity funds from time to time as a part of our normal course of business.”

US HealthVest also provided the following information related to the start-up costs of \$2,288,215. [source: April 30, 2018, screening response, p4]

“Start-up costs consist of Employee Salaries, including Incentive Compensation and Benefits, Supplies, Medical Professional Fees, Professional Fees, Purchased Services, Repairs and Maintenance, Rent, Utilities, Recruitment, Travel and Entertainment, Insurance, Advertising, Taxes (Non-Income) and Other Expenses. The start-up costs were derived from USHV’s actual start-up experience.”

Public Comment

During the review of this project, SEIU 1199Northwest provided extensive public comments on the project. Below is an excerpt of the public comment that is relevant to this review sub-criterion.

SEIU 1199 Northwest

“Projected payer mix

USHV relies heavily upon vulnerable patients, including veterans. Per the applicant's second screening response, average length of stay (ALOS) for Tricare (coverage provided to military members and their families) far exceeds other payers in terms of projected time spent in the facility.³⁵ "Whatcom Behavioral Hospital Projected Revenue by Payer by Year, 2021-2027" indicates that almost all projected monies are from public dollars in the form of Medicare, Tricare, Medicaid, and Managed Care. Considering what we know about patient treatment within the operational Washington-based USHV facility, SPBH, and the vulnerable patients the proposed Whatcom County facility is projecting to serve, this is extremely concerning.

Financial transparency and rate of cost to charge

In regards to the organization's financial health, USHV claims all operational and projected facilities are included in the Pro Forma Balance Sheet for 2021-2027.³⁷ However, projected profit or loss and patient utilization data is not provided per facility. Since opening in June of 2017, USHV has not submitted financial data through quarterly and annual reporting as required by the DOH. In not submitting reports to the DOH, which includes information on facility financials, utilization, and payer mix, USHV is demonstrating a lack of transparency, and is violating state law.

While there is limited public information regarding SPBH's financial health and other facility information, the Health Care Authority does track facilities, including SPBI-I's, rate of cost to charge. SPBH has a low rate of cost to charge (RCC) - which is determined by taking what the actual cost providing care is divided by what the facility charges patients. This information indicates SPBH is charging significantly more than the cost of care. Since USHV and/or leadership at SPBH have not submitted financial information for the 2017 fiscal year, or the first quarter of 2018, the facility's financial practices and health is unknown. An additional concern this raises is whether charity care is being offered at or above the regional average.

*Recreated US HealthVest's Chart 1:
2018 Health Care Authority RCC rates, July 1, 2018-current*

Name	RCC
<i>Cascade Behavioral Hospital</i>	<i>0.454</i>
<i>Fairfax Hospital</i>	<i>0.248</i>
<i>Lourdes Counseling Center</i>	<i>0.433</i>
<i>Navos-West Seattle Campus</i>	<i>0.636</i>
<i>Smokey Point Behavioral Hospital</i>	<i>0.279</i>

Rebuttal Comment

In response to the public comments under this sub-criterion, US HealthVest provided the following rebuttal comments.

“SEIU raised issues related to financial reporting. As the CN Program is aware, Smokey Point Behavioral Hospital opened just over a year ago. As such, the hospital is in the process of finalizing all year end reporting to the Department of Health including quarterly and year end filings. In addition, related to the rate of cost to charges referenced in the SEIU public comment submittal, USHV notes for the record that two of the five hospitals referenced are very highly Medicaid and a 3rd has both detox and psychiatric beds. The most comparable hospital to Smokey Point is Fairfax Hospital and its cost to charge ratio is lower than Smokey Point's. USHV will be filing its reports and intends to be fully transparent. Finally, Smokey Point did agree to a charity care condition on its certificate of need and is following its Department of Health approved charity care policy. USHV believes that the CN Program will conclude that these arguments have no merit.”

Department Evaluation

SEIU 1199NW voiced concerns regarding the applicant's rate of cost to charge for its only existing hospital in Washington State—Smokey Point Behavioral Hospital—and compared the facility's rate of cost to charge with those of other psychiatric hospitals within the state. SEIU 1199NW states that

the facility’s financial practices and financial health is unknown; however, Smokey Point Behavioral Hospital has submitted financial data to the Department of Health quarterly as required. The concerns raised by SEIU 1199NW may be valid in the future, however, the concerns are premature at this time since Smokey Point Behavioral Hospital has been in operational for a short time.

SEIU 1199NW also raised concerns regarding the reported percentage of charity care provided at Smokey Point Behavioral Hospital and suggests the concerns could translate to low charity care at this proposed psychiatric hospital. However, again Smokey Point Behavioral Hospital has been in operation for a short time and the reported percentages of charity care do not include a full 12 months of data. The department concludes the concerns may be valid in the future, however, for the reasons stated above, may be premature at this time.

After reviewing the projected admissions, patient days and average length of stay for the hospital, and the projected revenue and expense statement for the proposed psychiatric hospital, staff from HFCCP provided the following statements related to this sub-criterion. [source: HFCCP analysis, p4]

“USHV rates are similar to the Washington statewide averages. This criterion is satisfied.”

US HealthVest provided a signed nonbinding contractor’s estimate in Exhibit 10 of the application attesting to the reasonableness of the construction and associated costs.

US HealthVest provided a projected payer mix for the psychiatric hospital. As previously stated in the evaluation, the payer mix percentages are based on the applicants experience with establishing new psychiatric hospitals and appear reasonable. The percentages are identified in the department’s Table 3 of the evaluation and restated below.

**Department Table 16
Projected Payer Mix**

Payer Group	Projected
Medicare	26.0%
Medicaid	23.0%
Managed Care/Commercial	23.0%
TriCare	25.0%
Other (self pay)	3.0%
Total	100.0%

Based on the information above, the department concludes that approval of this project would not have an unreasonable impact on costs and charges for healthcare services in the three county planning area. **This sub-criterion is 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.

US HealthVest, LLC

US HealthVest provided a breakdown of the estimated capital expenditure of \$20,944,500, which is summarized in the table below. [source: Application, p37]

**Department Table 17
Capital Cost Breakdown**

Item	Amount	Percentage of Total
Land Purchase	\$2,850,000	13.6%
Building Construction (including fixed equipment)	\$14,400,000	68.8%
Construction Costs (site prep, supervision)	\$700,000	3.3%
Moveable Equipment	\$600,000	2.9%
Architect/Engineering/Consulting Fees	\$1,089,500	5.2%
Sales Tax: (Building Construct Moveable Equip)	\$1,305,000	6.2%
Total Cost	\$20,944,500	100.0%

Regarding the funding source, US HealthVest provided the following information. [source: February 23, 2018, screening response, p13]

“As referenced in the application, USHV enjoys the strong support of its investors and is able to raise additional funds as needed for its projects. USHV has already raised over \$105 million. USHV’s business plan calls for it to only raise funds from investors as projects require and USHV is currently in the process of raising additional funds from investors, which includes the proposed Whatcom Behavioral Hospital. USHV will have sufficient cash on hand to fully fund the project prior to commencement by November 2018.”

Regarding the startup costs, US HealthVest provided the following information. [source: February 23, 2018, screening response, p4]

“Start up costs are \$2,288,215. These costs include: Employee Salaries, including Incentive Compensation and Benefits, Supplies, Medical Professional Fees, Professional Fees, Purchased Services, Repairs and Maintenance, Rent, Utilities, Recruitment, Travel and Entertainment, Insurance, Advertising, Taxes (Non-Income) and Other Expenses.

Public Comment

None

Rebuttal Comment

None

Department Evaluation

As stated in sub-section (1) of this criterion, staff from HFCCP reviewed historical balance sheets for provided the following statements related to this sub-criterion. HFCCP also provided a discussion of the financial health of the applicant, US HealthVest, in the analysis based on the projected capital expenditure of this project of \$20,944,500 and the historical balance sheets for US HealthVest. HFCCP’s information is below. [source HFCCP analysis, p3]

“The table below shows percentages of the certificate of need and total project expenditures compared to various assets of US HealthVest as of the end of 2017.

HFCCP Table

US HealthVest	2017
Capital Expenditure	\$20,944,500
Percent of Total Assets	13.57%
Percent of Current Assets	80.43%
Percent of Long-Term Debt	74.68%
Percent of Equity	23.52%

The applicant states that it will use reserves to fund this project. It noted in the initial application “Total cash on the balance sheet as of December 2016 is also sufficient to meet the startup requirements.”(source: Application, p40) In response to the department’s screening questions, USHV provided an updated balance sheet for the year ending December 31, 2017. Total current assets for USHV were \$68,879,082 in 2016, but had decreased to 26,039,294 at the end of 2017. As of the end of 2017, the applicant did not demonstrate sufficient assets – current or other – to fund this project.

The applicant noted in its first screening responses,

“As referenced in the application, USHV enjoys the strong support of its investors and is able to raise additional funds as needed for its projects. USHV has already raised over \$105 million. USHV’s business plan calls for it to only raise funds from investors as projects require and USHV is currently in the process of raising additional funds from investors, which includes the proposed Whatcom Behavioral Hospital. USHV will have sufficient cash on hand to fully fund the project prior to commencement (by November 2018).”

The applicant further noted,

“As discussed in response to Question #43, USHV, Vest Whatcom’s parent company, has the ability to raise additional funds as needed for its projects. To date, USHV has raised over \$105 million. As the updated timeline in Attachment 3 indicates, by November 2018, the funds needed for this project will be made available.” (source: Applicant’s first screening responses, p13)

The department notes that, while investors have contributed \$105,618,818 to USHV as of 2017, the company has shown net losses each year, totaling \$16,567,425. Representations by the applicant that it will be able to generate additional funds, absent documentation of any commitment to contribute those funds and absent sufficient assets to build the new hospital are not evidence that the funding will actually exist when the project is commenced. The applicant did not provide any evidence that investors are willing to fund this project.”

As noted above, staff from HFCCP express concerns with US HealthVest’s current financial health and its ability to secure funding for this project. HFCCP noted that US HealthVest did not provide documentation that the funding is available; rather, US HealthVest provided statements that the funding would be available if this project is approved. For Certificate of Need reviews, the stated

promise of funding is not sufficient to allow the department to conclude that the project can be appropriately financed.

Based on the information provided in the application, the department concludes **this sub-criterion is not met.**

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

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

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

WAC 246-310 does not contain specific WAC 246-310-230(1) 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 specific staffing patterns or numbers of FTEs that should be employed for projects of this type or size. Therefore, using its experience and expertise the department concludes that the planning would allow for the required coverage.

US HealthVest, LLC

The 70-bed psychiatric hospital is expected to be operational in the two phases, which rely on a Certificate of Need approval date of September 2018. Below are the timelines for the two phases and the number of beds to be operational at each phase. [source: February 23, 2018, Attachment 3]

**Department Table 18
Phases of Project**

Phase	Number of Beds	Operational Date
One	60 total	January 2020
Two	70 total (10 additional)	July 2023

Based on the timing of this decision and the phases identified in the application, the applicant expects full year one to be 2020 with 60 psychiatric beds; full year one with 70 psychiatric beds is 2024. The third year following project completion is year 2026. US HealthVest provided its projected number of hospital-wide full time equivalents (FTEs) for the hospital, which is shown in the table below and continued on the following page. [source: Application p43]

**Department Table 19
Projected FTEs for Years 2020 - 2026**

	Year 2020	Year 2021	Year 2022	3-Year Total
Number of Beds = 60				
Nursing FTEs	24.4	7.6	5.1	37.1
Other FTEs	19.1	2.1	2.4	23.6
Support Staff	31.8	5.9	2.5	40.2
Outpatient FTEs	4.0	0.0	0.0	4.0
Total All FTEs	79.3	15.6	10.0	104.9

**Department Table 19
Projected FTEs for Years 2020 - 2026**

	From Year 2022	Year 2023	Year 2024	Year 2025	Year 2026	Total
	Number of Beds = 70					
Nursing FTEs	37.1	7.4	1.0	2.1	2.2	49.8
Other FTEs	23.6	3.1	1.7	1.9	2.0	32.3
Support Staff	40.2	2.8	2.7	3.0	3.1	51.8
Outpatient FTEs	4.0	0.0	0.0	0.0	0.0	4.0
Total All FTEs	104.9	13.3	5.4	7.0	7.3	137.9

US HealthVest provided the following clarification regarding the staffing table shown above.

[source: February 23, 2018, screening response, p6]

“The staffing categories included in Table 15 include the following:

Nursing: Registered nurses and mental health technicians

Other Clinical staff: Social services, program directors, activity therapists

Support staff: Administration, intake, billing, dietary, laundry, maintenance, housekeeping, human resources, utilization review, community relations, health information management

Outpatient: outpatient clinical staff (therapists, social services).

The physicians have not been included in [the staffing table]. Information on the physicians was provided in Table 1 on page 16 of the CN application and is included in “medical professional” line item in the pro forma.”

US HealthVest provided the following information related to its ability to recruit and retain appropriate staff for the 70-bed psychiatric hospital. [source: Application, pp44-45]

“Dr. Kresch's prior company, Ascend, was a leading behavioral healthcare provider, offering a full range of inpatient and day hospital services to children, adolescents, adults and seniors in six different states. The company operated nine freestanding psychiatric hospitals, a substance abuse treatment center, partial hospitalization programs, and intensive outpatient programs including Schick Shadel Hospital in Seattle and a psychiatric hospital in Portland, Oregon. Today, the Ascend leadership team is in place at US Health Vest. To assure the same high-quality programming and operating four facilities with a total of 471 beds. Importantly, US Health Vest also understands the Washington State market, having recently and successfully completed the opening of a newly constructed 115 psychiatric hospital in Snohomish County (Smokey Point Behavioral Hospital).

To staff the proposed hospital, US Health Vest will work closely with existing local providers to develop recruitment and retention strategies that support existing systems and do not exacerbate any challenges faced by existing providers. The leadership team at US Health Vest has considerable prior experience in hiring clinical staff and will continue to utilize a structured and phased approach to address our clinical needs. We typically start the hospital by opening one unit or program at a time. That way, we can assure that the staff is trained prior to expanding our services. Whatcom Behavioral projects Year 1 staffing at 79 FTEs; with the number of staff needed increasing to 138 by the end of the 3rd year of Phase 2.

US Health Vest's success in staffing will also be based on our human resource focus which includes:

- *Specifically seeking individuals with an interest in behavioral health.*

- *Offering a generous benefit package for employees.*
- *Nationwide postings of our openings on our website, national recruiting websites and local community online postings.*
- *Establishing relationships with local colleges and universities to enable us to offer internships, training and job opportunities.*
- *Constant monitoring of hospital wage structures to remain competitive.*
- *Partnering with local career councils to foster development and growth in the healthcare industry.*
- *Providing opportunities for clinical training to provide actual hospital work experience.*
- *Working with local employment agency personnel and other local recruitment initiatives including local job fairs.*

For the above reasons, we do not expect any significant problems in recruiting and retaining needed staff. We employed these tactics at Smokey Point Behavioral and were successful in recruiting for all required positions.”

Public Comment

Public comment that focuses on this sub-criterion is below.

Amy Glasser, MSW

“This program is known to poorly staff their facilities, pay poorly, terrible benefits, and terrible support. We have a hard time getting quality providers now. We will not find the staff. This program is also known to have minimal after care services which is imperative to long term success.”

Teresa Hertz, community member

*“While I am in favor of a proposal to build a 70+ bed behavioral hospital, I **offer my support conditionally**. It is critical that oversight measures are in place to ensure quality care and transparency. It is my understanding that the Department of Health (DOH) oversees private Psychiatric and Alcoholism Hospitals in accordance with Chapter 246-322 WAC. With that knowledge, I make the following inquiries:*

...What recruitment process is the company using to fill their hospitals with a professional staff, given the shortage of psychiatrists state-wide?” [emphasis in original]

Dena Jensen, Birch Bay community member

“I am writing to support bringing a behavioral hospital to Whatcom County. I am encouraged that the National Alliance on Mental Health Illness (NAMI) of Whatcom County is supporting the US HealthVest, LLC proposal to build a 70-bed psychiatric hospital in Whatcom County. I know that our County is in dire need of such a facility.

I do also wish to express to you at the Department of Health that I am calling on your agency to exert whatever influence and authority you have regarding the Whatcom Behavioral Hospital, to see to it that high standards are used and maintained for recruitment of staff, i.e. a well-qualified hiring staff who can properly identify well-qualified psychiatrists/specialists, full time on site, and highly trained therapists, etc. I understand that this hospital is a private hospital but also know that your agency Mission Statement includes components that would activate you to be engaged with private businesses to promote a safe and healthy environment in our state. I have done some research on US HealthVest and have learned enough to have a concern that they may well need your help, that of

our local Health Department, and of we members of the community, in order for the facility to remain motivated to employ a well-paid highly qualified staff, long term.”

Rebuttal Comment

In response to the public comment regarding staffing of the new psychiatric hospital, US HealthVest provide the following rebuttal comments. [source: US HealthVest rebuttal comments, p14]

“Finally, the [Whatcom County] Health Department expresses concern that Whatcom Behavioral Health will add to the need for mental health jobs in the area. Given the statewide need for expanded access to mental health services, staffing new facilities is an inevitable challenge. However, USHV’s application adequately addresses staffing and the plans to attract and train staff to provide the necessary care. Those plans were further buttressed by the public comments, which emphasized both the ability of USHV to attract talent from outside the state and the ability of local educational institutions to provide training to the local workforce (see earlier excerpt from the letter of support from Kathi Hiyane-Brown, President of Whatcom Community College). Whatcom Community College has established a certification program for chemical dependency professionals and will add an associate degree and certification program in the fall. Those programs will provide additional sources of qualified local personnel for Whatcom Behavioral Health.”

Department Evaluation

Given that the psychiatric hospital is new, staff recruitment has not yet occurred. The staff table shows that US HealthVest intends to recruit the majority of its staff in year 1 or 2020, and increase staff incrementally as the occupancy grows and the final 10 beds are added to the hospital. This approach to staffing is reasonable and prudent.

US HealthVest intends to rely on the experience of its ownership for staffing and recruitment strategies. Public comment expressed concerns about the applicant’s ability, or willingness, to recruit the number of qualified staff necessary to provide quality medical services for its patients. This concern is not unfounded for any new hospital, either psychiatric or acute care, because of the current nationwide staffing shortage. Specific to this project in Whatcom County, the only Washington State healthcare history available for US HealthVest is Smokey Point Behavioral Hospital, the currently operational psychiatric hospital owned and operated by the applicant.

Information in the application provides evidence of the applicant’s intent to appropriately staff the new psychiatric hospital in Whatcom County. However, the department notes that Smokey Point Behavioral Hospital—the only operational Washington State psychiatric hospital owned by US HealthVest—has had some challenges recruiting and retaining qualified staff that meet the needs of the patients. These challenges have led to both federal and state citations at Smokey Point Behavioral Hospital resulting in four separate notifications from CMS of its intent to terminate the hospital from the Medicare program.

US HealthVest intends to use the same recruitment and retention strategies for its Whatcom County psychiatric hospital that it used at Smokey Point Behavioral Health. It is clear that US HealthVest did not re-evaluate its recruitment and retention strategies after it experienced challenges in Snohomish County before submitting this application for Whatcom County project. Though these strategies were appropriate on a prospective basis in the Snohomish County application submitted in

May 2013, the execution of these strategies have not been successful, as discussed above. The department does not consider these strategies for recruitment and retention acceptable because they have not been successful in US HealthVest's experience in the Washington market.

Based on the above information, the department concludes that US HealthVest did not provide sufficient information to demonstrate compliance with this sub-criterion. **This sub-criterion is not 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.

WAC 246-310 does not contain specific WAC 246-310-230(2) 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 relationships, ancillary and support services should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials contained in the application.

US HealthVest, LLC

US HealthVest provided the following statements related to ancillary and support services required for the psychiatric hospital. [source: Application, p45]

“Required on-site ancillary and support services include pharmacy, dietary and recreational therapy. In addition, Whatcom Behavioral will contract with a local provider for lab support.”

US HealthVest also provided a copy of a draft patient transfer agreement for the proposed psychiatric hospital. The draft agreement outlines all roles and responsibilities for the new psychiatric hospital and the receiving acute care hospital, but does not identify a specific hospital where patients may be transferred. The draft allows for automatic annual renewals with no specific end date. There are no costs associated with the agreement. [source: Application, Exhibit 6]

US HealthVest provided the following information related to referrals and coordination of patient care in the least restrictive environment. [source: Application, p46]

“The facility will offer a safe environment, a structured and supportive social milieu and intensive psychiatric and physiological therapeutic interventions. Because most psychiatric admissions are the result of crisis, our discharge planning process commences on admission and a specific discharge plan is prepared as soon as the patient is stabilized. Due to our highly experienced leadership team and their knowledge regarding the full range of behavioral health services, not just inpatient, we are acutely aware of the benefits of supporting patients as they transfer back into the community. To this end, Whatcom Behavioral will establish and work with a vast and comprehensive array of community-based programming including, but not limited to:

- *Family/significant others*
- *Private outpatient providers*
- *Community Mental Health Centers*
- *Designated mental health professionals*
- *Chemical dependency care providers*
- *Adult Protective Services*
- *Geriatric Specialists*

- *Regional Support Network staff*
- *Interpreter services*
- *In home care providers*
- *Medical care providers*
- *Schools*

In addition, we will utilize "navigators" or liaison staff whose responsibility it is to provide community outreach and information and importantly, our licensed intake staff will answer questions and triage, assess, refer, and provide access to the appropriate level of care for all inquiries. We will work closely with other providers to mitigate issues such as the boarding of patients who are unable to secure a bed or appropriate care."

Public Comment

None

Rebuttal Comment

None

Department Evaluation

The psychiatric hospital would provide both inpatient and outpatient psychiatric services. US HealthVest intends to establish formal and informal working relationships with community healthcare providers to ensure continuity of care for the patients after discharge. Given that the Whatcom County psychiatric hospital is not operational, US HealthVest has not yet established any of the relationships.

US HealthVest provided a listing of common ancillary and support services for a psychiatric hospital of this size. Again, since the facility is not expected to be operational until year 2020, ancillary and support agreements have not yet been established.

If this project is approved, the department would attach a condition requiring US HealthVest to provide a final listing of the formal and informal working relationships and a listing of the ancillary and support vendors for the psychiatric hospital. Both listings must be provided to the department for review before the hospital is operational.

Based on the above information and provided that US HealthVest agrees to the conditions referenced above, the department concludes that this project could promote continuity in the provision of health care services in the community with the establishment of a 70-bed psychiatric hospital in Whatcom County. **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.*

WAC 246-310 does not contain specific WAC 246-310-230(3) criteria as identified in WAC 246-310-200(2)(a)(i). There are known recognized standards as identified in WAC 246-310-200(2)(a)(ii) and (b) that a facility must meet when it is to be Medicare and Medicaid certified. Therefore, using its experience and expertise the department assessed the applicant's history in meeting these standards at other facilities owned or operated by the applicant.

US HealthVest, LLC

US HealthVest provided the following statements related to this sub-criterion. [source: Application p48]

“Whatcom Behavioral will operate in compliance with all applicable federal laws, rules and regulations for the operation of a health care facility.”

Public Comment

During the review of this project, concerns were raised about the quality of care history for the one US HealthVest facility operating in Washington State. For background information, on January 21, 2014, CN #1518 was issued to US HealthVest approving the establishment of a 75 bed psychiatric hospital in Monroe, within Snohomish County. On March 23, 2015, CN #1532R was issued approving the addition of 40 beds to the 75-bed psychiatric hospital, for a total of 115 psychiatric beds. All 115 psychiatric beds became operational on June 6, 2017. The facility is known as Smokey Point Behavioral Hospital and occasionally called ‘SPBH.’

Smokey Point Behavioral Hospital is the only Washington State facility owned and operated by US HealthVest. The facility has been operational since June 2017. Comments provided during the review of this project question the quality of care history at Smokey Point Behavioral Hospital.

John Dunne, MD, child and adolescent psychiatrist, PeaceHealth St. Joseph’s Hospital

“There is no doubt that Whatcom County and nearby counties have an acute need for more mental health services at every level. We need more inpatients beds, particularly for adolescent, geriatric and substance abuse patients. In addition there is a need to serve more involuntary patients, to have stepdown care in intensive outpatient programs and to have good case management to ensure follow up care. Good care means early intervention, accurate diagnoses, effective treatment, good case management, local care and sufficient availability of outpatient services. While the current CON application would not address the paucity of outpatient services in Whatcom, Skagit, Island and San Juan counties, the proposed facility does have the potential for providing these other critical services. The question is: How well will it do that?”

Whatcom County is not a wealthy area. 40-45% of the population lives at or below 200% of the US poverty income. In addition, the State regulation of health facilities limits profit to 2%, unless this has changed recently. This limitation has prevented proprietary hospitals from opening in this state for many years. Consequently, Washington State ranks near the bottom for psychiatric beds per capita. How will this privately owned, for profit facility be managed to be able to generate any profit? There are probably a number of ways to do this, although the easiest is to pay below market wages or to understaff the facility. Staffing is a major issue in operating a mental health facility, particularly an inpatient facility. Inpatient work is intense and stressful. Finding well-trained and experienced staff at all levels is difficult, even at such desirable institutions as Seattle Children’s Psychiatry and Behavioral Medicine unit. Will this program pay adequately to attract well qualified and experienced staff? Will this program limit its patient population to match its current staffing?”

A Designated Mental Health Professional in Snohomish County, who has recurring experience with the Smokey Point Behavioral Health facility, also operated by US Health Vest, LLC, has raised several concerns about the procedural operation of that facility. He was the person who raised the

concern about "cherry picking" their patients. That facility reportedly will not accept patients who need treatment with Suboxone for substance use issues. He also said that patients who were admitted but decide to leave within 24 hours of admission were routinely detained to be evaluated by a DMHP, significantly increasing their work load. I think it would be helpful to contact someone from the Snohomish County DMHP office to glean their experience and perhaps highlight issues that need to be addressed before the CON is granted.

Lori Rubens, MD, psychiatrist

"As a psychiatrist who has worked in the North Sound region since 1989 both in community mental health clinics as well as in inpatient psychiatry, I have many concerns regarding the US HealthVest application for a 70 bed psychiatric hospital in Whatcom County:

- 1. The application is for acute mental health care. In our region, there does appear to be a need for inpatient child psychiatric care. However, from my vantage point as a hospital psychiatrist in Whatcom County, I do not see a community need for a greatly expanded capacity for acute care of adult psychiatric inpatients.*
- 2. Governor Inslee has indicated his plan to create community based psychiatric care for patients requiring extended care. This is clearly an urgent need as inpatient psychiatric facilities are no longer able to transfer patients to Western State Hospital without a several months' wait. The current proposal by US HealthVest does not address this pressing need.*
- 3. It is quite likely that if this facility were to be built, patients will be coming from many parts of the state. For those adult patients with limited financial means, many will remain in Whatcom County to secure outpatient mental health treatment, emergency care, and shelter. Whatcom County and the North Sound Behavioral Health Organization would then bear the brunt of these costs, with the net effect of compromising care for county and North Sound residents.*
- 4. For patients hospitalized in the proposed 70 bed facility, some would eventually require involuntary evaluation and treatment. Additional resources for designated crisis responders, public defenders, prosecutors and court commissioners would be needed to provide necessary services. Again, since many of the patients would come from far reaches of the state, the North Sound BHO and the county would essentially be subsidizing these services with no apparent plan for reimbursement.*
- 5. Staffing a 70 bed facility with skilled psychiatric nurses, psychiatrists and psychiatric ARNPs, social workers, discharge planners, and behavioral health counselors would clearly be a challenge, especially in light of the emerging corporate reputation of the US HealthVest facility in Smokey Point.*
- 6. The model of for-profit psychiatric care is potentially very troubling as anecdotal reports from Smokey Point are surfacing that indicates patient health and safety has been compromised, discharged patients have not received adequate follow up referrals, and coordination of care with patients' established psychiatric providers has been absent. These issues appear to point to a standard of care that is below the community norm.*

In summary, I do not think that the current Certificate of Need Application should be approved."

Sara Hilsman, MHA PeaceHealth St. Joseph Medical Center

"I have been a Mental Health Associate at PeaceHealth Saint Joseph Hospital in Bellingham for 4 years, and I'm proud to provide care to our community. I am opposing US Health Vest's proposal

for a 70 bed psychiatric hospital in Whatcom County because of their facility, Smokey Point Behavioral Hospital's record of patient care violations and poor employee treatment. I'm asking the department of health to put patient needs first and to not approve a for-profit health system that has not provided the level care we need in Washington. Placing the safety of staff and patients at risk, should be your up most concern."

Sunday Cantu

"This is in regards to a "for profit mental health" unit that is being considered for Whatcom county. I have worked locally for a mental health unit at PeaceHealth St Joseph. I have watched people come and go and sometimes return with in a day or two. We as a unit don't have all that we need to help our patients in this community. We lack a lot of mental health programs and specialists.

My reason for not wanting a for profit facility in this county is not only the lack of resources that we live without but a for profit addition would mean exactly that. Fines will be paid no matter how high the cost as they do now. It's not about the patients or the staff, it's about the money and you can't put a price on a human being that easy. We need better facilities for people to go and get care and more places in our community. Not money matters more .. we matter most ..."

Savita Kashyap, community member

"Our town is community based and tightly knit - we care for each other. We do need a facility for psychiatric patients and more beds. However, we need our patients - family, friends, and community members - to get good care and safe care. I have concerns that US Health Vest does not even provide minimally safe care. The standard of care should be high. US Health Vest does not have a history of maintaining or even reaching a high standard of patient care."

Nathan Matson, community member

"I have just become aware of a plan to bring a US Health Vest hospital to Bellingham, Washington. As a community member and a healthcare employee at PeaceHealth St. Joseph Medical Center, I am very concerned about this. I realize that we do need more psychiatric facilities in northwest Washington, but I do not believe US HealthVest is the company to provide this service.

The US Health Vest hospital in Smokey Point had many health violations. They also violated workers' rights by firing several employees when they attempted to organize a union to improve hospital conditions for both patients and workers. I oppose any plan to bring a US HealthVest hospital to Bellingham."

Eva Marquez, community member and healthcare worker

"I am a concerned resident of Whatcom County. As a healthcare worker I know the importance of patients being treated with respect and the need for a safe environment and quality care. I have concerns about an out of state, for-profit, behavioral health company, US Health VEST coming into our community to operate a psychiatric hospital. I am highly opposed to this company coming into Bellingham.

I am familiar with the operations and treatment of staff and patients in Snohomish County and that does not reflect the quality care that we value in our community. I am asking the Department of Health to fully vet and investigate the charges that the DOH and staff have raised relating to US HealthVEST.

I care deeply about my friends and family members having access to care that respect their humanity and offers treatment options that help them.”

Christina Perry, RN

“My name is Christina Perry. I am an RN and former employee of Smokey Point Behavioral Hospital. I resigned in May due to safety reasons and not having enough staff to ensure safety of patients and staff. I was the charge nurse on the geropsych unit when I resigned. I worked with a very vulnerable population and I was doing the work of two people because leadership refused to provide an additional staff member so I could run the unit safely. Suicide precautions require patients to be checked every five minutes and all others every 15 minutes.

During several hours throughout the day I would be alone on the unit with acutely ill psychiatric patients some who are violent and verbally threatening or abusive. Considering I was the only staff member present to do rounds, it was extremely unsafe as at those times I was alone, all I could do was those checks. I couldn't give meds, do my nursing duties, or assist patients with their needs. We were instructed to use the overhead page to call a code if we needed help, if you could get to a phone. Staff has been attacked by patients and patients have been hurt by other patients and it's all because there is not enough staff to protect the patients let alone each other.

I oppose US Vest opening another facility as the one they currently operate is not safe. I have in the eight months I was an employee, I requested help, additional staff, and more training. All requests were denied. I also reported them to the department of health and that survey resulted in an affirmation of my claim of unsafe working conditions.

Please obtain a copy of that report and review. This is your community, make sure your community will be cared for properly. I've done my part to make you aware. Protect your community, patients and staff alike.

It is my understanding that the geropsych unit fell apart after I left and there is no unit where those aged 55+ are placed. It no longer exists.

I have seen cases where adolescent patients needed to be in seclusion and they needed to be brought through an adult unit, while restrained, to be placed in only one of two seclusion rooms. Several patients attempted suicide while at Smokey Point as there was not enough staff to keep everyone safe or to keep track of all the patients.

Please think very carefully about this decision, that's all I ask. I know access is very important, but what good is access if the care is deficient or there is not enough qualified staff to care for them. Please feel free to call me with any concerns or questions. Thank you for your time and consideration.”

E-mail attached to Christina Perry comments

“My name is Christina Perry and I am a Registered Nurse at SPBH. I started my employment on 9/18/18. I am now a charge nurse on the geropsych unit, a very vulnerable population. I'm writing to let you know I'm available to speak out in regards to unsafe conditions at SPBH.

In my experience at this facility is that we are consistently short staffed, more and more tasks are being added to daily work assignments of medical staff, and Medicare violations (which I have reported to Medicare.)

The patients do not get enough to eat and the food is cold often times and arrives to the unit later then scheduled. The patients are also not receiving enough social and discharge services. There are no social workers on staff to assist with social and financial assistance. There are program therapists who are supposed to hold groups, assist with discharge planning, schedule and participate in family meetings and do treatment plans. Clearly, the clinical services department can and should be assessed.

Regarding the Medicare violations, they are not explaining or informing patients of their Medicare rights upon admission and upon discharge. I'm not even sure which department is in charge of that. Patients that have Medicare have the right to appeal their discharge. Patients are not being told. They were planning on discharging this particular patient to a shelter, with no guaranteed bed, and they didn't tell her until day of discharge. Our CEO told her she needed to leave and to 'stop playing games', all while never explaining her rights. I find this unprofessional and despicable. According to one of the Utilization Review nurses, Medicare forms/laws 'aren't being followed consistently'.

Regarding inadequate staffing, for example, on my unit, the norm is one nurse and one MHT. There are too many duties to get done by just one of each. For three hours of every shift, I am by myself with up to 8 patients. Between meals, cigarette breaks, off unit activities, it's three hours. In that three hours, I'm expected to deliver medications, set out lunch trays for patients who stay on the unit, do 15 minute room/door checks and visual each patient. A lot of patients have a violent history and staff are routinely put in harms way by being alone on a unit with 8 or more acutely psychotic patients. There are physical, intimate relationships occurring between patients. People that come in voluntarily who then decide to leave, are made to stay or it takes hours for a discharge order to be written. I hope people contact you because I know there are more stories of unsafe conditions. This hospital has become a very dangerous environment. Most of the nurses fear for their licenses.

Another situation I've been dealing with is a patient who was diagnosed with metastatic tonsil cancer. He needs a guardian to assist him with medical decisions. Per the psychiatrist that has been caring for him believes he is incapable of making his own medical decisions. This has been going on for two months and still no guardian. We were told 'corporate doesn't want to pay for it' and it doesn't want to get involved.

Please help us and the poor patients that come to us in a vulnerable state seeking help and getting very little in return."

SEIU 1199 Northwest

*"As the union of caregivers including behavioral health providers and stakeholders in Whatcom County, **we are writing in opposition to CN 17-48**, US Health Vest's (USHV) proposed 70-bed psychiatric hospital in Bellingham. We are writing as both an interested and affected person as defined by WAC 246-310-010. I We are members of Service Employees International Union (SEITJ), the largest healthcare workers' union in the United States, and local SEITJ Healthcare l 199NW*

(1199NW), the largest behavioral health workers' union in the state of Washington. 1199NW represents approximately 30,000 healthcare workers in Washington. We work in inpatient and outpatient behavioral health as well as acute care facilities with psychiatric units across Washington. We are aware of the need for expanded access to inpatient psychiatric care. And we are also community members who recognize the need for facilities to prioritize quality patient care as opposed to profit maximization.

We are alarmed by Department of Health (DOH) findings at Washington-based USHV facility Smokey Point Behavioral Hospital (SPBH). Findings from the DOH indicate USHV, as the parent company of SPBH, may be prioritizing profits over patient care. While we are aware SPBH may have taken steps to correct the deficiencies identified in the March survey, ongoing DOH investigations as well as conversations 1199NW has had with former and current SPBH employees indicate the facility has not addressed core problems. These problems include inadequate staffing and a toxic environment of silencing employees who stand up for their patients and communities.

The documented practices of SPBH indicates facilities owned by USHV likely will not meet our state's requirements, including the criteria for structure and process of care identified by WAC 246-310-230. Additionally, this calls into question whether cost is truly being contained-WAC 246-310-240- as inadequate and unsafe care may result in additional cost through further treatment needs. Much of the information in this document concerns SPBH, which is the only operational USHV facility in Washington. Our concerns, detailed herein, include:

- 1. patient safety,*
- 2. patient rights violations,*
- 3. policy and procedure violations,*
- 4. staffing,*
- 5. projected payer mix,*
- 6. financial transparency and rate of cost to charge, and*
- 7. employee intimidation*

1199NW is choosing to highlight the following criteria as we believe information provided herein aligns most closely with structure and process of care and determination of cost containment. USHV's application materials may include additional concerns not addressed in this document.

Regarding the criteria for structure and process of care, WAC 246-310-230, we believe information contained herein specifically calls into question the following:

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

Regarding determination of cost containment, WAC 246-310-240, information herein calls into question the following: (3) "The project will involve appropriate improvements or innovations in the

financing and delivery of health services which foster cost containment and which promote quality assurance and cost effectiveness ... "

Patient Safety

- *A patient was found with a sheet tied into a noose. Staff had requested 1:1 sitting, which was denied.*
- *Staff member reports that on one day during their shift, three patients attempted suicide. Due to staffing levels, patients were locked out of their rooms "for safety." Employee is quoted stating, "It was only a matter of time until someone dies, because when patients need 1:1 staff for safety there is no one available to help."*
- *A patient's catheter (patient using their own supply) was thrown in the biohazard trash, then returned to the patient for additional use.*
- *Patients on suicide precautions and assault/homicidal risk must have a safety plan within master treatment plan. Consistently, patients assessed as high risk for suicide have not had additional safety precautions added to individual safety plans.*
- *Patients' acuity, age, relationships with other patients, and other characteristics may not be consistently considered when assigning patients to rooms and units, This may result in high acuity patients being placed within a low acuity floor, and patients with conflicts rooming together, at times resulting in physical violence.*
- *Patient was not properly referred to a wound care clinic regarding a worsening foot ulcer. Medical Consultant recommended that the hospital staff refer the patient to a wound care clinic more than once, however the medical record did not show this referral. Discharge summary completed by provider showed the patient was transferred to ED for worsening infection and pain levels resulting from their foot ulcer.*
- *A patient with seizures was not provided needed medication for three days on two separate occasions, resulting in two seizures. The patient was sent to a hospital's emergency room for the first seizure only. The patient is also diabetic, and did not have their blood sugar monitored, and was not provided insulin.*
- *A patient complaint alleged improper use of medication, and verbal and emotional abuse directed towards patients.*
- *Patients are not consistently being provided occupational therapy services as needed, impacting functionality and long term health.*
- *Staff were not consistently following the two identifier rule (e.g. verifying full name and birthdate) prior to giving patients medication.*

Patient Rights

- *A patient had sexual intercourse with a developmentally disabled patient. The patient who initiated intercourse had a "sexual aggression precaution," requiring the patient to maintain five-feet of distance from female patients.*
- *The hospital consistently failed to provide the RCW required disclosure statement to all employees, volunteers, contractors, etc, interacting with vulnerable adults. This finding was confirmed by the Human Resources manager who stated they were unaware of the requirement.*
- *During the observed skin check process at admission, a video camera in the room where skin checks occurred picked up images of patients' exposed bodies. The example provided was concerning an adolescent. Additionally, a complaint filed indicated that the skin checks policy*

requires two persons of the same sex of the patient to conduct skin checks—this is not consistently happening.

- *Patients have been placed in restraints or seclusion without physicians' orders, or sign off.*
- *Patients' basic needs may not be consistently met. The facility may be demonstrating a lack of basic supplies, such as soap, toothbrushes, and undergarments.*
- *Patients may be billed for group therapy sessions which are cut short or never occur.*
- *Allegedly staff were ordered to allow an adolescent to harm themselves and to "just clean up the blood after she is done."*
- *Premature release of patients who are still in need of treatment—complaint claims this may be due to patients' insurance coverage ending.*

Policy and Procedure Violations

- *Use of restraints is required to be added to patients' "Master Treatment Plan," though examined records indicate this is not consistently happening. For example, a patient whose records indicated they had 24 episodes of restraint during their stay did not have their treatment plan updated to reflect the use of restraints.*
- *Patients assigned to "line of sight" (LOS) observation due to suicidal behavior need to be in sight of staff at all times. However, due to staffing shortages, this is not a consistent practice. This has resulted in patients attempting suicide or harming themselves or others.*
- *The hospital identified 138 hospital-wide indicators for improvement including finance, discharge summaries, seclusion, and fall risk, and none of these indicators had any entries or additional notes after September 2017, only three months after the facility opened.*
- *The hospital did not perform root causes analyses after adverse events and did not track adverse drug events and assaults in the hospital's improvement plan for patient safety.*
- *The Assessment, Maintenance, Monitoring, and Evaluation (AMME) committee reviews results of the hospital's monitoring of domestic hot water storage, ice machine, and eyewash station. On eight separate monthly meetings, AMME meeting minutes did not indicate that water system monitoring was reviewed.*
- *The governing body failed to provide documentation regarding the evaluation of medical staffs quality of patient care services. Members stated monitoring is "multidimensional," though when asked for documentation regarding the Medical Director's interactions with the medical care of patients none was provided.*

Staffing

USHV has focused on constructing and acquiring facilities with "unrealized potential." Current and projected facilities:

- *Ridgeview Institute, Smyrna, GA-148 beds*
- *Ridge View Institute- Monroe, GA-70 beds*
- *Chicago Behavioral Hospital, Chicago, IL-138 beds*
- *Silver Oaks Behavioral Hospital, New Lenox, IL-IN DEVELOPMENT*
- *Smokey Point Behavioral Hospital, Marysville, WA-115 beds*
- *South Sound Behavioral, Lacey, WA-IN DEVELOPMENT*

While USHV is expanding, the system has experienced staffing shortages in Washington. Staffing concerns at USHV's only operational facility in Washington- SPBH- were addressed by SPBH's former Chief Nursing Officer (CNO) who claimed when the hospital opened, "they were 'rich' in

staffing," though "by fall of last year, as time went by and the staff gained experience, corporate leadership asked him to be within budget.

In the applicant's first screening response, the hiring of physicians is projected to begin approximately six months prior to the opening of the proposed facility. Considering SPBH was unable as of March of 2018 to have a Medical Executive Committee due to the facility's lack of physicians, this calls into question this projected facility's ability to properly staff and provide care in Whatcom County.

Employee intimidation

The National Labor Relations Board (NLRB) is investigating SPBH for the wrongful termination of three SPBH employees. NLRB Region 19 found merit in four allegations regarding the firing of workers who attempted to improve patient safety at SPBH and to exercise their right to improve their working conditions by forming a union. The allegations found to have merit are the following:

- 1) Unlawfully terminated employees in retaliation for exercising federally protected rights to organize including but not limited to the terminations on or about March 29, 2018, of Brittany Gray, Nicole Scherenberg, and Courtney Turcott.
- 2) Discriminatorily enforced a no-solicitation policy.
- 3) Used surveillance of pro-union employees concerted activity to create a chilling effect on union activity.
- 4) Interrogated workers about their support for the union.

Many employees of SPBH have reported to 1199NW, community allies, and elected officials stories of staff being intimidated or ignored when voicing concerns regarding patient safety and workplace conditions. Ongoing investigations may offer additional clarity, though it's alarming that USHV's response as the parent company of SPBH is to punish caregivers who speak out on behalf of their patients.

Conclusion

As providers of care, we appreciate the opportunity to raise concerns regarding the concerning practices of USHV. It is our hope that USHV's proposed plan for expansion into Whatcom County will not be approved. Our state needs to place our focus and our funding into behavioral health facilities that prioritize the safety and well-being of our most vulnerable neighbors."

Rebuttal Comment

US HealthVest provided the following rebuttal comments related to this sub-criterion.

"Survey and Plan of Correction

As SEIU notes, in March 2018, a Department of Health survey team conducted a simultaneous federal Medicare survey and state health and safety licensing survey at USHV's existing facility in Washington, Smokey Point Behavioral Hospital. That survey was Smokey Point's first annual survey, and also included an assessment of an anonymous complaint. The surveyors issued two findings of immediate jeopardy, both of which were resolved and removed prior to survey exit.

The survey was completed on March 15. State and federal Form 2567 statements of alleged deficiencies were issued on April 12.

On April 20, Smokey Point completed and submitted its plan of correction addressing each of the alleged deficiencies, detailing how each deficiency would be resolved and how future compliance with state and federal regulations would be monitored to prevent recurrence. The Department and the Centers for Medicare and Medicaid Services accepted Smokey Point’s plan of correction. The plan was fully implemented and all alleged deficiencies fully resolved by May 23, 2018. At the date of writing, Smokey Point’s license is in good standing and the hospital is in substantial compliance with all state and federal regulatory requirements.

On page 6 of its comments (Issue #7), SEIU alleges that NLRB “is investigating [Smokey Point] for the wrongful termination of three . . . employees.” We respectfully disagree with the allegations and SEIU’s description thereof. However, US HealthVest notes that it has reached a settlement agreement with the three named employees. These employees accepted a monetary payment in lieu of reinstatement to their positions.”

Department Evaluation

As a part of this review, the department must conclude that the proposed services provided by an applicant would be provided in a manner that ensures safe and adequate care to the public.⁴ To accomplish this task, the department reviewed the quality of care and compliance history for the healthcare facilities owned, operated, or managed by US HealthVest.

US HealthVest Facilities

Within the application, US HealthVest clarified that the proposed licensee of this facility, Vest Whatcom, LLC, does not own or operate any other healthcare facilities. However, the parent of Vest Whatcom, operates healthcare facilities in the states of Illinois, Georgia, and Washington. US HealthVest provided ownership information for its out-of-state facilities. The department also reviewed US HealthVest’s website to determine the number of out-of-state hospitals it owned and operated. [source: Application, p3, February 23, 2018, screening response, p2, and US HealthVest website]

The table below summarizes the ownership of US HealthVest facilities in all three states.

**Department’s Table 20
US HealthVest Psychiatric Hospital Approvals as of April 1, 2019**

Facility	State	Status	Number of Beds
Ridgeview Institute-Monroe	Georgia	Constructed/Operational	70
Ridgeview Institute-Smyrna	Georgia	Acquired/Operational	148
Chicago Behavioral Hospital	Illinois	Constructed/Operational	138
Vista Medical Center West	Illinois	Operational	46
Smokey Point Behavioral Hospital	Washington	Operational	115
Lake Behavioral Hospital	Illinois	Expanding/Operational	146
Silver Oakes Behavioral Hospital	Illinois	Under Construction (a joint venture w/ Silver Cross Hospital)	100
South Sound Behavioral Hospital	Washington	Under Construction	108

⁴ WAC 246-310-230(5)

Washington State Survey Data

As previously stated, US HealthVest has Certificate of Need approval for two psychiatric hospitals in Washington State: Smokey Point Behavioral Hospital in Marysville and South Sound Behavioral Hospital in Lacey. Of the two, only Smokey Point Behavioral Hospital is operational. South Sound Behavioral Hospital is currently under construction and expected to be operational by the end of year 2019. The survey information below focuses on the operational facility.

Smokey Point Behavioral Hospital

Located at 3955 – 156th Street Northeast in Marysville [98271], within Snohomish County, Smokey Point Behavioral Hospital is licensed for 115 psychiatric beds broken down by age group below.

	Number of Beds
Beds dedicated for patients ages 5 to 17 (youth/adolescent)	25
Beds dedicated to patients age 18 and older (Adult)	90
Total Licensed Beds	115

Services provided at Smokey Point Behavioral Hospital include adult psychiatric, military, women’s, dual diagnosis, geriatric, faith-based mental health and chemical dependency, youth/adolescent, and mother-infant, and voluntary and in-voluntary (ITA) for patients age 5 and older. The psychiatric hospital became operational on June 8, 2017.

Using its own internal database, the department reviewed historical survey data for Smokey Point Behavioral Hospital for the 20-months of operation.⁵ [source: DOH Office of Health System Oversight]

Since the facility has been operational, the hospital has had five federal surveys and two state surveys.⁶ Also since operational, CMS (Centers for Medicare and Medicaid Services) has notified Smokey Point Behavioral Hospital of CMS’s intention to terminate the hospital from participation in the Medicare program four separate times.⁷ A review of the deficiencies cited under CFR 42.482 referenced above shows significant non-compliance in 13 different sections, and of those, five sections received repeat violations. The table on the following page provides the summary.

⁵ The 20 months count from June 8, 2017 through March 11, 2019.

⁶ Federal surveys: March 2018, June 2018, July 2018, September 2018, January 2019. State surveys: March 2018 and January 2019.

⁷ CMS termination letters sent October 20, 2017, April 11, 2018, August 28, 2018, and February 4, 2019.

**Department's Table 21
Smokey Point Behavioral Hospital Survey Summary**

Citation Sub-Section	Repeat Violations	
	Yes	No
12 Governing Body	X	
13 Patient Rights	X	
15 Emergency Preparedness		X
21 Quality Assessment & Performance Improvement	X	
22 Medical Staff		X
23 Nursing Services	X	
24 Content of Record: Orders Dated & Signed		X
25 Unusable Drugs Not Used		X
28 Therapeutic Diets		X
41 Life Safety From Fire		X
42 Infection Control Program	X	
43 Discussion of Evaluation Results		X
56 Organization of Rehabilitation Services		X

The tables below narrow the focus of this review to the repeat violations. Below are examples of the citations by sub-section.

**Department's Table 22
Smokey Point Behavioral Hospital Repeat Violations**

<p>42.482.12 (c)(4) Governing Body</p> <p>There must be an effective governing body that is legally responsible for the conduct of the hospital. If a hospital does not have an organized governing body, the persons legally responsible for the conduct of the hospital must carry out the functions specified in this part that pertain to the governing body.</p> <p>(c)Standard: Care of patients. In accordance with hospital policy, the governing body must ensure that the following requirements are met:</p> <p>(4) A doctor of medicine or osteopathy is responsible for the care of each Medicare patient with respect to any medical or psychiatric problem that –</p> <p>(i) is present on admission or develops during hospitalization; and</p> <p>(ii) Is not specifically within the scope of practice of a doctor of dental surgery, dental medicine, podiatric medicine, or optometry; a chiropractor; or clinical psychologist, as that scope is –</p> <p>(A) Defined by the medical staff;</p> <p>(B) Permitted by State law; and</p> <p>(C) Limited, under paragraph (c)(1)(v) of this section, with respect to chiropractors.</p>
<p>42.482.13(c)(2) Patient Rights</p> <p>A hospital must protect and promote each patient's rights.</p> <p>(C) Standard: Privacy and safety.</p> <p>(2) The patient has the right to receive care in a safe setting.</p>
<p>42.482.21(A), (C)(2), and (E)(3) Quality Assessment & Performance Improvement</p> <p>The hospital must develop, implement, and maintain an effective, ongoing, hospital-wide, data-driven quality assessment and performance improvement program. The hospital's governing body must ensure that the program reflects the complexity of the hospital's organization and services; involves all hospital</p>

departments and services (including those services furnished under contract or arrangement); and focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors. The hospital must maintain and demonstrate evidence of its QAPI program for review by CMS.

(a) Standard: Program scope.

(1) The program must include, but not be limited to, an ongoing program that shows measurable improvement in indicators for which there is evidence that it will improve health outcomes and identify **and reduce medical errors**.

(2) The hospital must measure, analyze, and track quality indicators, including adverse patient events, and other aspects of performance that assess processes of care, hospital service and operations.

(c) Standard: Program activities.

(2) Performance improvement activities must track medical errors and adverse patient events, analyze their causes, and implement preventive actions and mechanisms that include feedback and learning throughout the hospital.

(E) Standard: Executive responsibilities. The hospital's governing body (or organized group or individual who assumes full legal authority and responsibility for operations of the hospital), medical staff, and administrative officials are responsible and accountable for ensuring the following:

(3) That clear expectations for safety are established.

42.482.23(B), (C)(1)&(1)(i), (C)(2) Nursing Services

The hospital must have an organized nursing service that provides 24-hour nursing services. The nursing services must be furnished or supervised by a registered nurse.

(b) Standard: Staffing and delivery of care. The nursing service must have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses, and other personnel to provide nursing care to all patients as needed. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for bedside care of any patient.

(1) The hospital must provide 24-hour nursing services furnished or supervised by a registered nurse, and have a licensed practical nurse or registered nurse on duty at all times, except for rural hospitals that have in effect a 24-hour nursing waiver granted under § 488.54(c) of this chapter.

(2) The nursing service must have a procedure to ensure that hospital nursing personnel for whom licensure is required have valid and current licensure.

(3) A registered nurse must supervise and evaluate the nursing care for each patient.

(4) The hospital must ensure that the nursing staff develops, and keeps current, a nursing care plan for each patient. The nursing care plan may be part of an interdisciplinary care plan.

(5) A registered nurse must assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the specialized qualifications and competence of the nursing staff available.

(6) Non-employee licensed nurses who are working in the hospital must adhere to the policies and procedures of the hospital. The director of nursing service must provide for the adequate supervision and evaluation of the clinical activities of non-employee nursing personnel which occur within the responsibility of the nursing service.

The hospital must have an organized nursing service that provides 24-hour nursing services. The nursing services must be furnished or supervised by a registered nurse.

(C)(1) Drugs and biologicals must be prepared and administered in accordance with Federal and State laws, the orders of the practitioner or practitioners responsible for the patient's care as specified under § 482.12(c), and accepted standards of practice.

(C)(1)(i) (i) Drugs and biologicals may be prepared and administered on the orders of other practitioners not specified under § 482.12(c) only if such practitioners are acting in accordance with State law, including scope-of-practice laws, hospital policies, and medical staff bylaws, rules, and regulations.

The hospital must have an organized nursing service that provides 24-hour nursing services. The nursing services must be furnished or supervised by a registered nurse.

(2) All drugs and biologicals must be administered by, or under supervision of, nursing or other personnel in accordance with Federal and State laws and regulations, including applicable licensing requirements, and in accordance with the approved medical staff policies and procedures.

42.482.42(a)(1) Infection Control Program

The infection control officer or officers must develop a system for identifying, reporting, investigating, and controlling infections and communicable diseases of patient and personnel.

Out-of-State Compliance

In addition to a review the Washington State facility, the department also attempted to review the Joint Commission website for the six US HealthVest owned and operated psychiatric hospitals operating in Georgia and Illinois. The department reviewed information from the licensing authorities for each of the facilities listed, who reported that these facilities have not been decertified or received fines for significant non-compliance issues with state or federal regulations.

**Department’s Table 23
US HealthVest Psychiatric Hospital Approvals as of April 1, 2019**

Facility	State	Joint Commission Accredited
Ridgeview Institute-Monroe	Georgia	Yes (Vest Monroe, LLC)
Ridgeview Institute-Smyrna	Georgia	No information on website
Chicago Behavioral Hospital	Illinois	Yes (2014 Health, LLC)
Vista Medical Center West*	Illinois	No information on website
Lake Behavioral Hospital*	Illinois	No information on website

* Vista Medical Center West and Lake Behavioral Hospital are both located at 2615 Washington Street in Waukegan Illinois [60085].

Specific Staff Review

Given that the proposed psychiatric hospital is not expected to be operational until year 2020, US HealthVest did not provide a listing of key staff for the facility. Based on the quality of care surveys for US HealthVest’s only psychiatric hospital in Washington State, the department cannot conclude there is reasonable assurance that the new psychiatric hospital in Whatcom County would be operated consistent with state and federal licensing requirements. **This sub-criterion is not met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(4) 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 direct how to measure unwarranted fragmentation of services or what types

of relationships with a services area’s existing health care system should be for a project of this type and size. Therefore, using its experience and expertise the department assessed the materials in the application.

US HealthVest, LLC

US HealthVest provided the following statements related to this sub-criterion for the proposed 70-bed psychiatric hospital. [source: Application, p47]

“By virtue of the shortage of inpatient psychiatric beds in the Service Area, Whatcom Behavioral will serve a patient population that is currently underserved; and too often these patients experience fragmentation due to the lack of services. Many of the patients we propose to serve are currently held in hospital emergency departments and a smaller percentage are admitted to general acute care beds.

It is our intent to offer a wide range and level of inpatient service programming including ICU (crisis stabilization) inpatient step-down and intensive outpatient services. We will also work closely with existing local community-based providers to ensure continuity of care. Whatcom Behavioral envisions being a resource to, and establishing partnerships with, the area's current mental health providers, hospitals, physicians, nursing homes, home care, schools and others to ensure timely and appropriate access to services in time of crisis and when patients are ready for discharge.

As discussed in response to previous questions, discharge planning begins at admission. Staff review discharge options throughout the patient's stay to ensure that continuity of care is achieved, while also ensuring that the patient receives the most appropriate level of care.”

Public Comment

None

Rebuttal Comment

None

Department Evaluation

With the increased access a new psychiatric hospital would bring to Whatcom County and surrounding areas, the department would generally conclude that the establishment of a new 70-bed psychiatric hospital does not represent unwarranted fragmentation of services.

However, with the non-compliance history of the existing psychiatric hospital in Snohomish County, the department concludes that approval of this project could result in unwarranted fragmentation of services. **This sub-criterion is not met.**

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

WAC 246-310 does not contain specific WAC 246-310-230(5) criteria as identified in WAC 246-310-200(2)(a)(i). Using its experience and expertise the department assessed the applicant’s history of providing services that ensures safe and adequate care to the public at other facilities owned or operated by the applicant.

US HealthVest, LLC

US HealthVest provided the following statements related to this sub-criterion. [source: Application p48]

“Whatcom Behavioral will seek Joint Commission accreditation, and neither it, nor any of its principal partners or Leadership Team have any history with respect to the actions noted in CN criterion WAC 248-19-390 (5) (a), now codified as WAC 246-310-390 (5) (a).

Public Comment

Much of the public comment submitted under WAC 246-310-230(3) also applies to this this sub-criterion. The public comment will not be repeated here.

Rebuttal Comment

Much of the rebuttal comment submitted under WAC 246-310-230(3) also applies to this this sub-criterion. The rebuttal comment will not be repeated here.

Department Evaluation

This sub-criterion is evaluated in sub-section (3) above and is **not met**.

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

Based on the source information reviewed, the department concludes that US HealthVest has not 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, in terms of cost, efficiency, or effectiveness, the department takes a multi-step approach. First the department determines if the application has met the other criteria of WAC 246-310-210 thru 230. If the project has failed to meet one or more of these criteria then the project cannot be considered to be the best alternative in terms of cost, efficiency, or effectiveness as a result the application would fail this sub-criterion.

If the project has met the applicable criteria in WAC 246-310-210 through 230 criteria, the department then assesses the other options considered by the applicant. If the department determines the proposed project is better or equal to other options considered by the applicant and the department has not identified any other better options this criterion is determined to be met unless there are multiple applications.

If there are multiple applications, the department’s assessment is to apply any service or facility superiority criteria contained throughout WAC 246-310 related to the specific project type. The adopted superiority 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 type superiority 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.

Step One:

US HealthVest, LLC

The department concluded that US HealthVest does not meet the applicable review criteria under WAC 246-310-210, 220, and 230. Therefore, the department does not evaluate step two under this sub-criterion.

Step three is not evaluated because it is applicable only when there are two or more approvable projects. Since this evaluation focus solely on the US HealthVest's project, step three does not apply.

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

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

US HealthVest, LLC

The applicant provided the following information for this sub-criterion. [source: Application, pp50-51]

"US Health Vest is proposing a greenfield project, similar to Smokey Point Behavioral Hospital. Smokey Point Behavioral Hospital is a 70,000 sq ft state-of-the-art hospital constructed on vacant land. The two-story hospital has open spaces with daylight and direct views of nature, enabling for a safe and nurturing environment. The hospital was designed with the latest energy efficiency concepts. Shared amenities include activity rooms, therapy spaces and a dining area, along with indoor and outdoor recreational activity spaces.

For Whatcom Behavioral, US Health Vest will employ the same design and building standards used in the Smokey Point Behavioral Hospital. Our architect is LEED certified and we will incorporate LEED principles into our facility design. In addition, the following programmatic design features will be included:

- *Soft, indirect, and full-spectrum lighting.*
- *Low noise location.*
- *Ability to have a mix of private and semi-private rooms, as well as seclusion spaces.*
- *Allows for discrete areas to accommodate specific programming (such as Freedom Care).*
- *Spaces for private visiting areas and spaces to encourage family participation and group activities by, for example, having sufficient group meeting space.*
- *Units can be designed to accommodate the competing goal of stimulating patients who are withdrawn and depressed without over-stimulating patients who are manic and agitated.*
- *Windows with views of nature (views can reduce psychological distress and recovery time as well as enhance staff functioning and job satisfaction).*
- *Site can accommodate outdoor gardens and other elements of nature.*
- *Clearly identifiable reception area and a method of greeting patients and visitors.*
- *Space to allow patients to control their level of social contact. (spaces where patients can retreat and where they can also form social relationships).*
- *Open and flexible day room spaces.*
- *Open nursing stations with contiguous, secure space to maintain confidentiality of patient records.*
- *Patient and staff safety is a first and foremost consideration in a psychiatric hospital. To promote safety, site must be able to include safety features (such as shatterproof windows, breakaway curtain rods, tamper-proof electrical outlets, stainless-steel mirrors, etc.).*

- *Configuration supports non-institutional/homelike environment whenever possible.*”

Public Comment

None

Rebuttal Comment

None

Department Evaluation

Based on information provided within the application and evaluated under WAC 246-310-210, the department is satisfied that his project is appropriate and needed. Information provided under this sub-criterion demonstrates that US HealthVest intends to include any energy conservation methods available. The department concludes **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.

US HealthVest, LLC

The applicant provided the following information for this sub-criterion. [source: Application, p50]

“The critical lack of inpatient psychiatric beds in the Service Area means that the current delivery system is inefficient (i.e.: it is costly because patients do not get the care they need at the time it is needed, and outcomes are likely below that which would be realized if services were accessible). As noted in the Need section of this application, various recent reports have found a growing need for additional psychiatric bed capacity to serve all patients in the Service Area, including special populations. High quality and accessible beds locally will improve the efficiency of both the behavioral health delivery system (by getting patients to the care they need at the time they need it) and the acute care delivery system (by reducing the burden on hospitals of "boarding" patients). Ideally, the opening of Whatcom Behavioral will also increase the efficiency of the Service Area's Designated Mental Health Professionals (CDMHPs). CDMHPs are professionals that have been designated by the County as having the authority to authorize 72-hour ITA detentions. Importantly, it will help position the Service Area to meaningfully participate in the Health Care Authority's upcoming fully-integrated managed care system (physical and behavioral health).”

Public Comment

None

Rebuttal Comment

None

Department Evaluation

Based on information provided within the application and evaluated under WAC 246-310-210, the department is satisfied that his project is appropriate and needed. However, information provided and evaluated under WAC 246-310-220 demonstrate that the applicant did not provide sufficient assurance that this project could be funded. Staff from HFCCP reached the following conclusions under this sub-criterion. [source: HFCCP analysis, p6]

“Staff is satisfied that if the bed needs of the planning are underserved, this facility would not have an unreasonable impact of the costs and charges to the public of providing services by other persons. This criterion is satisfied.”

However, the HFCCP staff conclusion does not take into consideration that this project does not meet the cost containment criteria of WAC 246-310-240(1). Based on the information above, the department concludes this **sub-criterion is not met**.

- (3) The project will involve appropriate improvements or innovations in the financing and delivery of health services which foster cost containment and which promote quality assurance and cost effectiveness.

US HealthVest, LLC

The applicant provided the following information for this sub-criterion. [source: Application, p41]

“US Health Vest's commitment to utilizing reserves to cover the capital, working capital and initial operating deficits provides the necessary funds without incurring financing costs. This in turn, reduces the costs of operation (no debt service). Therefore, while there is an "opportunity cost" associated with using reserves (the funds are no longer available for any other purpose), it remains the most cost efficient and prudent method of funding this project. In addition, US Health Vest also raises equity funds from time to time as a part of our normal course of business.”

Public Comment

None

Rebuttal Comment

None

Department Evaluation

Based on information provided within the application and evaluated under WAC 246-310-210, the department is satisfied that his project is appropriate and needed. However, information provided and evaluated under WAC 246-310-220 demonstrate that the applicant did not provide sufficient assurance that this project could be funded. Staff from HFCCP reached the following conclusions under this sub-criterion. [source: HFCCP analysis, p6]

“Staff is satisfied that if the bed needs of the service are underserved, this facility will involve appropriate improvements in the delivery of health services, but because the financing is in question, staff cannot conclude this criterion is satisfied. “

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