



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

September 25, 2014

CERTIFIED MAIL # 7011 1570 0002 7809 5728

Constance Kanter, CFO & VP
Seattle University
901- 12th Avenue
Seattle, Washington 98122

CN: 14-27

Dear Ms. Kanter:

We have completed review of the Certificate of Need (CN) application submitted by Seattle University to construct a 36-bed Medicare and Medicaid certified nursing facility in Auburn. For the reasons stated in the enclosed decision, the application is consistent with the applicable criteria of the Certificate of Need Program, provided Seattle University agrees to the following in its entirety.

Project Description:

Seattle University is approved to establish a 36-bed Medicare and Medicaid certified nursing facility in Auburn within King County by converting 36 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 36 beds skilled nursing facility upon licensure would be managed by Wesley Homes under a management services agreement. Seattle University will be the initial licensee of the 36-bed facility.

Conditions:

1. Seattle University agrees with the project description as stated above. Seattle University further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services, Seattle University will provide copies of the listed adopted policies and agreements below for the department's review and approval.
 - Admission Agreement
 - Admission Policy
 - Grievance Policy
 - Updated Residents Handbook
 - Therapy services Agreement
 - Medical director credential number and Agreement

Copies of policies that have been adopted must be consistent with the draft policies provided in the application.



3. Seattle University will obtain Medicare and Medicaid provider numbers for Wesley Homes Lea Hill Health Center within 60 days of the licensure of the facility.
4. Wesley Homes Lea Hill Health Center must maintain its Medicare and Medicaid certification throughout the life of the facility, regardless of ownership.
5. Seattle University and any subsequent owners of the nursing home must not develop any policies or practices that discriminate against admission of patients based on payer source.

Approved Costs:

The approved capital expenditure for this project is \$10,020,000.

Please notify the Department of Health within 20 days of the date of this letter whether you accept the above project description, conditions, and capital costs for your project. If you accept these in entirety, your application will be approved and a Certificate of Need sent to you.

If you reject any of the above provision your application will be denied. The department will send you a letter denying your application and provide you information regarding your appeal rights.

Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

Mailing Address:
Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Physical Address:
Department of Health
Certificate of Need Program
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 Janis Sigman with the Certificate of Need Program at (360) 236-2955.

Sincerely,



Steven M. Saxe, FACHE
Director, Office of Community Health Systems

Enclosure

EVALUATION DATED SEPTEMBER 25, 2014, OF THE CERTIFICATE OF NEED APPLICATION SUBMITTED BY SEATTLE UNIVERSITY PROPOSING TO CONSTRUCT A 36 BEDS MEDICARE AND MEDICAID CERTIFIED SKILLED NURSING FACILITY IN THE CITY OF AUBURN WITHIN KING COUNTY

APPLICANT DESCRIPTION

Seattle University is a private, non-profit corporation, incorporated in the state of Washington and is also a registered Washington State charity. Seattle University was founded in 1891 and is dedicated to education. With more than 7,800 undergraduate and graduate students in 8 schools and colleges, Seattle University is the largest independent university in the Northwest. Seattle University is governed by a five member board, which includes a president, vice president, treasurer, secretary, and officer. [Source: CN Historical files]

BACKGROUND INFORMATION

On July 22, 1988, Careage of Seattle was issued Certificate of Need (CN) #918-B approving the establishment of a 139-bed nursing home on the Seattle University campus located at 1020 East Jefferson in Seattle [98122]. According to Department of Social and Health Services historical files, Bessie Burton Sullivan opened in November 1990 and was licensed under Seattle University¹ it remained in continuous operation at the same site until it the facility closed in 2007. [Source: CN and Department of Social and Health Services historical files]

In 2006, Seattle University Administration recommended closure of Bessie Burton Sullivan to the Board of Trustees. The recommendation was based on the conclusion that the facility/space that housed the nursing home could be used for student housing, academic classrooms, science laboratories, faculty offices, and other purposes that were considered more central to the Seattle University educational mission. On March 15, 2007, Seattle University discharged its last resident from the 139-bed nursing home and received Certificate of Need approval to bank all 139 nursing home beds under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). Under Certificate of Need regulations, full facility closure nursing home beds can be banked for up to eight years. The eight years requirement for the 139 beds banked by Seattle University expires on March 15, 2015. [Source: Application Pages10-11 and CN historical files]

PROJECT DESCRIPTION

Seattle University is approved to establish a 36-bed Medicare and Medicaid certified nursing facility in Auburn within King County by converting 36 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 36 beds skilled nursing facility upon licensure would be managed by Wesley Homes under a management services agreement. Seattle University will be the initial licensee of the 36 bed facility. [Source: Application, Pages 10 and 11, Attachments A and B]

Services to be provided include skilled nursing, physical and speech therapies, and related services to Medicare, Medicaid, and private pay patients. [Source: Application and Supplemental information received April 30, 2014, Attachment P]

¹ Historical files do not provide the date for change of ownership from Careage of Seattle to Seattle University. According to Department of Social and Health Services records, the nursing home license was issued to Seattle University upon opening.

The 36-beds Wesley Homes Lea Hill Health Center building will include two neighborhoods. One neighborhood will have 16 beds and the other will have 20 beds. Each of the neighborhoods will have dining and activity areas and a centrally located living room for residents use. Both of the two neighborhoods will have separate linen and meds rooms. Wesley Homes Lea Hill Health Center will have 34 private rooms and one two-bedroom unit. All rooms in the skilled nursing facility will have full bath with shower and tea kitchen. [Source: Application, Page 11]

If the project is approved, the 36-bed Wesley Homes Lea Hill Health Center will be operational by the end of June 2015. Below is the description of each of the entities, roles and responsibilities for this project.

Seattle University-Applicant

Description of Seattle University was provided in the applicant description section of this evaluation. For this project, Seattle University proposes to relocate 36-banked beds to a soon to be constructed community-based nursing home on a property owned by Wesley Homes. The new facility will be operated by Wesley Homes under a management services and lease agreement. Wesley Homes is responsible for the following:

- hire a specific director to manage the nursing home day to day operations;
- enter into a contract with a physician for medical director services; and
- maintain control of billing, payroll, and required reporting. [Source: Application, Pages 6 and 11, Attachments A and B]

Seattle University submitted this application and provided copies of the following three executed agreements between itself and Wesley Homes.

- Management Services and Lease Agreement,
- Purchase and Sales Agreement; and
- Business Associate Agreement

Below are the summaries of the three executed agreements provided in the application by Seattle University.

Management Services and Lease Agreement

The executed Management Services and Lease Agreement for the skilled nursing home bed rights are between Seattle University (“Owner”) and Wesley Homes (“Manager”). The recitals of the agreement stated in parts, *“Owner desires to re-instate and restore the Beds Rights to thirty-six (36) Banked Beds and to transfer and re-locate those beds for operations by Manager at the Facility which is located in the same planning area as the Banked Beds, subject to approval by all necessary state and local government authorities... Manager is willing to accept the engagement to manage and operate the Beds Rights at the Facility for and on behalf of Owner and to lease space within the Facility to Owner, subject to the terms and conditions of this Services and Lease Agreement”*. [Source: Application Attachment B]

Purchase and Sales Agreement

The executed Purchase and Sale Agreement in parts stated, *“Buyer and seller agree that seller will enter into a separate Services and Lease Agreement with Buyer for the purpose of operation of the thirty-six (36) Banked Beds by Seller at the Facility during Operation Period, as defined in Paragraph 1.4. “Operational Period” means the period beginning on the date that the thirty-six (36) Banked Beds are relocated to the Facility pursuant to the Beds Rights to be acquired under this Agreement and placed into operation at the Facility by Seller as Licensee under the terms of the separate Services and Lease Agreement between the parties and terminating on the End Date...”* [Source: Application, Purchase and Sale Agreement Attachment B]

The Business Associate Agreement

The Business Associate Agreement is between Wesley and Seattle University and it is simply an agreement between the two parties that ensure compliance with the administrative requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPPA). [Source: Application, Attachment B]

The capital expenditure associated with this project is \$10,020,000. Information in the application stated, *“While Seattle University is the applicant, all cost of the project will be borne by Wesley Homes. In addition to bank financing, Wesley Homes considered HUD financing and bond financing, and funding the project from its own reserves. The first two financing options were rejected given the restrictions of HUD and the cost of issuance for bond financing with this size of a project. Funding of this project from Wesley Homes’ current reserves is doable, but would reduce Wesley’s number of days of cash. Currently investment returns are greater than the cost of borrowing money. Given the varying cost, complexity, and timeframes related to the options, it was determined that bank financing would be the most timely and cost effective...Repayment of any debt will come from the rent received from Seattle University for use of the skilled nursing facility”.* [Source: Application, page 35]

Wesley Homes

Wesley Homes is a Washington corporation located at 815 S. 216th Street within the city of Des Moines in King County. Wesley Homes and its subsidiaries provides housing and services including residential homes and apartments, adult day care, assisted living services, in-homecare, home health care, restorative therapies and skilled nursing to the residents of King, Pierce, and Snohomish counties. Listed below are the five facilities own and operated by Wesley or its subsidiaries. [Source: Application Pages 8 and 9 and CN Historical files]

- Wesley Homes At Home, LLC— home health agency
- Wesley Homes Community Health Services a home health agency
- Wesley Homes Health Center a 148 skilled nursing facility
- Terrace Assisted Living a 39 bed assisted living facility
- The Arbor at Wesley Homes Lea Hill a 20 beds assisted living facility

Upon CN approval, Wesley Homes anticipates it would begin the construction of Wesley Homes Lea Hill Health Center to accommodate the 36 beds relocate by Seattle University. Wesley Homes Lea Hill Health Center would be located at 32049 – 109th Place SE, within Auburn 98092.

According to the management services and lease agreement, and the purchase and sale agreement provided within the application, Wesley Homes would provide the day-to day management and operation of the 36 beds skilled nursing facility and it would ensure compliance with all state and federal laws for the duration of the agreement with Seattle University. The capital expenditure associated with the 36 beds is \$10,020,000. Of that amount, approximately 77.9% is related to construction costs and fixed equipment, 6.0% is related to replacement reserve, 10.8% is related to Washington taxes and other, 3.6% is related to bed acquisition and the remaining 1.7% is related to contingency. [Source: Application, page 24]

For ease of reference, Wesley Homes will be referred to as "Wesley" and the proposed community-based nursing home to be licensed by Seattle University would be referred to as "Wesley Homes Lea Hill".

APPLICABILITY OF CERTIFICATE OF NEED LAW

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

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

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

- (i) Nationally recognized standards from professional organizations;*
- (ii) Standards developed by professional organizations in Washington State;*
- (iii) Federal Medicare and Medicaid certification requirements;*
- (iv) State licensing requirements;*
- (v) Applicable standards developed by other individuals, groups, or organizations with recognized expertise related to a proposed undertaking; and*

- (vi) *The written findings and recommendations of individuals, groups, or organizations with recognized expertise related to a proposed undertaking, with whom the department consults during the review of an application.*”

The review for the establishment of a nursing home typically includes a demonstration need for the new nursing home beds within the county. However, RCW 70.38.115(13)(b) states:

“When an entire nursing home ceases operation, the licensee or any other party who has secured an interest in the beds may reserve his or her interest in the beds for eight years or until a certificate of need to replace them is issued, whichever occurs first. Certificate of need review shall be required for any party who has reserved the nursing home beds except that the need criteria shall be deemed met when the applicant is the licensee who had operated the beds for at least one year immediately preceding the reservation of the beds, and who is replacing the beds in the same planning area.”

According to the department historical records, Seattle University was the licensee of the 139-beds Bessie Burton Sullivan for 12 months before the facility closed. When the facility closed, Seattle University banked all 139 beds; therefore, for this project under WAC 246-310-210(1) and (6) need for those beds is deemed met. As a result, the department’s review will focus on applicable portions of need (WAC 246-310-210); financial feasibility (WAC 246-310-220), structure and process of care (WAC 246-310-230), and cost containment (WAC 246-310-240).²

TYPE OF REVIEW

Generally, nursing home applications are reviewed under a concurrent review cycle. For King County, the relevant current review cycle is outlined in WAC 246-310-130(5)(b). However, since the need criteria under WAC 246-310-210(1) and (6) are deemed met, the department has accepted this type of project under the regular review timeline as outlined in WAC 246-310-160, which is summarized below.

² Each criterion contains certain sub-criteria. The following sub-criteria are not discussed in this evaluation because they are not relevant to this amendment project: WAC 246-310-210(1), (3), (4), (5), and (6).

APPLICATION CHRONOLOGY

Action	Providence
Letter of Intent Submitted	February 14, 2014
Application Submitted	March 18, 2014
Department's Pre-review Activities including	
<ul style="list-style-type: none">• DOH 1st Screening Letter• Applicant's Screening Responses Received• DOH 2nd Screening Letter• Applicant's Screening Responses Received	March 21, 2014 April 30, 2014 May 21, 2014 June 2, 2014
Public Comment	
<ul style="list-style-type: none">• Public comments accepted through• Public hearing conducted	July 21, 2014 ³ July 15, 2014
Rebuttal Comments Received	August 5, 2014
Department's Anticipated Decision Date	September 19, 2014
Department's Actual Decision Date	September 25, 2014

AFFECTED PERSONS

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

"...an "interested person" who:

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

Throughout the review of this project, two people sought and received affected persons status under WAC 246-310-010(2). Listed below are the names of affected persons.

Elizabeth Tidyman

Elizabeth Tidyman resides in the planning area. She oppose the project and testified at the July 15, 2014 public hearing and additionally, she requested in writing to be informed of the department's decision.

William Miller

An employee of Empress Healthcare and a resident of King County opposed the project, testified at the July 15, 2014 public hearing, and requested in writing to be informed of the department's decision

³ At the public conducted on July 15, 2014, the applicant requested one week extension to provide responses to questions asked at the hearing

SOURCE INFORMATION REVIEWED

- Seattle University's Certificate of Need application received on March 18, 2014
- Seattle University's supplemental information received April 30, 2014, and June 20, 2014
- Public comments and letters of support received by the department at the public hearing on July 15, 2014
- Responses to questions received on July 21, 2014
- Rebuttal comments from Seattle University received August 5, 2014
- Rebuttal comments from Elizabeth Tidyman received August 5, 2014
- Department of Social and Health Services, Office of Rates Management Medicaid rate projections for 36 beds received April 11, 2014
- Information obtained from Wesley Homes website [<http://www.wesleyhomes.org/>]
- Quality of Care data obtained from Department of Social and Health Services
- Centers for Medicare and Medicaid website nursing homes quality of care compliance history [www.medicare.gov/NursingHomeCompare/compare.search.html#]
- Licensing and/or survey data provided by the Department of Health's Investigations and Inspections Office
- Washington State Secretary of State website at [<http://www.sos.wa.gov>]
- Wesley Homes website at [http://www.wesleyhomes.org/communities/leahill/skilled_lh]

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Seattle University proposing to construct a 36-bed Medicare and Medicaid certified skilled nursing facility in King County is consistent with applicable criteria of the Certificate of Need Program, provided Seattle University agrees to the following in its entirety.

Project Description:

Seattle University is approved to establish a 36-bed Medicare and Medicaid certified nursing facility in Auburn within King County by converting 36 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 36 beds skilled nursing facility upon licensure would be managed by Wesley Homes under a management services agreement. Seattle University will be the initial licensee of the 36 bed facility.

Conditions:

1. Seattle University agrees with the project description as stated above. Seattle University further agrees that any change to the project as described in the project description is a new project that requires a new Certificate of Need.
2. Prior to providing services, Seattle University will provide copies of the listed adopted policies and agreements below for the department's review and approval.
 - Admission Agreement
 - Admission Policy
 - Grievance Policy
 - Updated Residents Handbook
 - Therapy services Agreement
 - Medical director credential number and Agreement

Copies of policies that have been adopted must be consistent with the draft policies provided in the application.

3. Seattle University will obtain Medicare and Medicaid provider numbers for Wesley Homes Lea Hill Health Center within 60 days of the licensure of the facility.
4. Wesley Homes Lea Hill Health Center must maintain its Medicare and Medicaid certification throughout the life of the facility, regardless of ownership.
5. Seattle University and any subsequent owners of the nursing home must not develop any policies or practices that discriminate against admission of patients based on payer source.

Approved Costs:

The approved capital expenditure for this project is \$10,020,000.

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 determines that Seattle University has met the applicable need criteria in WAC 246-310-210(2).

(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.

The proposed licensee of Wesley Homes Lea Hill is Seattle University. From November 1990 through March 2007, Seattle University operated the 139-bed nursing home known as Bessie Burton Sullivan in Washington State. The nursing home beds have not been operational for almost eight years. [Source: CN historical files] As the proposed licensee, Seattle University must demonstrate that this nursing home would be available to all residents of the services area, including low-income, racial and ethnic minorities, handicapped and other underserved groups. As a community based nursing home, Wesley Homes Lea Hill must also participate in the Medicare and Medicaid programs.

Wesley would be responsible for the day-day management and operations of Wesley Lea Hill. Currently, Wesley owns or operates the Arbor at Wesley Homes Lea Hill a 20 beds assisted living facility on the same campus that would be home to the 36-beds Wesley Lea Hill. To evaluate this sub-criterion, the department reviewed information from the management entity provided within the application.

Admission Agreement

To determine whether all residents of the planning area would have access to an applicant's proposed services, the department requires applicants to provide a copy of its current or proposed admission agreement or policy. Since the nursing facility is going to be managed and operate by Wesley, the admission agreement provided appears to have been created specifically for this application. The admission agreement outlines the process for admission and the roles/responsibilities for both Wesley Homes Lea Hill and the patient. A review of the admission agreement includes the required language that ensures that all residents of the planning area would have access to the services at the nursing home. The agreement references private pay, Medicare, and Medicaid admissions, and includes a description of the process for discharging patients home or to a higher level of care, if necessary. [Source: June 2, 2014, supplemental information, Admission Agreement revised January 2014, Attachment G]

Admission Policy

The admission policy provides the overall guiding principles of the facility as to the types of patients that are appropriate candidates to use the facility and any assurances regarding access to treatment. The admission policy must also include language to ensure all residents of the service area would have access to 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.

To demonstrate compliance with this sub-criterion, Seattle University provided a copy of the admission policy that would be used at Wesley Lea Hill. The admission policy includes the required language to ensure all residents of the planning area would have access to the services at the nursing home.

The policy also includes a patient 'notice of rights and services' section that outlines roles and responsibilities for both Wesley Homes Lea Hill and the patient. The policy includes specific language that ensures Wesley Homes Lea Hill would accept both Medicare and Medicaid patients. [Source: June 2, 2014, supplemental information, Admission Agreement revised January 2014, Attachment G]

Medicare and Medicaid Programs

The department uses Medicare certification to determine whether the elderly would have access, or continue to have access, to services. Wesley the management entity, currently contracts with Medicare to provide services to Medicare patients in the planning area.

To demonstrate compliance with this sub-criterion, Seattle University stated Wesley would contract with Medicare, and if this project were approved, Wesley would immediately begin the process to obtain a Medicare provider number. The financial documents provided within the application, showed that Wesley Homes Lea Hill intend to provide services to the Medicare population. [Source: April 30, 2014, Supplemental information, Schedule G

The department uses the facility's Medicaid eligibility or contracting with Medicaid to determine whether low-income residents would have access, or continue to have access, to services. Seattle University has not operated a nursing home for almost eight years. However, Wesley currently contracts with Medicaid or provides services to Medicaid patients in the planning area through their other licensed healthcare facilities.

To ensure that Wesley Homes Lea Hill would participate in both Medicare and Medicaid programs, if this project is approvable, the department would attach two conditions related to this sub-criterion. One condition would require Seattle University to provide documentation that Wesley Homes Lea Hill obtained its Medicare and Medicaid provider identification numbers within a specific timeframe. Another condition would require Wesley Homes Lea Hill to maintain Medicare and Medicaid certification throughout operation of the facility, regardless of ownership.

During the review of the application, the department received public comments from resident in the planning area and at the public hearing conducted on July 15, 2014, many residents testified in support of the project. Among those in support of the project are the deputy mayor and a former deputy mayor of the city of Auburn.

The deputy major's letter stated, *"The reason I want you to know about my public service background is that being a City Council member provides me with a very good understanding of all various needs that exist in our community. It is my observation that additional high quality affordable skilled nursing facilities are absolutely needed"*. [Source: Letter of support provided by Richard Wagner received July 15, 2014]

The former deputy major's letter stated: *"During my tenure as Deputy Major of the city of Auburn, I became increasingly aware of both the growing senior and low income population in Southeast King County in general and more specifically, Auburn... As a result, there be an increasing need and demand for all types of health care services including nursing home care. The new Lea Hill facility will provide a high quality resource for those needing rehabilitation and other general long term care"*. [Source: Letter of support provided by Sue Singer received July 15, 2014]

During the questions and answer portion of the public hearing, the applicant was not able to provide answers to some questions asked by residents. As a result, the applicant requested one additional week to provide those answers. The department granted the applicant's request for additional time to respond. On July 21, 2014, the department received the responses to those questions. The department sent all public comments including the responses to questions received on July 21, 2014 to the applicant and affected parties for rebuttal. Summarized below are the questions and the applicant answers.

Questions asked at the public hearing

- The applicant provided a grievance policy that does not comply with federal and state laws regarding resident's rights and ombudsman access. The ombudsman interaction and access to residents is always separate and it is a private interaction that does not involve the facility. The applicant resources for resident advocacy information is incorrect for most of the agencies and organizations listed. [Source: Written questions submitted by Patricia Hunter received July 15, 2014]
- Occupancy rate of the other three skilled nursing facilities in Auburn does not justify the need for additional beds [Source: Written questions submitted by Andrea Sessions received July 15, 2014]
- One of the alternatives for providing skilled nursing beds at Wesley Homes Lea Hill is for the applicant to seek nursing home bed allocation from the statewide pool of nursing home beds. [Source: Questions by Liz Tidyman received July 15, 2014]

William Miller a resident in the planning area opposes the project and testified at the public hearing, and submitted written comments by electronic mail. His questions asserted that there are enough nursing home vacancies in Auburn and Wesley Home business model is designed to take higher paying residents away from current providers. [Source: Written comments submitted by William Miller received July 15, 2014]

Below are Seattle University responses to the questions submitted at the public hearing.

Seattle University [Source: Responses to questions received July 21, 2014]

- The resident handbook and grievance policy included within the application are in full compliance with all regulatory requirements. The applicant anticipates when the facility is operational; the director of nursing would be the staff liaison with residents to let them know about the grievance and other facility policies. If the department finds that the policy needs to be modified, Seattle University will comply. Seattle University intends to provide the correct advocacy contact information for residents. If the department finds that the current information is incorrect, the applicant thinks it is reasonable for the department to attach a condition, requesting that the applicant provide more updated information to the project approval.
- As noted in the application, because Seattle University is proposing to un-bank 36-beds, the need criteria are deemed met. The 2012 occupancy data for the three Auburn nursing homes shows the statewide average to be 82.3% and county average was 83.6%, so the nursing homes in the planning area were operating above average in 2012.

Seattle University and Wesley Homes are not a CCRC therefore; neither of the parties is eligible to apply for CCRC pool of beds.

As noted in the application, because Seattle University is proposing to un-bank 36-beds, the need criteria are deemed met. The 2012 occupancy data for the three Auburn nursing homes shows the statewide average to be 82.3% and county average was 83.6%, so the nursing homes in the planning area were operating above average in 2012. The Lea Hill facility assumed 21% for Medicaid in terms of revenue and 28% for patient's days. The applicant expects the payor mix to be similar during the first three years of operation.

Additional public comments regarding this project are the summarized below:

- What authority does Wesley Homes Lea Hill have to execute an admission agreement in its own name because it is not an agent of Seattle University.
- Wesley representative testified at the hearing that Wesley Lea Hills is not a continuing care retirement center (CCRC) facility. However, page 4 of the facility resident handbook and the website informs the public and King County residents they have priority access to skilled nursing care. This suggests the applicant should have applied for beds from the statewide CCRC beds allocation. Wesley should submit an application for CCRC beds instead of un-banking skilled nursing beds.
- Does any residency agreement between Wesley and Wesley's residents suggest that a resident will have priority admission access to the applicant's skilled nursing facility. [Source: Public comment submitted by Liz Tidyman received July 15, 2014]

In response to the public comment opposing this project, Seattle University provided rebuttal responses that are summarized below.

Seattle University [Source: Rebuttal comments received August 5, 2014]

- The admission agreement is for a facility that would be managed by Wesley. The draft agreements submitted has Wesley's name because they are the management entity and the name of the facility is Wesley Homes Lea Hill. We understand the Program would review all documents submitted and if necessary, request that Seattle University make changes needed prior to commencing the project.
- Wesley does not have any residency agreement with its independent living or assisted living residents for any nursing home care and it does not provide priority nursing home admission to such residents.
- Seattle University and not Wesley is the applicant. It is Seattle University understanding that Wesley Lea Hills is not designed or marketed as a CCRC as defined in (WAC 246-310-016). Per WAC Wesley Homes Lea Hills is not contractually obligated to residents and it does not have a contract in excess of one year to provide a continuum of care. Seattle University is also not a CCRC therefore; neither of the parties is eligible to apply for CCRC pool of beds. The applicant is proposing to unbank beds banked under full facility closure.

Department Evaluation

Given the applicant responses to the questions and comments, the department acknowledges that the Admission Policy, Admission Agreement and the Residents Handbook provided in the application demonstrated Seattle University's intent to make Wesley's residents have access to services. However, the contact information on Wesley's resident's resource documents need to be updated. Therefore, the department will require that any brochure or catalog the applicant and the nursing home management anticipate providing to residents must contain updated contact information.

If approved, the department will attach conditions to ensure that Wesley Homes Lea Hill management and operator complies with all rules and regulations required for the day-to-day management of the facility. The conditions would be related to related admission policy, admission agreement, and grievance policy and residents handbook current and appropriate information. Based on the source information reviewed and the applicant's agreement to the conditions the department concludes **this sub-criterion is met.**

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Seattle University has met the financial feasibility criteria in WAC 246-310-220.

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

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

As stated with the project description section of this evaluation, the proposed skilled nursing facility will be operated and managed by Wesley if a Certificate of Need is approved. Information provided within the application stated, "*Occupancy estimate are based upon historical results in the Wesley Homes Des Moines facility. Unlike the majority of Medicare/Medicaid facilities in the planning area, the Lea Hill facility will be primarily (94%) private rooms, with all rooms having full bathrooms and other amenities*". [Source: Application, Page 20]

To evaluate this sub-criterion, the department first reviewed the assumptions used to determine the projected number of admissions, patient days, and occupancy of Wesley Homes Lea Hill. Summarized below are the assumptions used. [Source: Application, Page 20; Supplemental Information, Revised Schedule G]

Projected patient days and occupancy are based on Wesley Homes Des Moines facility a 146 skilled nursing home owned or operated by Wesley.

- Year 2015 assumes a total of 9,380 patient days and 71.4% occupancy
- Year 2016 assumes increases in patient days and occupancy from the opening year and projected 12,155 patients and 92.5% occupancy
- Year 2017 does not anticipate any further occupancy increases; rather the nursing home is expected to maintain its occupancy at 92.5%.

Using the assumptions stated above, the applicant projected the number of patient days and occupancy for Wesley Homes Lea Hill. The projections are shown in the Table 1 below.

**Table 1
Wesley Homes Lea Hill
Projected Years 2015 through 2017**

	2015	2016	2017
Projected Number of Beds	36	36	36
Projected Number Patient Days	9,380	12,155	12,155
Project Occupancy	71.4%	92.5%	92.5%

A review of the 2013 cost report data obtained from DSHS shows that the statewide average nursing home occupancy was 96.9%. As shown above, Wesley Homes Lea Hill projections are below DSHS projections. For projected years 2016 and 2017, the application anticipates a steady and reasonable occupancy growth. After reviewing the assumptions and projections use by the applicant, the department concludes they are reasonable.

The applicant also provided the assumptions it used to project revenue, expenses, and net income for Wesley Homes Lea Hill. The applicant asserted the rates are based upon management entity’s experience at Wesley Homes Des Moines skilled nursing facility. [Source: Application, Page 41 and Supplemental Information, Revised Schedule G] Below are the summary of the assumptions.

- Medicaid Rate: assumed at \$210.00
- Medicare Rate: assumed at \$575.00 and is based on the fiscal year 2015
- Community private/Managed Care is assumed at \$375.00
- Wesley Private is assumed at \$360.00 based on fiscal year 2014.
- Projected percentages of patient’s revenue by payer are shown in the chart below and are based on the historical patient mix of its nursing home in the planning area.

36-Beds Wesley Homes Lea Hill	
Wesley Private Pay	24%
Medicaid	21%
Medicare	44%
Community Private/Managed Care	11%

The largest number of FTEs [full time equivalents] is assumed to be in the direct patient care category. All FTEs would be hired in 2015 when the 36-beds become operational. No FTE increases are anticipated in years 2016 and 2017.

Using the assumptions stated above, Wesley projected the revenue, expenses and net income for Wesley Homes Lea Hill. The projections are shown in Table 2 below. [Source: Application, Page 41 and Supplemental Information, Revised Schedule G]

Table 2
Wesley Homes Lea Hill
Projected Years 2015 through 2017

	2015	2016	2017
Net Revenue	\$3,862,000	\$5,000,000	\$5,000,000
Total Expenses	\$3,853,000	\$4,366,000	\$4,334,000
Net Profit / (Loss)	\$9,000	\$634,000	\$666,000

The ‘Net Revenue’ line item is gross patient, plus other operating revenue, minus any deductions from revenue for charity care and bad debt. The ‘Total Expenses’ line item includes salaries and wages and all costs associated with operations of a nursing home. Expenses also included all costs related to key clinical personnel for the facility.

In Washington State, the Nursing Home Rates Section of the Office of Rates Management part of the Aging and Disability Services Administration of DSHS sets Medicaid nursing facility rates. Medicaid rates for long-term care nursing facilities are set individually for each specific facility. Rates are based generally on a facility’s costs, its occupancy level, and the individual care needs of its residents. The Medicaid payment rate system does not guarantee that all allowable costs relating to the care of Medicaid residents will be fully reimbursed. The primary goal of the system is to pay for nursing care rendered to Medicaid-eligible residents in accordance with federal and state laws, not to reimburse costs by providers. A facility's overall Medicaid rate is comprised of rates for the following seven separate components:

- Direct care - nursing care and related care provided to residents
- Therapy care - speech, physical, occupational, and other therapy
- Support services - food and dietary services, housekeeping, and laundry
- Operations - administration, utilities, accounting, and maintenance
- Property - depreciation allowance for real property improvements, equipment and personal property used for resident care
- Financing allowance - return on the facility’s net invested funds i.e., the value of its tangible fixed assets and allowable cost of land. [Source: An Overview of Medicaid Rate Setting for Nursing Facilities in Washington provided by DSHS]

For existing nursing homes, the component rates are based on examined and adjusted costs from each facility’s cost report. For new nursing homes, such as this project, the initial Medicaid rate is set using a peer group review. [Source: DSHS WAC 388-96-710(3)]

All component rates require, directly or indirectly, use of the number of resident days—the total of the days in residence at the facility for all eligible residents—for the applicable report period. Resident days are subject to minimum occupancy levels. Effective February 2013, the minimum occupancy for direct care, therapy care, support services, and variable return component rates is 85%; for operations, financing allowance, and property component rates,

the minimum occupancy rate is 87%.⁴ If resident days are below the minimum, they are increased to the imputed occupancy level, which has the effect of reducing per resident day costs and the component rates based on such costs. If the actual occupancy level is higher than the minimum, the actual number of resident days is used. [Source: An Overview of Medicaid Rate Setting for Nursing Facilities in Washington provided by DSHS]

Information obtained from the Office of Rates Management within DSHS indicates that Wesley Homes Lea Hill Medicaid reimbursement rate will be approximately \$210.30.⁵ Within the pro forma Statement of Operations, Wesley projected the reimbursement rate to be \$210. [Source: Application, Page 41]

Summarized below are the questions from the public hearing and the applicant responses

Questions asked at the public hearing

The proposed therapy equipment cost is \$20,000 this amount is too small what type of equipment does the applicant anticipate it would buy with that amount. The facility shows one semi-private room. Will Medicaid pay for private rooms and will the facility limit Medicaid resident in order to maintain the 21% ratio. [Source: Written questions submitted by Andrea Session received July 15, 2014]

The applicant indicates the percentage of patient revenue it would receive consist of a payor mix of 21% Medicaid. How would the applicant reach that goal given that it also projected 44% Medicare reimbursement. The applicant anticipate majority of the rooms at the facility would be single occupancy rooms, given the payor mix it expects, how this is feasible and what are the future revenue mix projections. How would DSHS and other regulatory agencies meet the expected demand and oversight. [Source: Written questions submitted by Patricia Hunter received July 15, 2014]

Below is Seattle University responses to the questions received at the public hearing

Seattle University [Responses to questions received July 23, 2014]

As outline in the application, Seattle University budgeted \$20,000 for the purchases of occupational and physical therapy equipment. The amount was established based on input from the proposed facility management. Wesley has extensive occupational and physical therapy programs at its nursing homes. The amount includes various minor movable assistive orthopedic devices, mobility aids, training stairs, mats, tables and balance equipment.

As outlined on page 13 of the application, the first three years of the project Medicaid utilization is estimated to be 28% of total patients days because reimbursement for Medicaid are lower than others. The applicant anticipates that Medicaid would reimburse for care provided in private pay room. The applicant would not discriminate based on payer source. Residents will be admitted to the facility based upon the applicant ability to meet the potential resident medical, psychosocial and nursing needs.

⁴ For essential community providers—i.e., facilities at least a forty minute drive from the next closest nursing facility—the minimum occupancy is set at 85% for all components in recognition of their location in lesser-served areas of the state. Wesley Homes Lea Hill does not meet the definition of an essential community provider.

⁵ These rate estimates are not guaranteed rate reimbursement by DSHS. [source: DSHS]

Additional public comments regarding this project are the summarized below:

Wesley's model is designed to take higher paying residents away from other skilled nursing facilities in the area. Their model shows it would limit Medicaid clients to 21%. How would the applicant do this without discharging Medicaid clients as they exhaust their funds. [Source: Written comments submitted by William Miller received July 15, 2014]

How can a facility obtain 21% revenue from Medicaid payor source when there is only one semi-private room in the facility.

The application shows a debt commitment for a \$6.5 million bank loan and other documents show that Wesley has a refundable entrance fees. Will the applicant staying current with repayment schedule, act as superior obligation to refunding the entrance fees. Has there been a time when the applicant reached its maximum refunding of entrance fees. [Source: Written comments submitted by Liz Tidyman received July 15, 2014]

In responses to public comments, the applicant provided the following summarized rebuttal comments.

Seattle University [Rebuttal comments received on August 5, 2014]

Medicaid reimburses for appropriate care provided in a private room. The applicant does not have any residency agreement for any other private pay rates. Wesley maintains a separate entrance fees funds for residents of its independent living facilities and that fund has never been exceed during the years that it has offered refundable entrance fees. The fund is maintained separately for Wesley's projects.

Wesley's residents are not financiers of the proposed nursing home. Residents of independent living homes at Wesley Homes Lea Hill pay a fully refundable entrance deposit based on the size of their accommodation and this is unrelated to the proposed nursing facility.

Department Evaluation

The applicant responses to the comments appropriately address the concerns raised The applicant revenue and expenses shows the project is financially feasible. The public comment submitted related to this sub-criterion did provide documentation to show that this project is not finically feasible. Based on the information provided, the projected revenues and expenses expected for Wesley Homes Lea Hill are reasonable. The department concludes that the immediate and long-range operating costs of the project can be met. **This sub-criterion is met**

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

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.

The capital expenditure associated with the proposed 36-beds nursing home is \$10,020,000. Of that amount, approximately 77.9% is related to construction costs and fixed equipment, 6.0% is related to replacement reserve, 10.8 is related to Washington taxes and other, 3.6% is related to bed acquisition and the remaining 1.7% is related to contingency. [Source: Application, page 24] Information in the application stated, *Wesley Homes, as lessor, will fund the project from bank financing, currently contemplated to have a variable rate, donor contributions, and operating assets. Repayment of any debt will come from the rent received from Seattle University for use of the skilled nursing facility.* [Source: Application, page 35] Table 3 below shows a breakdown of the costs. [Source: Application, Page 24]

Table 3
Wesley Homes Lea Hill
Capital Expenditure Breakdown

Item	Cost	% of Total
Construction Costs*	\$7,806,000	77.9%
Replacement Reserve	\$600,000	6.0%
Washington State Sales Tax and other	\$1,083,000	10.8%
Contingency	\$171,000	1.7%
Bed Acquisition	\$360,000	3.6%
Total Estimated Capital Costs	\$10,020,000	100.0%

* includes site supervision, Inspection, Consulting fees Finance, fixed and moveable equipment and Interest

As shown in the breakdown above, the majority of the costs are associated with construction for the skilled nursing home. To demonstrate compliance with this sub-criterion, Seattle University provided a non-binding construction cost estimate from its contractor. Based on the above information, the department concludes that 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. **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.

As previously stated, the capital expenditure associated with this project is \$10,020,000. Information within the application stated Wesley as lessor would fund the project. Additionally, Wesley provided a breakdown of the anticipated type and the amount of financing for the project. That information is restated in the table below.

Type	Amount
Commercial Loan	\$6,500,000
Bequest and Endorsements	\$2,000,000
Accumulated Reserves	\$1,083,000
Owners' Equity (Existing Land etc.)	\$920,000
Loan from Parent Company (For replacement reserve)	\$600,000
Total	\$10,020,000

Further, to demonstrate compliance with this sub-criterion, Wesley provided its audited financial statements for years 2010, 2012 and 2013. The financial statements include both cash flow statements and balance sheets. [Source: Application, Attachment J and Supplemental information received June 2, 2014, Attachment k] Summarized below are the comments received by the department related to this sub-criteria

Does the applicant anticipates staying current on the repayment schedule for the \$57,000,000, bond and is the debt a superior obligation to refunding residents entrance fees. The financial documents show that Wesley Homes Lea Hill borrowed \$57,000, 000, and other entities including Wesley Homes Des Moines are part of obligated group to repay the debt.

The application shows a debt commitment for \$6.5 million bank loan and other documents show that Wesley has a refundable entrance fees. Will the applicant stay current with repayment schedule, act as superior obligation to refunding the entrance fees. Has there been a time when applicant reached its maximum refunding of entrance fees. [Source: Written comments submitted by Liz Tidyman received July 15, 2014] Summarized below are the rebuttal comments submitted by Seattle University in response to comments received by the department.

Seattle University [Rebuttal comments received on August 5, 2014]

Wesley maintains a separate fund related to the refund of entrance fees to residents of independent living units. This fund, which currently contains more than \$750,000, has never been exceeded in the years that Wesley has offered refundable entrance fees. Wesley's refundable entrance fees are maintained as separate funds.

Department Evaluation

After reviewing Wesley's historical financial statements, the department concludes that Wesley has adequate funds to cover this project. The capital expenditure of \$10,020,000 is not expected to adversely affect reserves, total assets, total liability, or the general health of Wesley in a significant way. Based on the information provided, the department concludes that the project can be appropriately financed. **This sub-criterion is met.**

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the "Conclusion" section of this evaluation, the department determines that Seattle University has met the structure and process of care criteria in WAC 246-310-230(3), (4), and (5).

(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 evaluates the applicants staffing proposal to determine the reasonableness of the availability of staff.

Seattle University provided a listing of the types and number of staff for the proposed skilled nursing facility. Table 4 below, shows the proposed facility years 2015 through 2017 projected numbers and type of FTE's. [Source: Application, Page 42 and 43]

Table 4
Wesley Homes Lea Hill 2015 – 2017
Projected FTEs

Staff/FTEs	2015 2017
RN	2.80
LPN	4.20
Nurse's Aides and Assistance	14.0
Dieticians	0.60
Cooks	2.10
Aides	1.40
Admin	1.00
Admission	1.00
Activities Director	1.00
Director of Nursing	1.00
Clerical	3.00
Laundry	0.50
Housekeeping	2.40
Medical Record	1.00
Social Work	1.00
Activities	1.00
Plant Engineers	1.00
All others	3.90
Total Admin	39.0

The applicant FTEs presentation in the application is broken down into four sub-total categories. For the clinical staff, Seattle University includes all RNs, LPNs, and nursing assistants in the 'nursing' category. For 'dietary' Seattle University included dietary aides only. For 'administration', the totals included the administrator, activities director, director of nursing, clerical, housekeeping, and laundry personnel. For the facility plant/maintenance' the applicant included those in one category.

The applicant did not include contracted FTEs such as consultant positions in the count of total presented in Table 4. According to the application, contracted positions include medical director, pharmacists, physical therapy, speech therapy and occupational therapy. As stated in the management services and lease agreement between the applicant and Wesley, the day-to-day operations, including staffing of the nursing home is the responsibility of Wesley. To assure that staffing would be available to be hired, the applicant stated that the proposed nursing facility is located within a mile from the Green River Community College that offers training for licensed practical nursing, nursing assistants, physical therapy assistants and occupational therapy assistants. The application also stated that it anticipates the proposed nursing facility would be a clinical training site for students.

For comparison purposes, the department reviewed the 2012 cost report data provided by DSHS for some selected nursing homes located in King County with similar number of beds. Of the 53 nursing homes operating in King County at the end of year 2013, eight were operating between 30 and 44 nursing home beds. A comparison of those eight nursing homes nursing hours per patient day with the nursing hours provided by the applicant within the application is presented in Table 5 below.

Table 5
Wesley Homes Lea Hill
Nursing Hours per Patient Day Comparison

	# of Beds	RN/LPN	Nursing Assistants
Wesley Homes Lea Hill	36	1.20	2.40
Baily-Boushay House	35	4.11	3.31
Covenant Shores Health Center	43	1.15	2.89
Park Shore	28	1.75	2.94
The Terrace At Skyline	34	1.67	3.45
The Hearthstone	44	1.11	2.44
Kindred Seattle –First Hill	30	1.90	-
Kindred Seattle- Northgate	30	1.62	-
Vashon Community Care Center	30	1.38	2.36

As shown in table above, the department concludes that the projected nursing hours per patient day at Wesley Homes Lea Hill is comparable to similar sized facilities operating in King County. Based on this information, the department concludes adequate and qualified staffing for the nursing home is available or can be recruited. **This sub criterion is met.**

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

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 no 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 certified and Medicaid eligible. 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.

For this project, Seattle University intends to contract with Wesley for management services and the day-to-day operations of the proposed skilled nursing facility. To demonstrate compliance with this sub-criterion, Seattle University submitted a copy of the Management Services and Lease Agreement and Purchase and Sale Agreement between itself and Wesley. The Purchase and Sale Agreement does not identify an ‘effective date,’ but implies that the effective date would be on the date Seattle University obtains licensure for the 36-bed nursing home. The term of the agreement is one year, or the date that both entities agree to terminate, whichever is sooner. The management services and lease agreement outlines specific roles and responsibilities for both entities. Seattle University will be the initial licensee for Wesley Homes Lea Hill. [Source: Application, Attachments A and B]

As the management entity, Wesley would provide much of the ancillary and support services, such as pharmacy, laboratory, x-ray/imaging, and oxygen services. For contracted services such as physical therapy, speech therapy and occupational therapy, Wesley intends to have an executed contract with existing network of providers. [Source: Supplemental information received April 30, 2014, Attachment P] Seattle University provided a draft medical director agreement. The draft agreement outlines the roles and responsibilities for the position. The applicant anticipates the skilled nursing facility will have 0.8 FTE medical director coverage. [Source: Application, Page 42, Attachment P]

If this project is approved, the department would attach a condition requiring the applicant provide an executed medical director agreement. If Seattle University agrees with the condition, the department would conclude that adequate ancillary and support services are available for Wesley Homes Lea Hill Center. **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 no 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 certified and Medicaid eligible. 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.

Seattle University's application is proposing to un-bank 36-beds and construction a skilled nursing facility that would be managed and operated by Wesley. Currently, Wesley owns or operates a skilled nursing facility, home health agency and retirement communities in Washington. [Source: Application Pages 8, 9, and CN Historical files]

As part of this review, the department must conclude that the proposed services to be provided by Seattle University with Wesley as the management entity, would be provided in a manner that ensures safe and adequate care to the public.⁶ To accomplish this task, the department reviewed the quality of care compliance history for licensed healthcare facilities owned, operated, or managed by Wesley. The review included quality of care information reported by the Centers for Medicare and Medicaid Services (CMS) and state licensing survey results.

CMS assigns a one to five 'star rating' in three separate categories to grade the performance of the facility: health inspection, staffing, and quality.

Health Inspection

This is a measure of the facility's ability to care for patients in a safe environment and provide appropriate nutrition and dietary services to each patient. This category also includes any pharmacy services, administration, and fire safety inspections.

⁶ WAC 246-310-230(5).

Staffing

For the staffing category, CMS measures staff hours for RNs, LPNs, licensed vocational nurses, and certified nursing assistants. CMS also measures the amount of time registered nurses spend with residents.

Quality

This is a review of the quality of care provided for both long term residents and short stay residents. This category collects the number of patients with reoccurring health issues, such as Urinary tract Infections, pressure ulcers, moderate to severe pain, and falls.

Based on the star rating in each of the three categories, CMS compiles an 'overall rating' for the facility the more stars, the better the rating.

Wesley Home Health Center Des Moines received an overall rating of 4 or 5 stars. A review of inspections for years 2011, 2012, and 2013, revealed that the facility was cited for quality of care issues. According to CMS data, the average number of deficiencies for nursing homes in the state of Washington is 9.5 and the average number of deficiencies for nursing homes across the United States is 7.0. In 2011, Wesley Home Health Center Des Moines was cited for eight deficiencies; in 2012 the citations increased to 9 deficiencies; and in 2013, the citations decreased to 7 deficiencies. The majority of the deficiencies cited are considered 'minimal harm or [minimal] potential for actual harm. The applicant submitted plan of corrections was accepted by CMS.

Additionally, the Department of Health Investigations and Inspections Office (HIO) conducts quality of care and compliance surveys for home health services. Records indicate that HIO completed at least one compliance survey for the applicant since 2012. The compliance survey found no significant deficiencies [Source: facility survey data provided by the Investigations and Inspections Office]

Given the compliance history of Wesley Home Health Center Des Moines, Wesley Homes Community Health Services and Wesley Homes At Home, LLC the department concluded there is reasonable assurance that Wesley Homes Lea Hill will be operated and managed in conformance with applicable state and federal licensing and certification requirements. **This sub criterion is met.**

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

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 directs 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 information provided in the application.

In response to this criterion, Seattle University stated it has not provided services since it closed the Bessie Burton nursing facility in March 2007, but the applicant noted that Wesley has existing long-term relationships with healthcare entities in King County and has been providing skilled nursing services at Wesley Homes Des Moines for many years.

Given that the applicant provided an executed management and lease services agreement that would enable Wesley to provide management and day-to-day services at the new skilled nursing facility, the department concludes that Seattle University has demonstrated that the new skilled nursing facility would appropriately participate in relationships with community facilities in the planning area. There is nothing in the materials reviewed by staff that suggests that approval of this project would change those relationships. [Source: Application, Attachment A and B and CN historical files]

Based on this information, the department concludes that approval of this project would promote continuity in the provision of health care for the planning area, and would not result in an unwarranted fragmentation of services. **This sub-criterion is met.**

- (5) There is reasonable assurance that the services to be provided through the proposed project will be provided in a manner that ensures safe and adequate care to the public to be served and in accord with applicable federal and state laws, rules, and regulations.
This sub-criterion is addressed in sub-section (3) above and is **considered met.**

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

Based on the source information reviewed and the applicant's agreement to the conditions identified in the conclusion section of this evaluation, the department determines that Seattle University has met the cost containment criteria in WAC 246-310-240.

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

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

If the project 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 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.

For this project, Seattle University is the only applicant and has met the review criteria in the applicable sections of WAC 246-210, WAC 246-310-220, and WAC 246-310-230. Therefore, the department reviews the proposed alternatives by the applicant. Information within the application showed that Seattle University and Wesley considered two alternatives, do not build and relocate beds licensed at Wesley Des Moines to the proposed Auburn site. Both of these alternative were rejected this based on the rationale discussed below. [Source: Application, Page 46]

Don't build

Wesley evaluated developing its independent living and assisted living facilities at Lea Hill campus and transferring residents in need of nursing home care to their Des Moines nursing facility. Because of travel distance and congestions, and existing high occupancies of their Des Moines facility, this option was rejected.

Partial relocation of beds

Wesley evaluated the potential to relocate 36 of the 148 nursing home beds licensed at the Des Moines facility to Lea Hill in Auburn. This alternative was rejected because of the high occupancy at the existing facility and the option did not add needed bed capacity in King county.

The department did not identify any other alternatives that would equal to or superior to those considered by Seattle University. The reasoning for rejecting the identified alternatives appears reasonable. Based on the source information evaluated the department concludes that **this sub-criterion is met.**

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

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

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

These sub-criterion are evaluated within the financial feasibility criterion under WAC 246-310-220(2) **these sub-criterion are 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.

This project has the potential to improve delivery of nursing home services to the residents of King County and communities surrounding Seattle. The department is satisfied the project is appropriate and needed. **This sub-criterion is met.**