



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

April 19, 2013

CERTIFIED MAIL # 7011 1570 0002 7802 6425

Robert Anderson, CEO
Horizon House
900 University Street
Seattle, Washington 98101

Re: CN13-07

Dear Mr. Anderson:

We have completed review of the Certificate of Need application submitted by Horizon House proposing to establish a 56-bed nursing home in Issaquah by converting 56 beds banked under full facility closure. For the reasons stated in this evaluation, the application submitted by Horizon House is consistent with applicable criteria of the Certificate of Need Program, provided Horizon House agrees to the following in its entirety.

Project Description:

Horizon House is approved to establish a 56-bed nursing home in King County by converting 56 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 56 beds would become licensed in two phases. Phase one is the establishment of a 36-bed nursing home. Phase two is the addition of 20 nursing home beds to the facility.

Conditions:

1. Horizon House agrees with the project description as stated above. Horizon House 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. Horizon House will obtain its Medicare and Medicaid provider numbers within 60 days of the issuance of a Certificate of Need.
3. The nursing home must maintain its Medicare and Medicaid certification throughout the operation of the facility.
4. Horizon House will provide the following information related to patient days: total patient days, Medicare patient days, and Medicaid patient days. This information will be reported quarterly in the progress reports developed by the department.
5. Horizon House must not develop any policies or practices that discriminate admission of patients based on payer source.



Robert Anderson, CEO
Horizon House
Certificate of Need Application #13-07
April 19, 2013
Page 2 of 2

6. Horizon House will provide to the department a final Admission Agreement for review and approval. The final agreement must include the requiring access to care language.
7. Horizon House will provide to the department an executed Medical Director Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.
8. Horizon House will provide to the department an executed Lease Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

Approved Costs:

The approved capital expenditure for this project is \$7,108,808, and is solely related to phase two of the project.

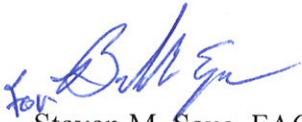
Please notify the Department of Health within 20 days of the date of this letter whether you accept the above in its entirety. Your written response should be sent to the Certificate of Need Program, at one of the following addresses.

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

Other Than By Mail:
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, Health Professions and Facilities

Enclosure

**EVALUATION DATED APRIL 19, 2013, OF THE CERTIFICATE OF NEED APPLICATION
SUBMITTED BY HORIZON HOUSE PROPOSING TO ESTABLISH A NEW NURSING
HOME IN ISSAQUAH, WITHIN KING COUNTY**

APPLICANT DESCRIPTION

Horizon House is a private, non-profit corporation, incorporated in the state of Washington that owns and operates the senior living community of Horizon House. Established in December 1960, Horizon House is affiliated with the Pacific Northwest Conference United Church of Christ. Horizon House was established, in part, to provide elderly persons with housing facilities and services specially designated to meet their physical, social, and psychological needs. To this end, Horizon House operates a continuing care retirement community in Seattle, which consists of 387 independent living apartments and a 90-bed assisted living facility.¹ Horizon House is governed by a 16 member board, which includes 5 residents of the continuing care retirement community. [source: Application, Appendix 1, p8 and Washington State Secretary of State website]

BACKGROUND INFORMATION

On May 28, 1981, Horizon House was issued Certificate of Need (CN) #614-0 approving the addition of 34 nursing home beds to the existing 22-bed nursing home in Seattle, within King County. At project completion, the Horizon House nursing home was licensed for 56 beds. At that time, Horizon House's senior living community included 205 independent living apartments and a boarding home. [source: CN historical files]

In 2004, Horizon House began an expansion plan for its senior living community and, at the same time, the Washington State Boarding Home regulations incorporated some changes that allowed for a broader scope of services at boarding homes [assisted living]. Horizon House elected to model its senior living community after a community located in Oregon that incorporated its nursing care and assisted living care. Ultimately, on June 21, 2005, Horizon House discharged its last resident from the 56-bed nursing home and received Certificate of Need approval to bank its 56 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 year bed banking on the 56 beds at Horizon House expires on June 21, 2013. [source: January 14, 2013, supplemental information, p2 and CN historical files]

PROJECT DESCRIPTION

With this project, Horizon House proposes to establish a 56-bed nursing home in King County by converting the 56 beds banked under full facility closure. The nursing home would be located at 100

¹ An assisted living facility is licensed to provide housing and care services to seven or more people in a home or facility located in a residential neighborhood. All assisted living facilities provide housing and meals (room and board) and assume general responsibility for the safety and care of the resident. Some additional services are offered, and may be different for each assisted living facility. Some assisted living facilities also provide specialized care to people living with developmental disabilities, dementia, or mental illness. For Washington State, assisted living facilities are licensed by the Department of Social and Health Services. [source: DSHS website]

Timber Ridge Way Northwest in Issaquah [98027]. The new 56-bed nursing home, to be known as Briarwood Health Center, would be established in the two phases described below. [source: Application, p5]

Phase 1:

Horizon House would begin operating 36 of the 56 beds immediately upon CN approval. Phase 1 would be completed by the end of June 2013. There is no capital expenditure associated with phase 1.

Phase 2:

Once the 36 beds in phase 1 are operating at a 90% average occupancy, construction of the space for the remaining 20 beds would begin. The 20 beds are expected to be licensed and operational in early year 2015. The capital expenditure associated with phase 2 is \$7,180,808.

There are two main entities of this project: Horizon House and LCS Westminster Partnership III, LLP. Below is a description of each entity, including roles and responsibilities for this project.

Horizon House-Applicant

A description of Horizon House was provided in the applicant description section of this evaluation. For this project, Horizon House submitted this application and provided a copy of the draft lease agreement with LCS-Westminster Partnership III, LLP for the site in Issaquah.

If the project is approved, Horizon House would obtain the nursing home license for the 36 beds immediately, and then obtain licensure for the additional 20 beds at the end of phase 2. As the licensee, Horizon House would be responsible for ensuring that the nursing home operates in compliance with all state and federal laws.

Horizon House also submitted a draft Management Agreement with LCS-Westminster Partnership III, LLP for day-to-day operations of the nursing home. Horizon House would continue to contract for management services through the completion of phase 2 and licensure of all 56 beds.

LCS-Westminster Partnership III, LLP-Management Entity

LCS-Westminster Partnership III, LLP is an Iowa State limited liability partnership and was created for the purpose of owning and operating the Talus Type A Continuing Care Retirement Community (CCRC)² in the city of Issaquah. LCS-Westminster Partnership III, LLP is a partnership between Westminster-LCS III LLC and LCS Timber Ridge Inc. [source: CN historical files]

On July 7, 2005, CN #1312 was issued to LCS-Westminster Partnership III, LLP approving the establishment of a 37-bed nursing home associated with the Type A CCRC. The nursing home, known as Briarwood at Timber Ridge, obtained its nursing home license on April 4, 2008. [source: CN historical files]

For this project, LCS-Westminster Partnership III, LLP entered into a draft lease agreement that allows Horizon House to locate its 56-bed community-based nursing home within the current space at Briarwood at Timber Ridge. Once the Horizon House nursing home is licensed at the site, the Type A CCRC of Briarwood at Timber Ridge would close and LCS-Westminster Partnership III, LLP would relinquish its Type A CCRC nursing home license.³ [source: Application, p8]

LCS-Westminster Partnership III, LLP would be responsible for day-to-day operations of the new nursing home under a Management Agreement with Horizon House. Under the agreement, LCS-Westminster Partnership III, LLP is responsible for the following:

- hire a specific director to manage day to day operations;
- enter into a contract with a physician for medical director services; and
- maintain control of payroll and payroll reporting;

[source: January 14, 2013, supplemental information, Attachment 8]

² Washington Administrative Code (WAC) 246-310-010(16) defines CCRC as follows:

"Continuing care retirement community (CCRC)" means any of a variety of entities, unless excluded from the definition of health care facility under RCW 70.38.025(6), which provides shelter and services based on continuing care contracts with its residents which:

- *Maintains for a period in excess of one year a CCRC contract with a resident which provides or arranges for at least the following specific services:*
- *Independent living units;*
- *Nursing home care with no limit on the number of medically needed days;*
- *Assistance with activities of daily living;*
- *Services equivalent in scope to either state chore services or Medicaid home health services;*
- *Continues a contract, if a resident is no longer able to pay for services;*
- *Offers services only to contractual residents with limited exception during a transition period; and*
- *Holds the Medicaid program harmless from liability for costs of care, even if the resident depletes his or her personal resources.*

³ Briarwood at Timber Ridge will not technically close; rather, Briarwood at Timber Ridge would be operated as a Type A CCRC nursing home until 11:59pm on June 30, 2013, and begin operations as a community based nursing home at 12:00 midnight on July 1, 2013. For DSHS purposes, this action is considered to be a 'change of ownership' because the licensee of the nursing home changes from LCW-WP to Horizon House. For those reasons, LCS-WP must provide residents change of ownership notification as required by DSHS.

For ease of reference, the management entity, LCS-Westminster Partnership III, LLP, will be referred to as “LCS-WP.” The current Type A CCRC nursing home will be referred to as “Briarwood at Timber Ridge,” and the proposed community-based nursing home licensed by Horizon House will be referred to as “Briarwood Health Care.”

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.”

Since Horizon House was the licensee of the nursing home for the 12 months preceding the bed banking and is the applicant for this project, the need criteria under WAC 246-310-210(1) and (6) are 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).⁴

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.

APPLICATION CHRONOLOGY

Action	Horizon House
Letter of Intent Submitted	August 14, 2012
Application Submitted	November 5, 2012
Department’s pre-review activities including screening and responses	November 6, 2012, through January 21, 2013
Beginning of Review <ul style="list-style-type: none"> • public comments accepted throughout review 	January 22, 2013
Public Hearing Conducted/End of Public Comment	February 28, 2013
Rebuttal Comments Submitted	March 15, 2013
Department's Anticipated Decision Date	April 29, 2013
Department's Actual Decision Date	April 19, 2013

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.”

⁴ 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).

Throughout the review of this project, five persons or entities sought and received affected person status under WAC 246-310-010(2). The affected persons are listed below.

Providence Health and Services

Providence Health and Services is a not-for-profit Catholic health care ministry that operates a variety of healthcare facilities in Washington State and other states. Providence Health and Services is the parent of Providence Senior and Community Services. [source: Providence Health and Services website]

Providence Senior and Community Services

This is the entity that has direct responsibility for the following type of healthcare facilities: home health, hospice, assisted living, nursing home, and infusion/pharmacy services. For King County, Providence Senior and Community Services operates the 117-bed nursing home known as Providence Marianwood located at 3725 Providence Point Drive Southeast in Issaquah [98029]. Services provided at Providence Marianwood include short- and long-term nursing care, rehabilitation services, and a variety of therapies. [source: Providence Marianwood website and Yahoo maps and driving directions] Briarwood Health Care would be located approximately 5.4 miles from Providence Marianwood.

Issaquah Nursing and Rehabilitation Center

Issaquah Nursing and Rehabilitation is a 140-bed nursing home located at 805 Front Street South in Issaquah [98027]. Services provided include short- and long-term nursing care, rehabilitation services, and a variety of therapies. [source: Issaquah Nursing and Rehabilitation Center website and Yahoo maps and driving directions] Briarwood Health Care would be located approximately 3.3 miles from Issaquah Nursing and Rehabilitation.

Charlie McCarthy

A community member with a parent residing at the CCRC. Charlie McCarthy is also chairperson of the Briarwood Independent Council—a group consisting of family and friends of residents of Briarwood nursing home. The Briarwood Independent Council meets regularly to discuss items of interest related to the Briarwood community, and specifically communicates with Briarwood administration with the intent of improving quality of life for residents of the Type A CCRC. Mr. McCarthy clarified that the Briarwood Independent Council neither supports nor opposes this project.

Lillian McCarthy

Resident of the Type A CCRC. While Ms. McCarthy did not attend the public hearing or provide specific written comments, her daughter (Elizabeth Tidyman) and son (Charlie McCarthy) both attended. Ms. Tidyman provided comments on Lillian McCarthy's behalf.

SOURCE INFORMATION REVIEWED

- Horizon House's Certificate of Need application submitted November 5, 2012
- Horizon House's supplemental information received January 14, 2013
- Public comments submitted during the review and at the February 28, 2013, public hearing
- Rebuttal comments from Providence Health and Services received March 15, 2013
- Rebuttal comments from Issaquah Nursing and Rehabilitation received March 15, 2013
- Rebuttal comments from Horizon House received March 15, 2013
- Department of Social and Health Services, Aging and Disability Services Administration rate projections for 36 beds received April 2, 2013
- Department of Social and Health Services, Aging and Disability Services Administration rate projections for 56 beds received April 2, 2013
- Year 2011 Department of Social and Health Services cost report data
- Quality of Care data obtained from Department of Social and Health Services Field Manager for District #2, Unit E [King County]
- Washington State Department of Social and Health Services website for assisted living facilities
<https://fortress.wa.gov/dshs/adsaapps/lookup/BHAdvResults>
- Centers for Medicare and Medicaid website for quality of care comparison of nursing homes
www.medicare.gov/NursingHomeCompare/compare.aspx
- Horizon House website at <http://www.horizonhouse.org/>
- Providence Health and Services website at <http://washington.providence.org/senior-care>
- Issaquah Nursing and Rehabilitation Center website at <http://issaquahnursing.com/>
- Timber Ridge at Talus website at <http://timberridgelcs.com/>
- Life Care Services website at <http://www.lifecareserviceslcs.com/>

CONCLUSION

For the reasons stated in this evaluation, the application submitted by Horizon House proposing to establish a 56-bed nursing home in King County is consistent with applicable criteria of the Certificate of Need Program, provided Horizon House agrees to the following in its entirety.

Project Description:

Horizon House is approved to establish a 56-bed nursing home in King County by converting 56 beds banked under the full facility closure provisions of Revised Code of Washington 70.38.115(13)(b). The 56 beds would become licensed in two phases. Phase one is the establishment of a 36-bed nursing home. Phase two is the addition of 20 nursing home beds to the facility.

Conditions:

1. Horizon House agrees with the project description as stated above. Horizon House 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. Horizon House will obtain its Medicare and Medicaid provider numbers within 60 days of the issuance of a Certificate of Need.

3. The nursing home must maintain its Medicare and Medicaid certification throughout the operation of the facility.
4. Horizon House will provide the following information related to patient days: total patient days, Medicare patient days, and Medicaid patient days. This information will be reported quarterly in the progress reports developed by the department.
5. Horizon House must not develop any policies or practices that discriminate admission of patients based on payer source.
6. Horizon House will provide to the department a final Admission Agreement for review and approval. The final agreement must include the requiring access to care language.
7. Horizon House will provide to the department an executed Medical Director Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.
8. Horizon House will provide to the department an executed Lease Agreement for review and approval. The executed agreement must be consistent with the draft agreement provided in the application.

Approved Costs:

The approved capital expenditure for this project is \$7,108,808, and is solely related to phase two of the project.

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 Horizon House 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 Briarwood Health Care is Horizon House. From November 1990 through June 21, 2005, Horizon House was an existing provider of healthcare services in Washington State. The nursing home beds have not been operational for almost eight years. [source: CN historical files] As the proposed licensee, Horizon House 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. Briarwood Health Care must also participate in the Medicare and Medicaid programs.

LCS-WP is to be responsible for management of Briarwood Health Care and day-to-day operations. LCS-WP currently operates Briarwood at Timber Ridge, a Type A CCRC nursing home in Issaquah. Because of the nature of a Type A CCRC nursing home, Briarwood at Timber Ridge:

- 1) does not admit or accept any Medicaid patients;
- 2) does not allow access to the nursing home directly from the community; rather nursing home residents must be admitted from the Timber Ridge independent or assisted living; and
- 3) offers priority access to the nursing home by residents of the Timber Ridge community.

To evaluate this sub-criterion, the department reviewed information from both the applicant and the management entity.

Admission Policy

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 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, Horizon House provided a copy of the Admission Agreement to be used at Briarwood Health Care. The Admission Agreement outlines the process for admission and roles/responsibilities for both Briarwood Health Care and the patient. The Admission Agreement does not include the required language to ensure that all residents of the

planning area would have access to the services at the nursing home. [source: January 14, 2013, supplemental information, Attachment 10]

The Admission Agreement appears to have been created specifically for this application. Since Horizon House has not operated a nursing home for eight years and LCS-WP has not created an Admission Agreement for a community-based nursing home, the department considers the document to be in draft format. If this project is approved, the department would attach condition requiring Horizon House to provide a revised Admission Agreement for review and approval. The revised agreement must include the required language to ensure that all residents of the planning area would have access to the services at the nursing home.

Medicare and Medicaid Programs

The department uses Medicare certification to determine whether the elderly would have access, or continue to have access, to services. LCS-WP, the management entity, currently contracts with Medicare and provides services to Medicare patients in the planning area.

To demonstrate compliance with this sub-criterion, Horizon House stated that Briarwood Health Care would contract with Medicare, and if this project is approved, would immediately begin the process to obtain its Medicare provider number. Financial documents provided in the application demonstrate that Briarwood Health Care would to provide services to the Medicare population. [source: Application, Exhibit 6 and Schedule A]

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. Horizon House has not operated a nursing home for eight years. As a Type A CCRC nursing home, Briarwood at Timber Ridge does not currently contract with Medicaid or provide services to Medicaid patients in the planning area.

To demonstrate compliance with this sub-criterion, Horizon House stated that Briarwood Health Care would contract with Medicaid, and if this project is approved, would immediately begin the process to obtain its Medicaid contract with the Department of Social and Health Services (DSHS). Financial documents provided in the application demonstrate that Briarwood Health Care would to provide services to the Medicaid population. [source: Application, Exhibit 6 and Schedule A]

During the review of this project, existing healthcare providers submitted comments related to access to care for Medicare and Medicaid patients. [source: Providence Senior and Community Services and Issaquah Nursing and Rehabilitation Center comments were both submitted at public hearing conducted on February 28, 2013] The comments are summarized below.

Access to Care-Medicare and Medicaid Patients

The existing nursing home associated with Timber Ridge is a Type A CCRC and is precluded from entering into a contract with DSHS for Medicaid services. When the previous Horizon House nursing home was operational, it served a small percentage of Medicaid patients. As a result, neither the applicant (Horizon House) nor the management entity (LCS-WP) has historically provided nursing home services to the Medicaid population.

For Providence Marianwood, approximately 55% of the patients are Medicaid eligible and 24% are Medicare. These two payer sources make up the majority of the patients served at the facility. Further, almost 60% of all King County nursing home patients are Medicaid eligible.

In the application, Horizon House projects to serve approximately 10.6% Medicare and 5.3% Medicaid in year 2013. These percentages are not significantly increased until year 2017, when they increase to 22.8% Medicare and 22.8% Medicaid, for a combined total of 45.6%.

If Briarwood Health Care is going to be a community based nursing home in the county, it should be required to be available and accessible to all residents of the planning area and serve a fair share of Medicare and Medicaid populations.

In response to the concerns summarized above, Horizon House provided rebuttal responses. The responses are summarized below. [source: Horizon House rebuttal documents received March 15, 2013]

Access to Care-Medicare and Medicaid Patients

It is true that, as a Type A CCRC, Briarwood at Timber Ridge does not serve the Medicaid population. If this project is approved, the new Briarwood Health Care, licensed by Horizon House, will serve both Medicare and Medicaid populations. The increase in Medicaid beds in the planning area will also improve access to care.

The projected percentages of Medicare and Medicaid are low in the first three years of operating with 36 beds (phase 1 of the project). These low percentages are the result of Horizon House opening the nursing home in phase 1 with all 36 beds that are currently operation at Briarwood at Timber Ridge. We expect to have 34 – 36 residents upon opening. Since the current Briarwood at Timber Ridge is not allowed to serve Medicaid patients, there will be no Medicaid patients upon opening. We expect Briarwood Health Care's Medicaid census to increase over time, but the increase will not be significant until the additional 20 beds are added to the facility [phase 2]. With 56 nursing home beds, Briarwood Health Care's combined Medicare and Medicaid percentage is almost 46%.

Departments Evaluation

Access to Care-Medicare and Medicaid Patients

As a Type A CCRC nursing home, Briarwood at Timber Ridge is precluded from contracting with the DSHS and receiving reimbursement for Medicaid patients. [WAC 246-310-010(16)]. As a community based nursing home, Briarwood Health Care must be available to all residents of the service area, including Medicaid. While the documents provided in the application are intended to ensure access to care for all residents of the service area, if this project is approved, the department would attach a condition to the approval requiring Horizon House to obtain its Medicare and Medicaid contracts within 60 days from the date of the Certificate of Need.

To assist in the evaluation of the concerns regarding the percentage of Medicare and Medicaid proposed at Briarwood Health Care, the department reviewed the most recent (2011) cost report data obtained from DSHS. This information included available historical Medicaid cost reports for

nursing homes, including 2011 Medicaid utilization data and summaries. The DSHS cost report information includes all Washington State skilled nursing facilities, community-based and hospital-based, eligible to provide Medicaid services for Washington State residents. For this project, the department focused on King County facilities.

In 2011, there were 52 community- or hospital-based nursing homes operating in King County. The average occupancy of the nursing homes in 2011 was 81%. The average number of Medicaid patient days compared to total patient days was 55.4%. Focusing on the two nursing home located in Issaquah, where Briarwood Health Care would be located, the average occupancy in 2011 was 86% and the average Medicaid patient days was 57.6% of total patient days.

Phase 1 of this project is the relicensure of the 36-bed Type A CCRC Briarwood at Timber Ridge to the community-based Briarwood Health Care. Since the facility is already operational as a nursing home, albeit a Type A CCRC, Horizon House is precluded from discharging any patients based on the payer source. As a result, Horizon House's rationale for a low percentage of Medicaid patients beginning in year 2013 is reasonable. However, once Briarwood Health Care obtains its Medicaid contract with DSHS, the department expects it to be available to all residents of the county, including Medicaid eligible residents. Horizon House assures that the Medicaid and Medicare percentages would increase gradually in phase 1 of the project, and increase substantially in phase 2. To ensure compliance with this sub-criterion, if this project is approved, the department would attach a condition to the approval requiring Horizon House to report its Medicare and Medicaid percentages to the Department of Health on a quarterly basis.

Another comment raised during the review of this project is priority access to Briarwood Health Care for Timber Ridge Residents. When the Type A CCRC nursing home—Briarwood at Timber Ridge—became operational, Timber Ridge CCRC residents were assured that a nursing home bed would be available if nursing home services were needed. This meant that any person that is not a resident of the CCRC could be denied access to Briarwood at Timber Ridge if a Timber Ridge resident required nursing home services. At the public hearing, representatives of Timber Ridge residents requested assurance from Horizon House that this priority access would continue at the community based nursing home—Briarwood Health Care.

This review criterion requires access to care for all residents of the service area. It does not allow for any type of withholding of services or beds to ensure priority access for any specific patient or payer source. Horizon House appropriately did not provide the requested assurances that priority access for Timber Ridge residents would be available.

Based on the source information reviewed, provided that the applicant agrees to the conditions regarding the Admissions Agreement and the requirements related to Medicare and Medicaid contracts and reporting, **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 Horizon House 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.

To evaluate this sub-criterion, the department first reviewed the assumptions used by Horizon House to determine the projected number of admissions, patient days, and occupancy of Briarwood Health Center. The assumptions used by Horizon House are summarized below. [source: Application, p26 and January 14, 2013, supplemental information, p3]

- Horizon House will lease space that is currently occupied and operated by Briarwood at Timber Ridge. All patients currently receiving nursing home services by Briarwood at Timber Ridge would be patients of Briarwood Health Center upon opening.
- Projected patient days and occupancy of Briarwood Health Center is based on the current occupancy of the Briarwood at Timber Ridge. Since the facility is operational, Briarwood Health Care expects to open with 90%-95% occupancy on day one. Years 2013 and 2014 assume no increase in patient days [12,410 projected for each year].
- Once phase 1 is completed (licensure for 36 beds) and the occupancy maintains occupancy between 90% - 95%, Horizon House intends to implement phase 2. Commencement of phase 2 is expected to occur by the end of year 2013. Completion, licensure of the 20 additional beds, is expected to occur in early 2015.
- Years 2015 through 2018 show an increase in patient days from 15,075 to 19,345. The projected occupancy is 73.8% in year 2015 with 56 licensed beds, which increases to 94.6% in 2018.

Using the assumptions stated above, Horizon House projected number of patient days and occupancy for Briarwood Health Center. The projections are shown in the table below. [source: Application, Exhibit 6]

Table 1
Briarwood Health Center
Projected Years 2013 through 2018

	2013	2014	2015	2016	2017	2018
Projected Number of Beds	36	36	56	56	56	56
Projected Number Patient Days	12,410	12,410	15,075	16,060	18,433	19,345
Project Occupancy	94.4%	94.4%	73.8%	78.6%	90.2%	94.6%

A review of the 2011 cost report data obtained from DSHS shows that the King County nursing homes operated at an average of 81% occupancy. The two nursing homes located in Issaquah operated at an average of 86% occupancy in 2011. While the projected occupancy in year 2013 and 2014 is higher than the average for 2011, it is not unreasonable because of the current occupancy of Briarwood at Timber Ridge. For projected years 2015 through 2018, Horizon House expects a steady and reasonable occupancy growth. After reviewing the assumptions and projections, the department concludes they are reasonable.

Horizon House also provided its assumptions used to project revenue, expenses, and net income for Briarwood Health Center. [source: January 14, 2013, supplemental information, pp5-6 and Attachment 6] Those assumptions are summarized below.

- Medicaid Rate: assumed at \$151.00, which is the 2012 rate for Corwin Center at Emerald Heights, another newer nursing home operating within a retirement community in east King County.
- Medicare Rate: assumed at \$536.25, which was determined using a Polaris Report created by LCS-WP’s reimbursement consultant. This rate includes the October 1, 2012 rate changes. This approach was used because Briarwood Health Care would be admitting all current Briarwood at Timber Ridge patients upon opening.
- Private Rate: assumed at Briarwood at Timber Ridge’s current rate since Briarwood Health Care would be admitting all current patients upon opening.
- Projected percentage of patient revenue by payer is shown in the chart below.

Year	Medicare Revenue	Medicaid Revenue	Other Revenue
2013	22.3%	1.9%	75.8%
2014	17.7%	4.0%	78.3%
2015	20.9%	5.6%	73.5%
2016	24.7%	4.9%	70.4%
2017	21.7%	4.5%	73.8%
2018	16.5%	4.5%	79.0%

- The largest increase in FTEs [full time equivalents] is assumed to be in the direct patient care category. The increase begins in year 2015, and continues through 2017. No increase in year 2018 is anticipated
- Overhead and support FTEs were assume to increase slightly, beginning in year 2015 and ending in year 2017. The total increase is approximately 2 FTES throughout the three years.
- Wages and salaries are expected to remain constant with 2013 amounts.
- Bad debt is assumed to equal 2.7% of gross patient revenue and is based on CY2012 annualized figures.
- Charity care percentages are expected to remain constant from CY2012 percentages at 3.3% of gross revenues.
- Payer mix is expected to change significantly beginning in year 2015 with all 56 beds licensed and operations. The projected payer mix is shown on the following page. [sources: calculated from Application, Exhibit 6, Schedule A]

Year	Medicare %	Medicaid %	Other %
2013	10.6%	5.3%	84.1%
2014	12.7%	10.6%	76.7%
2015	18.4%	18.4%	62.3%
2016	19.3%	19.3%	61.4%
2017	22.8%	22.8%	54.5%
2018	23.6%	23.6%	52.8%

*Other includes commercial and private pay

Using the assumptions stated above, Horizon House projected revenue, expenses, and net income for Briarwood Health Center. The projections are shown in the table below. [source: January 14, 2013, supplemental information, Attachments 11 and 12]

Table 2
Briarwood Health Center
Projected Years 2013 through 2018

	2013	2014	2015	2016	2017	2018
Net Revenue	\$ 3,512,740	\$ 5,035,745	\$ 6,101,835	\$ 7,053,054	\$ 7,918,584	\$ 8,054,431
Total Expenses	\$ 2,748,139	\$ 4,030,069	\$ 4,730,170	\$ 5,941,550	\$ 6,108,928	\$ 6,020,532
Net Profit / (Loss)	\$ 764,601	\$ 1,005,676	\$ 1,371,665	\$ 1,111,504	\$ 1,809,656	\$ 2,033,899

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. The ‘Total Expense’ line item also includes any lease costs consistent with the draft lease agreement between Horizon House and LCS-WP. The draft agreement outlines roles and responsibilities for both entities, and identifies all costs associated with the lease.⁵ As shown above, Horizon House projected net profits in all years shown.

In Washington State, Medicaid nursing facility rates are set by the Nursing Home Rates Section of the Office of Rates Management part of the Aging and Disability Services Administration of DSHS. 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—however defined—of 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

⁵ The terms of the lease agreement are intentionally set up to coincide with the terms of the management agreement.

- 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 July 1, 2002, 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 90%.⁶ 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 Briarwood Health Center's Medicaid reimbursement rate would be approximately \$177.81 per patient day.⁷ Within the pro forma Statement of Operations, Horizon House projected the reimbursement rate to be \$151 per patient day. [source: January 14, 2013, supplemental information, pp5-6] Therefore, the department concludes that the estimated revenues for Briarwood Health Center shown in Table 2 could be slightly understated in all years shown. Since a potential understatement of revenue would result in a better bottom line for Briarwood Health Center, the department will not recalculate the revenue and expense statement shown in Table 2 with the revised Medicaid rate.

During the review of this project, existing healthcare providers submitted comments related to this sub-criterion. [source: Providence Senior and Community Services and Issaquah Nursing and Rehabilitation Center comments were both submitted at public hearing conducted on February 28, 2013] The comments are summarized below.

Projected opening occupancy of 90% - 95%

Competitor representative calculated the 2011 average nursing home occupancy in Washington State and King County to be 80.65% and 79.88%, respectively. These calculations were the basis for concerns regarding the projected occupancy of Briarwood Health Center in years 2013 and 2014 of 90% - 95% with 36 beds.

⁶ 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. Briarwood Health Center does not meet the definition of an essential community provider.

⁷ These rate estimates are not guaranteed rate reimbursement by DSHS. [source: DSHS]

High Growth Rate in Projected Years

The historical occupancy percentages were also a basis for asserting that Horizon House projected a high utilization growth rate, with no explanation.

In response to the concerns summarized above, Horizon House provided rebuttal responses. The responses are summarized below. [source: Horizon House rebuttal documents received March 15, 2013]

Projected opening occupancy of 90% - 95%

Competitors neglect to acknowledge that Briarwood Health Center would be opening with almost 100% occupancy because the Briarwood at Timber Ridge is already operational. The occupancy percentage falls below the King County and state average once the additional 20 beds are licensed.

High Growth Rate in Projected Years

Once Briarwood Health Center is operating with 56 licensed beds (year 2015), the projected occupancy drops to 73.8% and does not reach 90% occupancy for two years. Horizon House does not consider this a high growth rate.

Departments Evaluation

Projected opening occupancy of 90% - 95%

This concern was thoroughly addressed by the applicant. Since Briarwood at Timber Ridge has been operational since 2008 and, even with the Type A CCRC patient access limitations, has consistently operated at an occupancy percentage slightly higher than the state and county. With only 36 licensed beds, a 90% occupancy means that an average of 3 beds are available on any given day. Taking into account that Briarwood Health Center would be opening with the patients currently served by Briarwood at Timber Ridge, the 90% - 95% opening occupancy is not unreasonable under these circumstances.

High Growth Rate in Projected Years

Occupancy growth at Briarwood Health Center begins in year 2015, when the additional 20 beds are licensed. The occupancy percentage drops significantly from 94.4% in 2014 to 73.8% in 2015. The increase in growth does not appear to be significantly high, reaching 78.6% in 2016 and 90.2% in 2017. The 56 bed nursing home does not return to its year 2014 occupancy of 94% until year 2018, which is four years after the 20 additional beds become operational. A 90% average occupancy of 56 beds calculates to 51 beds full and 5 open on any given day. The growth does not appear to be unreasonable.

Based on the above information, the department concludes that Horizon House's projected revenues and expenses are reasonable and can be substantiated for this application. 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 36-bed nursing home currently occupies 25,156 square feet of space. For phase 1, Horizon House expects to obtain licensure for Briarwood Health Center by assuming operations of the 36-bed nursing home of Briarwood at Timber Ridge. There is no construction or capital expenditure associated with phase 1 of this project.

Construction for phase 2 is expected to occur in year 2015 when the facility maintains an average occupancy between 90% - 95%. Construction includes the addition of 10,513 square feet and the fixed and moveable equipment to accommodate another 20 nursing home beds. Once completed, Briarwood Health Center would occupy a total of 35,669 square feet. The capital expenditure associated with phase 2 is \$7,180,808. The table below shows a breakdown of the costs. [source: Application p9 and January 14, 2013, supplemental information, Attachment 1]

**Table 3
Briarwood Health Center
Capital Expenditure Breakdown**

Item	Cost	% of Total
Construction Costs*	\$ 5,652,207	78.7%
Fixed & Moveable Equipment	\$ 247,753	3.5%
Architect & Engineering Fees	\$ 234,752	3.3%
Washington State Sales Tax	\$ 560,496	7.8%
Interim Interest ⁸	\$ 485,660	6.8%
Total Estimated Capital Costs	\$ 7,180,808	100.0%

* includes site supervision and inspection

As shown in the breakdown above, the majority of the costs are associated with the construction of the additional square footage.

To demonstrate compliance with this sub-criterion, Horizon House provided a non-binding construction cost estimate from its contractor, with the following statements.

“...Based on my expertise and experience in cost estimation for similar type projects, I conclude that the costs identified within the December 2012 certificate of need application to be reasonable.”

[source: January 14, 2013, supplemental information, Attachment 4]

⁸ Also known as ‘prepaid interest’, interim interest is interest paid before the first scheduled debt repayment. [source: www.investopedia.com]

Based on the information above, the department calculated the costs of the project per gross square foot shown in the table below.

Table 4
Briarwood Health Center
Construction Cost Breakdown

Estimated gross square footage (GSF)	35,669
Number of nursing home beds	56
Construction cost per GSF	\$158.46
Total cost per GSF	\$201.32
Total cost per bed	\$128,228.71

The department recognizes that the majority of the construction and planning for the existing 36 bed facility occurred when the Type A CCRC was established in 2005. The additional space and costs occurring in phase 2 of this project are necessary to accommodate the additional 20 beds. The construction costs for the 56 bed facility are reasonable when compared to costs to establish a new, 56-bed nursing home in a community. The costs identified above are reasonable for this type of project.

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 \$7,180,808. Because of the lease and management arrangements outlined in this application, the capital costs are to be incurred by the landlord, LCS-WP, rather than Horizon House. [source: Application, p21]

To demonstrate compliance with this sub-criterion, Horizon House provided audited financial statements for years 2009 and 2010 for LCS-WP. The financial statements include both cash flow statements and balance sheets. [source: January 14, 2013, supplemental information, Attachment 2]

After reviewing the historical statements, the department concludes that LCS-WP has adequate reserves to fund this project. The capital expenditure of \$7,180,808 is not expected to adversely impact reserves, total assets, total liability, or the general health of LCS-WP 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 Horizon House 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 concludes that the planning would allow for the required coverage.

For phase 1 of this project, Horizon House intends to maintain all current FTEs [full-time equivalents] for the 36-bed nursing home. Any increases in FTEs are expected to occur in 2015 when the additional 20 beds are operational. Horizon House expects a 27.51 increase in FTEs to accommodate the increase in patient days with an additional 20 beds. A breakdown of FTEs is shown in the table below. [source: January 14, 2013, supplemental information, Attachment 6]

**Table 5
Briarwood Health Center
2013 – 2018 Current and Projected FTEs**

Staff/FTEs	Current 2013	2014 Increase	2015 Increase	2016 Increase	2017 Increase	2018 Increase	Total FTEs
Nursing Total	25.05	0.00	4.99	8.75	1.36	0.00	40.15
Dietary Totals	6.00	0.00	2.48	4.35	0.67	0.00	13.50
Administration Totals	8.60	0.00	0.73	1.28	0.20	0.00	10.81
Other Totals	6.80	0.00	0.90	1.56	0.24	0.00	9.50
Total FTE's	46.45	0.00	9.10	15.94	2.47	0.00	73.96

Broken down into four main types of categories, Horizon House included all RNs, LPNs, and nursing assistants in the ‘nursing’ category. For ‘dietary’ totals, Horizon House included dietary aides only. ‘Administration’ totals included the administrator, activities director, director of nursing, clerical, housekeeping, and laundry personnel. ‘Other’ FTEs include medical social worker, medical records, plant engineer, and food/beverage staff.

Consultant positions are not included in the count of FTEs above. These positions include the medical director, pharmacists, physical and occupational therapists, and dieticians. While consultant positions are not currently employees of LCS-WP, they are expected to continue in the consultant capacity for this project.

As stated in the management agreement between Horizon House and LCS-WP, LCS-WP is responsible for day-to-day operations, including staffing the nursing home. Under the agreement, LCS-WP intends to ‘hire’ all current staff of Briarwood at Timber Ridge. For future years, LCS-WP does not anticipate any difficulty recruiting staff for the following reasons:

- 1) some part-time staff have already shown interest in increasing to full-time;
- 2) LCS-WP currently offers, and would continue to offer, a competitive wage/benefit package for employees;
- 3) LCS-WP offers career development opportunity for staff interested in seeking advanced certification or training.

[source: Application, p31]

In addition to the FTE table, Horizon House provided a table showing the current nursing hours per patient day at Briarwood at Timber Ridge, which is not expected to change as a result of this project. [source: Application, p31] The department compared the nursing hours per patient day with the nursing hours per patient day calculated in the 2011 cost report data for the two nursing homes operating in Issaquah—Providence Marianwood and Issaquah Nursing and Rehabilitation. That comparison is shown in the table below.

Table 6
Briarwood Health Center
Nursing Hours Per Patient Day Comparison

	RN	LPN	NA/Assistants	Total
Briarwood Care Center	1.12	1.05	3.73	5.90
Providence Marianwood	1.10	0.40	2.78	4.28
Issaquah Nursing and Rehabilitation	0.48	0.70	2.43	3.61

The comparison table indicates that Briarwood Health Center expects to serve patients with an acuity similar to Providence Marianwood. Using the table above, the department concludes that the projected nursing hours per patient day at Briarwood Health Center are reasonable.

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.

As an existing provider of healthcare services in the county, LCS-WP maintains appropriate relationships with ancillary and support services for Briarwood at Timber Ridge. For this project, Horizon House intends to contract with LCS-WP for management services and day-to-day operations. To demonstrate compliance with this sub-criterion, Horizon House submitted a copy of the draft Management Agreement between Horizon House and LCS-WP. The draft agreement does not identify an ‘effective date,’ but implies that the effective date would be on the date Horizon House obtains licensure for the 36-bed nursing home. The term of the agreement is three years, or the date that both entities agree to terminate, whichever is sooner. The agreement also outlines specific roles and responsibilities for both entities. For Certificate of Need purposes,

Horizon House must be the licensee of Briarwood Health Care and continue to be the licensee through completion of phase 2, or licensure of all 56 beds. The draft Management Agreement ensure this requirement. [source: January 14, 2013, supplemental information, Attachment 8]

As the management entity, much of the ancillary and support services would be provided by LCS-WP, such as pharmacy, laboratory, x-ray/imaging, oxygen, and some hospice services. For those services not provided by LCS-WP, Horizon House intends to work with LCS-WP's existing network of providers. [source: Application, p31 and January 14, 2013, supplemental information, p7]

Medical director services would also be provided under an agreement. Horizon House provided a copy of the draft Medical Director Agreement between LCS-WP and Catherine Jin, MD. The draft agreement identifies roles and responsibilities for both LCS-WP and Dr. Jin and includes automatic annual renewals, unless terminated. [source: January 14, 2013, supplemental information, Attachment 6]

Since both the Management Agreement and the Medical Director Agreement are in draft format, if this project is approved, the department would include a condition requiring Horizon House to submit a copy of the each executed agreement. If Horizon House agrees with the conditions regarding the draft agreements, the department would conclude that adequate ancillary and support services are available for the Briarwood Health Care. **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.

As stated in the project description portion of this evaluation, Horizon House continues to operate a senior living community with independent and assisted living units. Additionally, LCS-WP has been operating a continuing care retirement community in Washington for since 2008. As part of this review, the department must conclude that the proposed services by Horizon House, as the licensee, and LCS-WP, as the management entity, would be provided in a manner that ensures safe and adequate care to the public.⁹ To accomplish this task, the department reviewed the quality of care compliance history for all healthcare facilities either owned, operated, or managed by Horizon House or LCS-WP.

Horizon House

For Washington State, Horizon House owns and operates the 90-bed assisted living facility located at 900 University Street in Seattle.¹⁰ Horizon House does not own or operate any out-of-state healthcare facilities. Assisted living facilities are licensed by DSHS, who also performs the quality of care / compliance surveys. A review of the assisted living facility's quality of care history

⁹ WAC 246-310-230(5).

¹⁰ The assisted living facility is known as "Horizon House."

reveals a recent survey by DSHS and no outstanding non-compliance issues. [source: DSHS ALF Advanced Search]

LCS-WP

As the management entity of Briarwood Health Care, a quality of care review of LCS-WP is also necessary. As stated in the project description portion of this evaluation, the applicant--LCS-Westminster Partnership III--was established specifically to create, own, and operate the Talus continuing care retirement community. As a result, LCS-Westminster Partnership III does not own or operate any healthcare facilities in Washington or any other states.

However, as of the writing of this evaluation, the proposed management entity, LCS (which is a subsidiary of LCS-Westminster Partnership III) manages or owns independent living, assisted living, or nursing homes in 29 states and the District of Columbia.¹¹ To assist in its evaluation of this sub-criterion, the department performed a random review of the quality of care history of states where LCS owns, operates, or manages healthcare facilities. Of the 29 states, the department reviewed 16 states and the District of Columbia.¹² The department also reviewed a CMS comparison focusing on the nursing homes operated by LCS.¹³

The review showed, with the exception of one 160-bed nursing home located in McAllen, Texas, the majority of LCS facilities have an overall rating in the four-star or above category. For the Texas facility, CMS's overall rating was one star and appeared to be the result of twice the number of health deficiencies than the state average.

When the CMS rating results are reviewed with other facilities, the overall ratings can be compared. Focusing on the nursing homes located in Issaquah, both Providence Marianwood and Issaquah Nursing and Rehabilitation have over 100 licensed beds. Briarwood at Timber Ridge operates on 36 licensed beds. The CMS comparison showed that Briarwood at Timber Ridge scored high in all three ratings. The most recent quality of care survey was November 2012, and the facility had no health deficiencies; no fire and life safety deficiencies, and no staffing deficiencies. All three facilities located in Issaquah scored very well in the quality rating.

Given the compliance history of the health care facilities owned, operated, or managed by LCS or one of its subsidiaries, there is reasonable assurance that Briarwood Health Center would be operated and managed in conformance with applicable state and federal licensing and certification requirements.

¹¹ States include Arizona, Arkansas, California, Connecticut, Florida, Georgia, Indiana, Iowa, Maine, Maryland, Michigan, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and Wisconsin.

¹² States include Alabama, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Missouri, North Carolina, Oregon, Tennessee, Texas, and Washington.

¹³ CMS created the 'Five Star Quality Rating System' to help consumers, their families, and caregivers compare nursing home more easily and to help identify areas for questions to the nursing home. Nursing homes with five stars are considered to have much above average quality and nursing homes with one star are considered to have quality much below average. There is one overall five-star rating for each nursing home, and a separate rating in the areas of health inspection, staffing, and quality measures. [excerpted from the CMS website]

Current Briarwood at Timber Ridge Staff

Since the nursing home is already operational and Horizon House intends to begin operations with the current staff, the department required Horizon House to provide the names of the key staff of Briarwood at Timber Ridge. The key staff included five credentialed staff: nursing home administrator, medical director, director of nursing, MDS coordinator, and nursing supervisor. A review of the compliance history for all five staff show no recorded sanctions. [source: Compliance history provided by Medical Quality Assurance Commission]

During the review of this project, one entity express concerns related to this sub-criterion. The comments are summarized below by topic. [February 28, 2013, public hearing comments]

Quality of care history of Horizon House's assisted living facility

Horizon House states that it has an 'excellent' quality of care history, but did not disclose that it had received two separate letters from DSHS imposing civil fines for the boarding home [assisted living]. The June 2010 letter identifies a \$100 fine and the December 2011 letter identifies a \$600 fine. This information should have been disclosed by Horizon House in the application.

Ongoing investigation for Briarwood at Timber Ridge

During the public comment portion of the public hearing conducted on February 28, 2013, one entity asserted that Briarwood at Timber Ridge is under investigation by Center for Medicare and Medicaid Services (CMS) for Medicare billing practices. Other than the statement, no written documentation was submitted to support this assertion.

In response to the concerns summarized above, Horizon House provided rebuttal responses. The responses are summarized by topic below. [source: Horizon House rebuttal documents received March 15, 2013]

Quality of care history of Horizon House's assisted living facility

Horizon House is a quality provider with 8 years of operational experience. Our assisted living facility operates under the regulations of Washington State and the model of care has been embraced by DSHS and survey teams. The two letters referenced in Exhibit 9 [of the public comments] resulted in a quality improvement process at the assisted living facility that was validated by follow up surveys.

Ongoing investigation for Briarwood at Timber Ridge

Horizon House has worked with LCS-WP over the past week to verify or refute the claim of an ongoing CMS investigation. After more than a week, LCS-WP attests that it is unaware of any pending or in-process investigations by CMS. In fact, LCS-WP is not aware of any grievances or complaints submitted to any licensing agency in regard to the operation of Briarwood at Timber Ridge that have been substantiated. LCS-WP has not received any notice from any regulatory agency or any investigation, inquiry, or other oversight of facility practices and it is further prepared to attest that there have been no findings or wrongdoing by any federal or state agency.

Departments Evaluation

Quality of care history of Horizon House's assisted living facility

This review criterion is intended to ensure a providers intent to operate in compliance with state and federal regulations. It is not intended to result in a denial of any provider that has a less than 100% quality of care survey. To assist in the review of this assertion, the department reviewed the quality of care history of all assisted living facilities (ALFs) in King County. Statistically speaking, there are more than 600 ALFs in Washington State, and of those, 149 are located in King County. The number of beds in the King County ALFs range from 5 to 190, with an average at 50-70 beds. Of the 149 ALFs in King County, 51 facilities, or 34.2%, had received a least one 'enforcement letter' from DSHS.

Focusing on the 51 facilities, including the Horizon House ALF, most had one or two enforcement letters; a few had enforcement letters identifying repeat violations, which indicates a pattern of non-compliance. Horizon House did not fit in this category. The department also noted that Horizon House's ALF has not had an enforcement letter since December 2011.

Based on the information above, the department concludes that the two enforcement letters associated with Horizon House's ALF do not indicate a pattern of non-compliance by Horizon House or that the nursing home would not be operated in compliance with state and federal requirements.

Ongoing investigation for Briarwood at Timber Ridge

There was no written information provided for this topic; rather, comments and inferences were made at the public hearing. Both Horizon House and LCS-WP researched the topic and were unable to substantiate the claim of an investigation that is in-process or pending.

The department also researched the topic. According to information provided by the DSHS, there is no current CMS investigation at Briarwood at Timber Ridge. [source: April 1, 2013, e-mail from DSHS] As a result, this assertion could not be substantiated.

Based on this information, the department concludes there is reasonable assurance that Horizon House will operate Briarwood Health Center in compliance with state and federal requirements. There is also reasonable assurance that LCS-WP will manage Briarwood Health Center's day-to-day operations in compliance with state and federal 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 materials in the application.

In response to this criterion, Horizon House stated that LCS-WP has already established long term relationships with healthcare entities in the Issaquah community and King County. Even though Horizon House would be the licensee of the nursing home, LCS-WP would be managing the facility and would continue will those relationships. [source: Application, p33]

The department also considered Horizon House’s history of providing healthcare services to residents in Washington State. The department concludes that the applicant has been providing these services in Washington since 2008 and has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [source: CN historical files]

The department also considered LCS-WP’s history of providing healthcare services to residents in the state. LCS-WP has been operating the Type A CCRC since February 2008 and the nursing home associated with the CCRC since April 2008. LCS-WP has been appropriately participating in relationships with community facilities to provide a variety of medical services. Nothing in the materials reviewed by staff suggests that approval of this project would change these relationships. [source: 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. Further, Horizon House demonstrated would continue to have appropriate relationships to the service area's existing health care system within the planning area. **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 Horizon House has met the cost containment criteria in WAC 246-310-240.

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

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

If the project met WAC 246-310-210 through 230 criteria, the department would move to step two in the process and assess the other options the applicant or applicants considered prior to submitting the application under review. If the department determines the proposed project is better or equal to other options the applicant considered before submitting their application, the

determination is either made that this criterion is met (regular or expedited reviews), or in the case of projects under concurrent review, move on to step three.

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

Step One

For this project, Horizon House 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 moves to step two below.

Step Two

As stated in the project description portion of this evaluation, on June 21, 2005, Horizon House discharged its last resident from the 56-bed nursing home and received Certificate of Need approval to bank its 56 nursing home beds for eight years under the full facility closure provisions of RCW 70.38.115(13)(b). The eight year bed banking on the 56 beds at Horizon House expires on June 21, 2013. A Certificate of Need must be issued to Horizon House in order to preserve the rights to relicense the beds.

Before submitting this application, Horizon House considered and rejected two options. The two options and the rationale for rejection are below. [source: Application, p34]

Do Nothing

This option would mean that the bed banking would expire on June 21, 2013, and Horizon House would lose its ability to unbank the beds in the future. Horizon House indicates there is a need for additional nursing home beds in the county, and this project is an opportunity to meet the need for additional capacity. This option was rejected.

Unbank the beds and operate them at Horizon House location on First Hill in Seattle

Horizon House states that this option was given much consideration before rejection. Horizon House concluded that this option would require a significant amount of capital since the nursing beds would have to be located in already occupied space. Horizon House would also have to relocate current services, which may require additional construction and capital costs. For these reasons, this option was rejected.

Department's Review of Options

Once Horizon House concluded that it wanted to unbank the 56 beds, there is no other option than to submit a Certificate of Need application. No other options were identified by the department.

Step Three

This step is used to determine between two or more approvable projects which is the best alternative. This step does not apply to this project.

No public comments were submitted for this sub-criterion.

Based on the requirement of Horizon House to submit an application to unbank the 56 beds, the department concludes that that this option is the best alternative. **This sub-criterion is met.**

- (2) In the case of a project involving construction:
 - (a) The costs, scope, and methods of construction and energy conservation are reasonable; and
This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2). Based on that evaluation, the department concludes that this sub-criterion is met.
 - (b) The project will not have an unreasonable impact on the costs and charges to the public of providing health services by other persons.
This sub-criterion is evaluated within the financial feasibility criterion under WAC 246-310-220(2) and is 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 community of Issaquah. The department is satisfied the project is appropriate and needed. This sub-criterion is met.