



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

June 20, 2014

Robert Kenevan, MD
Avalon Clinic for Cosmetic Surgery
6103 Mount Tacoma Drive Southwest
Lakewood, Washington 98499

RE: DOR #14-27

Dear Dr. Kenevan:

The Department of Health has completed the review of your exemption request regarding the proposed ambulatory surgery center in Lakewood, within Pierce County. Below is the information considered and the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding your project.

INFORMATION CONSIDERED

- Ambulatory Surgery Center (ASC) exemption application received May 15, 2014
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Washington Secretary of State and Department of Revenue information obtained from the respective websites
- Department of Health external provider look-up
- Department of Health Integrated Licensing and Regulatory System (ILRS)
- Certificate of Need historical files

FACTS CONSIDERED

- Avalon Lakewood, PLLC has been an active Washington State corporation since December 2003. The corporation has one governing member: Robert Kenevan.
- Avalon Lakewood, PLLC is also registered with the Department of Revenue.
- Avalon Clinic for Cosmetic Surgery is not a registered corporation in Washington State.
- According to the Avalon Clinic website, Avalon Clinic has one practice site located at 6103 Mount Tacoma Drive Southwest in Lakewood, within Pierce County.
- The exemption application identifies three physicians that would have access to the proposed ASC. The physicians are listed on the following page.

Name	Credential Status	Practice Status
David A. Ekland	Active	100% Employee
Myles E. Goldflies	Active/on Probation	100% Employee
Louis David Potyondy	Active	20% Contracted Employee

- The application indicates that, as the owner of the practice and the proposed ASC, you do not intend to use the ASC.
- The proposed ASC would be operated under the corporation known as Avalon Lakewood, PLLC.
- Procedures to be performed at the ASC are those typically associated with cosmetic plastic surgery, such as breast augmentation or reduction, rhinoplasty, and liposuction.
- The proposed ASC would not be operated under a management agreement.

CONCLUSION

New health care facilities are subject to Certificate of Need review. [RCW 70.38.105(4)(a)] Facilities subject to review include ambulatory surgical facilities. [RCW 70.38.025(6)] Such facilities are defined by WAC 246-310-010(4) to mean:

[A]ny free-standing entity, including a ambulatory surgery center that operates primarily for the purpose of performing procedures to treat patients not requiring hospitalization. The term does not include a facility in the offices of private physicians, or dentists, whether in individual or group practice, if the privilege of using the facility is not extended to physicians or dentists outside the individual of group practice.

The proposed ASC does not qualify for the exemption in the second sentence of WAC 246-310-010(4). This conclusion is based on the following information provided in the application.

- The ASC would be used by a physician that is not at least 75% employed by the practice. Dr. Potyondy spends approximately 80% of his time at the Sonobello practice in Tacoma.¹
- Additionally, it is unclear from the documents obtained from the licensure section of Department of Health whether Dr. Goldflies' physician license is suspended. The status of the physician license must be clarified before an exemption is considered.

Accordingly, the ASC is subject to prior Certificate of Need review and approval before it is established. This conclusion is consistent with prior Certificate of Need decisions. Enclosed is a copy of the Certificate of Need rules, (WAC 246-310), regulations (RCW 70.38), and a blank application form should you wish to pursue this project.

¹ DOR #13-23.

APPEAL OPTION

This decision may be appealed. Your appeal option is identified below.

Appeal Option:

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

Mailing Address:

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

Other Than By Mail

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

If you have any follow up questions or require clarification of this determination conclusion, you can call me directly at 360-236-2957 or e-mail me at karen.nidermayer@doh.wa.gov. Note that I am out of the office beginning June 23 and will return on July 7.

Sincerely,



Karen Nidermayer, Analyst
Certificate of Need Program
Community Health Systems