



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

September 21, 2015

Greg Brockbank, DPM
Spokane Foot Clinic
123 West Francis
Spokane, Washington 99205

RE: DOR #15-19

Dear Dr. Brockbank:

The Department of Health (department) has completed the review of your request under Washington Administrative Code (WAC) 246-310-050 for exemption regarding the proposed ambulatory surgery center in Spokane, within Spokane 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 November 6, 2014
- Revised Ambulatory Surgery Center exemption application received May 11, 2015.
- 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)

FACTS CONSIDERED

- Spokane Foot Clinic, PS has been registered with the Secretary of State office as an active Washington State corporation since October 17, 1983. The corporation is also registered with the Department of Revenue.
- Northwest Surgery Center, Inc. has been registered with the Secretary of State office as an active Washington State corporation since March 11, 1988. The corporation is also registered with the Department of Revenue.
- According to Certificate of Need historical files, Spokane Foot Clinic, PS did not request an exemption for the surgery center prior to its establishment in 1988.

- Spokane Foot Clinic, PS and Northwest Surgery Center, Inc. have the same four governing persons. The governing persons are listed below.

Governing Person	Title
Gregory Brockbank	President/Chairman
James Porter	Secretary
Marcia Romney	Treasurer
Katie Swanstrom	Vice President

- The November 2014 ambulatory surgery center exemption application identifies three of the four governing persons listed above have ownership in the clinical practice known as Spokane Foot Clinic, PS. Below is a summary of each person's credential status, percentage of ownership, and percentage of time employed at the Spokane Foot Clinic, PS group practice.

Physician	Credential Status	Percentage of Ownership	% of time employed
Gregory Brockbank, DPM	Active	33%	100%
James Porter, DPM	Active	33%	100%
Katie Swanstrom, DPM	Active	33%	100%

- The ambulatory surgery center exemption application also identifies the same three physician would use the surgery center known as Northwest Surgery Center, Inc.
- The proposed ASC would be operated under the separate corporation of Northwest Surgery Center, Inc.
- Procedures to be performed at the ASC are those typically associated with podiatry.
- The proposed ASC would not be operated under a management agreement.

CONCLUSION

Ambulatory surgery facilities (ASF), subject to CN review, are defined in WAC 246-310-010(5) to mean *“any free-standing facility, including an ambulatory surgery center that operates primarily for the purpose of performing surgeries not requiring hospitalization. The term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice if the facility is not extended to physicians or dentists outside the individual or group practice.”*

The proposed ASC does not qualify for the exemption in the first sentence of WAC 246-310-010(4) because the ASC would be operated under a separate legal entity from the group practice corporation. 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. Since it is already established and operating without a valid exemption, timely submission of a Certificate of Need application is necessary.

Greg Brockbank, DPM
Spokane Foot Clinic
DOR #15-19
September 21, 2015
Page 3 of 3

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.

APPEAL OPTION

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

Mailing Address:

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

Physical Address

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

If you have any questions or you would like to arrange for a meeting or conference call to discuss this decision, please call me at (360) 236-2955.

Sincerely,



Janis R. Sigman, Manager
Certificate of Need Program
Community Health Systems

Enclosure

cc: Department of Health, Investigations and Inspections Office
Department of Health, Construction Review Services