



STATE OF WASHINGTON

DEPARTMENT OF HEALTH

PO Box 47852•Olympia, Washington 98504-7852

March 26, 2013

Kevin Sweeny, Chief Medical Officer
Providence Physician Services, Co.
101 West 8th Avenue
Spokane, Washington 99204

RE: Ambulatory Surgery Facility Exemption
Determination of Reviewability #13-03

Dear Mr. Sweeny:

The department has completed the review of your exemption request regarding the proposed construction of an ambulatory surgery center at the Providence Medical Park in Spokane Valley. 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 submitted August 21, 2012
- Revised physician listing submitted March 20, 2013
- Employment/practice site information from Providence website “find a provider” for physicians stated to use proposed ASC. (Revised List)
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Department of Health Construction Review Services (CRS) records
- Secretary of State (SoS) information obtained from its website
- Department of Revenue (DoR) information obtained from its website
- Department of Health (DoH)-external provider look-up
- Department of Health (DoH)-Integrated Licensing & Regulatory System (ILRS)
- Previous Certificate of Need (CoN) ASC determinations
- Aerial view of Proposed ASC location-Bing
- Centers for Medicare & Medicaid Services (CMS) website information regarding ASC procedures.
- Letter from Valley Hospital and Medical Center received October 09, 2012
- Findings of Fact, Conclusions of Law and Order Granting Summary Judgment, dated January 30, 2007. Docket No. 06-07-C-2001CN
- Superior Court of the State of Washington for Thurston County, Letter Opinion dated November 29, 2007. Case No. 07-2-00433-2.
- Court of Appeals Division II Unpublished Opinion dated November 12, 2008. Docket No. 37157-0-II

Facts Considered

- The proposed ASC will be located at 16808 E Desmet Ct., Spokane Valley, WA 99216. It will have 4 operating rooms and 3 endoscopy procedure rooms.
- Once completed, the proposed ASC will not be added or included as part of the license of any of Providence's hospitals.
- Only Providence Physician Services, Co. physicians will have access to the ASC. Providence identified 27 physicians that are expected to use the ASC. With the exception of Dr. Chad Harbour, the program was able to verify that the physicians were employed by Providence. Although Dr. Harbour is shown to be located at Providence's 820 S. McClellan site, his profile on Providence's "find a provider" website does not denote him as being employed by Providence. Therefore, Dr. Harbour would be excluded from using the ASC until Providence provided evidence of his employment.
- The 27 physicians have practice sites at eleven different locations in Spokane. Each of the physicians listed will have office space available at the Spokane Valley ASC site. [See Attachment A]
- The procedures proposed include Gynecological, Orthopedic, Gastroenterology endoscopic, ENT, general surgery, breast, vascular, urologic, and pediatric surgery.
- The ASC will not a separate legal structure from Providence Physician Services, Co.
- No management agreement is proposed

CONCLUSION

Based on the totality of information considered by the Department and consistent with previous hospital owned physician group DoRs the Department concludes the proposed ASC would be exempt from Certificate of Need review with the condition that Dr. Harbour not use the facility until Providence has provided the Department evidence of his employment by Providence.

This exemption is not transferable and the conclusions reached concerning this proposed ASC are based on the facts about this facility and it should not be assumed the Department would reach the same conclusion in future exemption requests for other future ASCs.

If changes are made in the operation or ownership of this proposed ASC that would cause the ASC to longer be eligible the exemption prior Certificate of Need review and approval or new exemption would be required. Examples of such changes include the following. This list is not intended to be all inclusive.

- The ASC is to be licensed as part of one of Providence's hospitals;
- The scope of services be expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020;
- The provision of any procedure as identified under WAC 246-310-705 (4);
- The ASC is operated under a management agreement;
- The ASC is moved to a different site than identified in your exemption request;
- Use of the ASC is extended to any physician not a member or employed by Providence Physician Services, Co.
- ASC patients are routinely transferred from the ASC for observation care at one of the area's hospitals.

APPEAL OPTIONS

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

Appeal Option 1:

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

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

Appeal Option 2:

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

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Department of Health	Department of Health
Adjudicative Service Unit	Adjudicative Service Unit
Mail Stop 47879	111 Israel Road SE
Olympia, WA 98504-7879	Tumwater, WA 98501

Please call me at (360) 236-2956 if you have any questions regarding this determination.

Sincerely,



Janis R. Sigman, Manager
Certificate of Need Program
Health Professions & Facilities

Enclosure

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

DOR#13-03 ATTACHMENT A

Verified Providence Employed Physician [Providence website “Find a Provider”] 3.21.2013	
315 W 9th Ave., Suite 200 Spokane WA 99204 <ul style="list-style-type: none"> • Jonathan F. Kalisvaart, MD • Nancy T. Starr, MD 	212 E Central Ave., Suite 440 Spokane, WA 99208 <ul style="list-style-type: none"> • Philip M. Coff, MD • Eashen Liu MD • Wichit Srikureja MD
122 W 7th Ave., Suite 420 Spokane, WA 99204 <ul style="list-style-type: none"> • Joseph A. Davis MD • Gregory K. Luna MD • Stephen P. Murray MD • Ryan D. Nachreiner MD • Thomas R. Pellow MD • M. Kathleen Reilly MD (Primary) 	212 E Central Ave., Suite 245 Spokane, WA 99208 <ul style="list-style-type: none"> • Joseph A. Davis MD • Gregory K. Luna MD • Stephen P. Murray MD • Ryan D. Nachreiner MD • Thomas R. Pellow MD • M. Kathleen Reilly MD
122 W 7th Ave., Suite 410 Spokane, WA 99204 <ul style="list-style-type: none"> • Gregory K. Luna MD • Stephen P. Murray MD • Thomas R. Pellow MD 	820 S McClellan St. Suite 300 Spokane, WA 99204 <ul style="list-style-type: none"> • Erica M. Burns MD • Eric J. Bowton MD • James N. Dunlap • Andrew T.G. Howlett MD • Russell N. Oakley MD • Arnold G. Peterson MD • D. Scott Redman MD
105 W 8th Ave., Suite 150E Spokane, WA 99204 <ul style="list-style-type: none"> • Jamil Abou-Harb MD • Monica M. Zherebtsov, MD 	105 W 8th Ave., Suite 1000 Spokane WA 99204 <ul style="list-style-type: none"> • Okechukwu N. Ojogho MD (primary)
101 W 8th Ave., Suite L1-100 Spokane WA 99204 <ul style="list-style-type: none"> • Winston K. Chan MD • Keith E. Georgeson MD • Diane McCarthy MD • Paul C. Thorne MD 	105 W 8th Ave., Suite 7040 Spokane WA 99204 <ul style="list-style-type: none"> • Okechukwu N. Ojogho MD • Eashen Liu MD • Wichit Srikureja MD
101 W 8th Ave., Suite 1300 Spokane WA 99204 <ul style="list-style-type: none"> • Steven R. Brisbois MD 	

Non-Providence Employed Physician [Providence website “Find a Provider”] 3.25.2013
<p>Chad Harbour MD: According to physician profile on Providence’s website, Dr. Harbour is located at 820 S. McClellan, Suite 300. It also notes that he is not a Providence employed provider. He is a WA licensed physician however DOH internal licensing information (ILRS) has this physician’s address is in LaCrosse WI.</p>