



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

Certificate of Need Program
111 Israel Road Southeast – MS 4-7852
Olympia, Washington 98504

April 3, 2018

James Rifenberg, MD
Soundview Ambulatory Surgery Center
5001 Soundview Drive, #156
Gig Harbor, Washington 98335

RE: Determination of Reviewability [DOR] 17-16 Reconsideration

Dear Dr. Rifenberg:

The Department of Health has completed its reconsideration review of your exemption request regarding the establishment of an ambulatory surgery facility (ASF) in Gig Harbor, within Pierce County. For the reasons stated below, the ambulatory surgery facility to be located at 5801 Soundview Drive, #156 in Gig Harbor Washington and operating exclusively as an ASF on Thursdays and Fridays, from 8:00am to 5:00pm for a total of 16 hours each week does not meet the definition of an ASF requiring a Certificate of Need. The same location will operate exclusively as a clinic on Mondays, Tuesdays, and Wednesdays from 8:00 am to 5:00 pm for a total of 28 hours.

Below is the information considered and the facts relied upon by the Department of Health's Certificate of Need Program in reaching its conclusion regarding your project.

INFORMATION CONSIDERED

- Ambulatory Surgery Facility (ASF) exemption application received February 17, 2017
- Supplemental information received March 28, 2017
- October 2, 2017, Request for Reconsideration
- Supplemental information received September 21, 2017, January 5, 2018, February 14, 2018, March 15, 2018, and March 20, 2018
- Department of Health's Construction Review Services documentation for CRS #6074370
- 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)
- Department of Health Construction Review Services Application #60740370
- Location information for the site in Gig Harbor and the site in Tacoma obtained from the internet
- Certificate of Need historical files

FACTS CONSIDERED

- On August 4, 1995, Center for Minimally Invasive Surgery, PLLC was established as a corporation with the Washington Secretary of State's office.¹ [source: Washington Secretary of State documents]
- Center for Minimally Invasive Surgery, PLLC has been registered with the Washington State Department of Revenue since August 1, 1995. [source: Department of Revenue website]
- On August 15, 2014, James Riftenbery, MD received an ambulatory surgery facility (ASF) exemption approval for a time share arrangement with three physicians associated with Aesthetic Surgery Center.²
- Center for Minimally Invasive Surgery, PLLC had one practice site at 1802 Yakima Avenue, #202 in Tacoma, within Pierce County. Services provided at this practice site include "office visits and minor procedures." This practice site was closed December 11, 2017.
- The new ASF will be known as Soundview Ambulatory Surgery Center.
- The ASF will be located at 5801 Soundview Drive in Gig Harbor, within Pierce County. Services provided at the ASF include hernia and gall bladder surgery. A listing of services to be provided at the ASF is included in the supplemental information.
- As a solo practice, only the owning physician, James Riftenbery, MD, will use the ASF.
- The ASF will be operated under the practice corporation of Center for Minimally Invasive Surgery, PLLC.
- The ASF will not be operated under a management agreement or a time share agreement.
- On February 23, 2017, an Ambulatory Surgical Facility License Application was submitted to obtain licensure of the ASF.
- Hours of operation for the surgery center are to be Thursdays and Fridays, from 8:00am to 5:00pm for a total of 16 hours each week. The clinic will be open Mondays, Tuesdays, and Wednesdays from 8:00 am to 5:00 pm for a total of 28 hours each week.
- No management agreement is proposed.

CONCLUSION

Based on the totality of information considered, the department concludes the proposed ASF would be exempt from Certificate of Need review. This exemption is not transferable and the conclusions reached concerning this proposed ASF 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 ASFs.

CHANGES THAT MAY EFFECT THIS DECISION

If changes are made in the operation or ownership of this proposed ASF, the ASF may no longer be eligible for this exemption. In that case, 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.

- Changes in hours or days the site is used exclusively as an ASF.
- The scope of services is expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020.

¹ UBI #601648700.

² Determination of Reviewability #14-31.

- The scope of services is expanded beyond the services as identified in the Certificate of Need exemption application.
- The provision of any procedure as identified under WAC 246-310-705(4).
- The ASF is operated under a management agreement.
- The ASF is organized as a separate legal entity from the practice or obtains a separate UBI number from Center for Minimally Invasive Surgery, PLLC.
- The ASF is moved to a different site than identified in the exemption application.
- Use of the ASF is extended to any physician who is not a member/owner or employed by Center for Minimally Invasive Surgery, PLLC.³
- Use of the ASF is extended to any physician that is an independent contractor.
- The ASF obtains a new or separate Medicare certification from the clinical practice.
- The ASF ceases operations or relinquishes its Medicare certification and then chooses to resume services as an ASF.
- The ASF or the practice is purchased or leased.
- A joint venture is formed that includes the ASF.
- ASF patients are routinely transferred from the ASF for observation care at one of the area's hospitals.

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 on the following page.

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

³ Employed physicians must be employed by Center for Minimally Invasive Surgery, PLLC a minimum of 75% and perform their full range of services through Center for Minimally Invasive Surgery, PLLC.

James Rifenberg, MD, Soundview Ambulatory Surgery Center
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If you have any questions or would like to arrange for a meeting to discuss this decision, please call me at (360) 236-2955.

Sincerely,

A handwritten signature in blue ink that reads "Janis R. Sigman". The signature is written in a cursive, flowing style.

Janis Sigman, Manager
Certificate of Need Program
Community Health Systems