



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

January 29, 2019

David Birdsall, President
Seattle Pain Relief, PLLC
35002 Pacific Highway South, #105
Federal Way, Washington 98003

RE: Determination of Reviewability #19-11

Dear Dr. Birdsall:

The Department of Health has completed its review of your exemption request regarding Seattle Pain Relief, PLLC's ambulatory surgical facility (ASF) to be located in Seattle within King County. Seattle Pain Relief, PLLC's ASF will be located at Fifth Avenue Medical Associates Building at 10564 – 5th Avenue Northeast, #205, in Seattle [98125]. Seattle Pain Relief, PLLC's ASF will provide surgical procedures every Tuesday and Friday from 8:00 a.m. to 5:00 p.m. for total of 18 hours every week. It will operate as a clinical practice every Monday, Wednesday, and Thursday. For the reasons stated below, the ASF it does not meet the definition of an ASF requiring a Certificate of Need.

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

INFORMATION CONSIDERED

- Ambulatory Surgery Center (ASC) exemption application received December 20, 2018
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Department of Health Office of Community Health Systems Interpretive Statement #CN 01-18
- Washington Secretary of State and Department of Revenue information obtained from the respective websites
- Department of Health Integrated Licensing and Regulatory System (ILRS)
- Seattle Pain Relief, LLC website: <http://www.seattlepainrelief.com>
- Department of Health Construction Review Services project #60898438¹
- Department of Health Certificate of Need Program historical files

¹ It is noted that this Construction Review Services project is a technical assistance review that was completed as of December 13, 2018.

FACTS CONSIDERED

- Seattle Pain Relief, PLLC has been registered with the Washington Secretary of State's office since June 2012.
- Seattle Pain Relief, PLLC has been registered with the Department of Revenue since July 2012.
- Seattle Pain Relief, PLLC is proposing to establish a practice with an associated ASF at Fifth Avenue Medical Associates Building at 10564 – 5th Avenue Northeast, #205, in Seattle, within King County.
- Based on the line drawings submitted with the application, Seattle Pain Relief, PLLC will have one operating/procedure room.
- Services to be provided in the operating/procedure room will be pain management.
- Seattle Pain Relief, PLLC is a group practice that is 90% owned by David Birdsall, DC and 10% owned by Alexey Ryskin, MD. Of the two owners, only Alexey Ryskin, MD will use the ASF
- Physicians that would use the ASF are listed below along with the credentialing information and practice status. Future owners or employees may have access to the surgery center.²

Name	Credential #	Credential Status	Practice Status	Percent of Time
David Michael Birdsall	CH00034882	Active/Probation	90% owner	Will Not Use ASF
Alexey A. Ryskin	MD60323495	Active	10% owner	100%
Robert Francis Bowers, III	MD60846740	Active	Employee	100%

- The procedures provided at Seattle Pain Relief, PLLC include those typically associated with pain management, such as nerve blocks and joint injections.
- The ASF will not be operated as a separate legal entity from Seattle Pain Relief, PLLC.
- Seattle Pain Relief, PLLC hours of operation for the ASF is every Tuesday and Friday from 8:00 a.m. to 5:00 p.m. for total of 18 hours every week. It will operate as a clinical practice every Monday, Wednesday, and Thursday.
- No management agreement is proposed.
- Seattle Pain Relief, PLLC will apply for a license for the ASF.

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 be assumed the department would reach the same conclusion in future exemption requests for other future ASFs.

² Employed physicians must be employed by Seattle Pain Relief, PLLC a minimum of 75% and perform their full range of services through Seattle Pain Relief, PLLC.

CHANGES THAT MAY AFFECT 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 may 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 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.
- 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 Seattle Pain Relief, 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 Seattle Pain Relief, PLLC.
- 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.

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

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

Sincerely,

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

Janis Sigman, Manager
Certificate of Need Program
Community Health Systems