

STUDEBAKER | NAULT

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November 17, 2022

VIA E-MAIL U.S. MAIL

Eric Hernandez, Program Manager
Department of Health
Certificate of Need Program
111 Israel Road S.E.
Tumwater, Washington 98501

Sent via e-mail: fslcon@doh.wa.gov

Re: EBS Washington, PLLC

Dear Mr. Hernandez:

Our office represents EBS Washington, PLLC (“Elite Body Sculpture”). Pursuant to WAC 246-310-050, Elite Body Sculpture is requesting from the Washington State Department of Health (the “Department”) a formal determination of the applicability of the certificate of need review requirements at chapter 70.38 RCW to its proposed facility.

Please find enclosed a “Certificate of Need Application, Determination of Reviewability Ambulatory Surgery Center/Facility” completed by Elite Body Sculpture regarding its facility. A check from Elite Body Sculpture in the amount of the \$1,925.00 review fee has been sent to the Department under separate cover.

Please advise us at your earliest convenience whether this application is deemed complete. If the Department requires additional information for this application, please promptly advise.

Thank you in advance for your consideration. We look forward to working with you on this matter.

Department of Health
November 17, 2022
Page 2

Regards,

STUDEBAKER NAULT, PLLC

A handwritten signature in cursive script, appearing to read "E. Studebaker".

Emily R. Studebaker

Enclosures

cc: Ron Zelhof, Chief Operating Officer



Ambulatory Surgery Center/Facility Certificate of Need Determination of Reviewability Packet

Contents:

1.	260-014	Contents List/Mailing Information.....	1 Page
2.	260-014	Definitions.....	2 Pages
3.	260-014	Instructions.....	1 Page
4.	260-014	Determination of Reviewability Form.....	3 Page
5.	RCW/WAC and Website Links.....		1 Page

Submission Instructions:

- One electronic copy of your application, including any applicable attachments – no paper copy is required.
- A check or money order for the review fee of \$1,925 payable to Department of Health.

Include copy of the signed cover sheet with the fee if you submit the application and fee separately. This allows us to connect your application to your fee. We also strongly encourage sending payment with a tracking number.

Mail or deliver the application and review fee to:

Mailing Address:

Department of Health
Certificate of Need Program
P O Box 47852
Olympia, Washington 98504-7852

Other Than By Mail:

Department of Health
Certificate of Need Program
111 Israel Road SE
Tumwater, Washington 98501

Contact Us:

Certificate of Need Program Office 360-236-2955 or FSLCON@doh.wa.gov.

Definitions

The Certificate of Need (CN) Program will use the information you provide to determine if your project meets the applicable review criteria. These criteria are included in state law and rules. Revised Code of Washington ([RCW 70.38](#)) and Washington Administrative Code ([WAC 246-310](#)).

“Primary purpose” is defined as the majority of income or patient visits for the site,* inclusive of all clinical services provided at the site, are derived from the specialty or multi-specialty surgical services. [Department of Health website, frequently asked questions](#), informed by the licensing rules definition for ambulatory surgical facility.

*The site subject to a determination of reviewability is limited to a specific, physical address where an entity under single ownership provides or will provide specialty or multispecialty surgical services. A site whose “primary purpose” is specialty or multispecialty surgical services is required to obtain a certificate of need.

“Ambulatory surgical facility” or **“ASF”** means any free-standing entity, including an ambulatory surgery center that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using the facility is not extended to physicians or dentists outside the individual or group practice. [WAC 246-310-010\(5\)](#)

“Ambulatory surgical center” or **“ASC”** is also a term for a facility that provides ambulatory surgical procedures. The Centers for Medicare and Medicaid use this term for billing purposes. CN review is not required for an ambulatory surgical center unless it also fits the definition of an ambulatory surgical facility in [WAC 246-310-010\(5\)](#).

“Ambulatory surgical facility” or **“ASF”** as defined by licensing rules, and relied on by the CN Program for consistency, means any distinct entity that operates for the primary purpose of providing specialty or multispecialty outpatient surgical services in which patients are admitted to and discharged from the facility within twenty-four hours and do not require inpatient hospitalization, whether or not the facility is certified under Title XVIII of the federal Social Security Act. An ambulatory surgical facility includes one or more surgical suites that are adjacent to and within the same building as, but not in, the office of a practitioner in an individual or group practice, if the primary purpose of the one or more surgical suites is to provide specialty or multispecialty outpatient surgical services, irrespective of the types of anesthesia administered in the one or more surgical suites. An ambulatory surgical facility that is adjacent to and within the same building as the office of a practitioner in an individual or group practice may include a surgical suite that shares a reception area, restroom, waiting room, or wall with the office of the practitioner in an individual or group practice. [WAC 246-330-010\(5\)](#)

“Change of ownership” as defined by licensing rules, and relied on by the CN Program, is defined as (a) A sole proprietor who transfers all or part of the ambulatory surgical facility's ownership to another person or persons; (b) The addition, removal, or

substitution of a person as a general, managing, or controlling partner in an ambulatory surgical facility owned by a partnership where the tax identification number of that ownership changes; or (c) A corporation that transfers all or part of the corporate stock which represents the ambulatory surgical facility's ownership to another person where the tax identification number of that ownership changes. [WAC 246-330-010\(8\)](#)

“Person” means an individual, a trust or estate, a partnership, any public or private corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district. [WAC 246-310-010\(42\)](#)

Instructions

General Instructions:

- Include a table of contents for sections and appendices/exhibits
- Number **all** pages consecutively
- **Do not** bind or 3-hole punch the application.
- Make the narrative information complete and to the point.
- If any sections are not large enough to contain your response, please attach additional pages as necessary. Ensure that any attached pages are clearly labeled with the applicable question or section.

- If any of the documents provided in the form are in draft format, a draft is acceptable only if it includes the following elements:
 - a. identifies all entities associated with the agreement,
 - b. outlines all roles and responsibilities of all entities,
 - c. identifies all costs associated with the agreement, and
 - d. includes all exhibits that are referenced in the agreement.
 - e. any agreements in draft form must include a document signed by both entities committing to execute the agreement as submitted following CN approval.


Do not skip any questions. If you believe a question is not applicable to your project, provide rationale as to why it is not applicable.

**Certificate of Need
Determination of Reviewability
Ambulatory Surgical Facility and Ambulatory Surgery Center
(Do not use this form for any other type of ASC/F project)**

Certificate of Need submissions must include a fee in accordance with Washington Administrative Code [\(WAC\) 246-310-990](#).

The Department of Health (department) will use this form to determine whether my ambulatory surgical center or facility requires a Certificate of Need under state law and rules. Criteria and consideration used to make the required determinations are Revised Code of Washington [\(RCW\) 70.38](#) and Washington Administrative Code [\(WAC\) 246-310](#). I certify that the statements in the submissions are correct to the best of my knowledge and belief. I understand that any misrepresentation, misleading statements, evasion, or suppression of material fact in this application may be used to take actions identified in [WAC 246-310-500](#).

My signature authorizes the department to verify any responses provided. The department will use such information as appropriate to further program purposes. The department may disclose this information when requested by a third party to the extent allowed by law.

Owner/Operator Name of the surgical facility as it appears on the UBI/Master Business License EBS Washington, PLLC	
Clinical Practice UBI #: 604 516 110 Surgery Center UBI #: 604 516 110	Federal Tax ID (FEIN) # 84-3187964
Mailing Address 1200 Broadway, Suite 715 Nashville, TN 37203	Surgery Center Address 500 108th Ave NE, Suite 1F2 Bellevue, WA 98004
Website Address: elitebodysculpture.com	
Phone number (10-digit): (206) 602-3699	Email Address: rzelhof@elitebodysculpture.com
Name and Title of Responsible Officer (Print): Ron Zelhof, Chief Operating Officer	Signature of Responsible Officer:  Date of Signature: November 10, 2022
Identify the purpose of your request:	
<input type="checkbox"/> New Facility	<input type="checkbox"/> Facility Expansion – Operating Room Increase
<input type="checkbox"/> Change of Ownership	<input type="checkbox"/> Facility Expansion – Service Increase
<input type="checkbox"/> Facility Relocation	<input checked="" type="checkbox"/> Other (please provide a letter describing)

Existing Facility Status

Complete for all applications concerning existing facilities

1. The CN Program previously determined the facility was not subject to CN Review (if yes, attach DOR letter)

Yes No

2. If this request is for a change in ownership provide the following information:

Current facility's name	
Current facility's address	
Current facility's license number	ASF.FS.
Current facility's Certificate of Need status	<input type="checkbox"/> Exempt DOR# _____
	<input type="checkbox"/> Approved CN# _____
Anticipated change of ownership month and year	

3. If this request is for the relocation of an existing facility, provide the following information:

Current facility's address	
Anticipated relocation month and year	

Facility Information

4. Although you are not required to apply for an ASF license before a CN determination is issued, have you or do you intend to, apply for a license?*

Yes, intend to apply No
 Yes, here is the facility's license #ASF.FS. _____

*Your answer to this question will allow the CN program to effectively coordinate the licensure process with other DOH offices.

- 5.

Number of existing operating and procedure rooms:	2
Number of new operating and procedure rooms:	
Total:	2

For Certificate of Need purposes operating and procedure rooms are one in the same.

Clinical and Surgical Services

6. Check all surgical procedures currently performed in the facility.

Ear, Nose, & Throat Gynecology Oral Surgery
 Plastic Surgery Gastroenterology Maxillo facial
 Orthopedics Podiatry General Surgery
 Ophthalmology Pain Management Urology
 Other (describe)
 This is a new facility, no surgical procedures are currently performed

Check all new surgical procedures proposed to be performed in the facility

- | | | |
|---|---|--|
| <input type="checkbox"/> Ear, Nose, & Throat | <input type="checkbox"/> Gynecology | <input type="checkbox"/> Oral Surgery |
| <input checked="" type="checkbox"/> Plastic Surgery | <input type="checkbox"/> Gastroenterology | <input type="checkbox"/> Maxillo facial |
| <input type="checkbox"/> Orthopedics | <input type="checkbox"/> Podiatry | <input type="checkbox"/> General Surgery |
| <input type="checkbox"/> Ophthalmology | <input type="checkbox"/> Pain Management | <input type="checkbox"/> Urology |
| <input type="checkbox"/> Other (describe) | | |

Primary Purpose of the Facility

- The Certificate of Need Program must understand how a facility operates in order to determine the facility's primary purpose. Typically, governance documents can aid the department in this understanding. These could be in the form of operating agreements, shareholder agreements, or corporate governing documents. Provide any documentation that could aid in this understanding.
- A facility that receives more than 50% of their income or 50% of their visits from surgeries is subject to CN requirements. In order to determine if your project is subject to CN review, please provide the current (existing facility) and proposed (new facility) percentages of income and visits for clinical and surgical services. Include all assumptions used to determine the percentages provided.

This site's revenue	Most recent full year of operation Year: <u>2021</u>	Projected first full year of operation after the proposed changes Year: <u>2022</u>
Total revenue for clinical services	6,521,474	6,521,474
Total revenue for surgical services	0	0
Total revenue	6,521,474	6,521,474

This site's patient visits	Most recent full year of operation Year: <u>2021</u>	Projected first full year of operation after the proposed changes Year: <u>2022</u>
Total clinical patient visits	4,673	4,673
Total surgical patient visits	481	481
Total patient visits	5,154	5,154

Certificate of Need Program Revised Code of Washington (RCW) and Washington Administrative Code (WAC)

Certificate of Need Program laws [RCW 70.38](#)

Certificate of Need Program rules [WAC 246-310](#)

References	Title/Topic
246-310-010	Certificate of Need Program —Definitions
246-310-270	Certificate of Need Program —Ambulatory Surgery
Interpretive Statement CN 01-18	Certificate of Need Program – Interpretation of WAC 246-310-010(5), Definition of Ambulatory Surgical Facility

Licensing Resources:

[Ambulatory Surgical Facilities Laws, RCW 70.230](#)
[Ambulatory Surgical Facilities Rules, WAC 246-330](#)
[Ambulatory Surgical Facilities Program Web Page](#)

Construction Review Services Resources:

[Construction Review Services Program Web Page](#)

Phone: (360) 236-2944

Email: CRS@doh.wa.gov

APPENDIX A



WASHINGTON
Secretary of State
Corporations & Charities Division

Filed
Secretary of State
State of Washington
Date Filed: 09/28/2022
Effective Date: 09/28/2022
UBI #: 604 516 110

Annual Report

BUSINESS INFORMATION

Business Name:

EBS WASHINGTON, PLLC

UBI Number:

604 516 110

Business Type:

WA PROFESSIONAL LIMITED LIABILITY COMPANY

Business Status:

ACTIVE

Principal Office Street Address:

500 108TH AVE NE STE 1F2, BELLEVUE, WA, 98004-5676, UNITED STATES

Principal Office Mailing Address:

1200 BROADWAY APT 715, NASHVILLE, TN, 37203-4664

Expiration Date:

09/30/2023

Jurisdiction:

UNITED STATES, WASHINGTON

Formation/Registration Date:

09/25/2019

Period of Duration:

PERPETUAL

Inactive Date:

Nature of Business:

PROVISION OF MEDICAL SERVICES

REGISTERED AGENT [RCW 23.95.410](#)

Registered Agent Name	Street Address	Mailing Address
C T CORPORATION SYSTEM	711 CAPITOL WAY S STE 204, OLYMPIA, WA, 98501-1267, UNITED STATES	711 CAPITOL WAY S STE 204, OLYMPIA, WA, 98501-1267, UNITED STATES

PRINCIPAL OFFICE

Phone:

Email:

DHOPKINS@ELITEBODYSULPTURE.COM

Street Address:

500 108TH AVE NE STE 1F2, BELLEVUE, WA, 98004-5676, USA

Mailing Address:

1200 BROADWAY APT 715, NASHVILLE, TN, 37203-4664, USA

GOVERNORS

Title	Type	Entity Name	First Name	Last Name
GOVERNOR	INDIVIDUAL		AARON	ROLLINS, M.D.

NATURE OF BUSINESS

PROVISION OF MEDICAL SERVICES

EFFECTIVE DATE

Effective Date:

09/28/2022

CONTROLLING INTEREST

1. Does this entity own (hold title) real property in Washington, such as land or buildings, including leasehold improvements?

NO

2. In the **past 12 months**, has there been a transfer of at least 16-2/3 percent of the ownership, stock, or other financial interest in the entity?

NO

a. If "Yes", in the **past 36 months**, has there been a transfer of controlling interest (50 percent or greater) of the ownership, stock, or other financial interest in the entity?

NO

3. If you answered "Yes" to question 2a, has a controlling interest transfer return been filed with the Department of Revenue?

NO

You **must** submit a Controlling Interest Transfer Return form if you answered "yes" to questions 1 **and** 2a.

Failure to report a Controlling Interest Transfer is subject to penalty provisions of [RCW 82.45.220](#).

For more information on **Controlling Interest**, visit www.dor.wa.gov/REET.

RETURN ADDRESS FOR THIS FILING

Attention:

Email:

NCLEMENTS@MWE.COM

Address:

1180 PEACHTREE ST NE STE 3350, SUITE 3350, ATLANTA, GA, 30309, USA

UPLOAD ADDITIONAL DOCUMENTS

Do you have additional documents to upload? **No**

EMAIL OPT-IN

By checking this box, I hereby opt into receiving all notifications from the Secretary of State for this entity via email only. I acknowledge that I will no longer receive paper notifications.

AUTHORIZED PERSON

I am an authorized person.

Person Type:

INDIVIDUAL

First Name:

NICOLE

Last Name:

CLEMENTS

Title:

PARALEGAL

This document is hereby executed under penalty of law and is to the best of my knowledge, true and correct.