



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

March 8, 2016

Maurice Sherman, MD
Athenix Physicians Group Northwest, PLLC
636 – 120th Avenue Northeast, #202
Bellevue, Washington 98005

Dear Dr. Sherman:

RE: DOR 16-17

The Department of Health has completed its review of your exemption request regarding the establishment of an ambulatory surgery center in Bellevue, within King County. 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 Center (ASC) exemption application received December 24, 2015
- Supplemental information received March 4, 2016¹
- 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)
- Certificate of Need historical files

FACTS CONSIDERED

- On October 26, 2015, Athenix Physician Group Northwest, PLLC established the professional corporation with the Washington Secretary of State's office.
- Currently Athenix Physician Group Northwest, PLLC is governed by one member: John Bullis, MD. [source: Secretary of State website]
- Athenix Physician Group Northwest, PLLC has been registered with the Washington State Department of Revenue since January 1, 2013. [source: Department of Revenue website]

¹ Supplemental information provided during a telephone conversation with Ms. Elana Zana, Attorney.

- On June 20, 2013, the Certificate of Need Program issued an exemption for the establishment of an ambulatory surgery center associated with Athenix Physician Group Northwest, PLLC. The surgery center is located at 636 – 120th Avenue Northeast, #202 in Bellevue [98005], within King County.²
- Athenix Physician Group Northwest, PLLC will undergo a change of ownership from sole owner John Bullis, MD, to a new sole owner, Maurice Sherman, MD. This action requires a new exemption approval for the new owner.
- The ASC will remain at the current site and be operated under the practice corporation of Athenix Physician Group Northwest, PLLC.
- At this time, one physician intends to use the ASC. Future owners or employees may have access to the ASC.³ A table with specific physician credentialing information and practice association is below.

Name	Credential Status	Practice Status	Percent of Time
Gavin M. Dry	Active on Probation ⁴	Employee	100%

- The procedures proposed include those typically associated with cosmetic and plastic surgery, such as breast augmentation and abdominoplasty. A listing of common procedures is included in the exemption application.
- Athenix Physician Group Northwest, PLLC contracts with a separate corporation for management services. A copy of the management agreement was provided in the application.
- The management corporation is Northwest Surgical Development Company, Inc., which is governed by James Clark and James Haefner, both of Aliso Viejo, California. [source: Washington Secretary of State website]

CONCLUSION

Based on the totality of information considered, the department concludes the proposed ASC would be exempt from Certificate of Need review. 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, the ASC 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.

² DOR #13-41.

³ Employed physicians must be employed by Athenix Physician Group Northwest, PLLC a minimum of 75% and perform their full range of services through Athenix Physician Group Northwest, PLLC.

⁴ Department of Health data shows a closed case [M2014-1219] related to Dr. Dry's license #00035648.

- The scope of services is 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 organized as a separate legal entity from the practice.
- The ASC is moved to a different site than identified in the exemption application.
- Use of the ASC is extended to any physician who is not a member/owner or employed by Athenix Physician Group Northwest, PLLC.
- Use of the ASC is extended to any physician that is an independent contractor.
- The ASC obtains a new or separate Medicare certification from the clinical practice.
- The ASC ceases operations or relinquishes its Medicare certification and then chooses to resume services as an ASC.
- The ASC or the practice is purchased or leased.
- ASC patients are routinely transferred from the ASC 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

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,



Janis Sigman, Manager
Certificate of Need Program
Community Health Systems

cc: Elana Zana, Attorney, Ogden Murphy Wallace Law Firm