



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
Olympia, Washington 98504

August 31, 2017

James Rifenberg, MD
Center for Minimally Invasive Surgery, PLLC
1102 South Yakima Avenue, #202
Tacoma, Washington 98405

RE: Determination of Reviewability [DOR] 17-16

Dear Dr. Rifenberg:

The Department of Health (Department) has completed its review of your exemption request regarding the establishment of an ambulatory surgery center in Gig Harbor, within Pierce County. For the reasons stated below, the Department concludes that you must obtain a Certificate of Need (CN) for your proposed ambulatory surgical center as required by Revised Code of Washington (RCW) 70.38.105. 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.

APPLICABLE LAW

RCW 70.38.105 requires a CN for construction, development, or other establishment of new health care facilities. RCW 70.38.025(6) includes ambulatory surgical facilities in the definition of health care facilities. Under WAC 246-310-010(5), the Department defines ambulatory surgical facilities as follows:

"Ambulatory surgical facility" 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."

INFORMATION CONSIDERED

- Ambulatory Surgery Center (ASC) exemption application received February 17, 2017
- Supplemental information received March 28, 2017
- 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

INFORMATION CONSIDERED (continued)

- 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

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. [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 Rifenberg, MD received an ambulatory surgery center (ASC) exemption approval for a time share arrangement with three physicians associated with Aesthetic Surgery Center.¹
- This application proposes the establishment of a new ASC in Gig Harbor. The new ASC would be owned and operated by James Rifenberg, MD. If approved, Dr. Rifenberg would no longer operate under a time share agreement with Aesthetic Surgery Center.
- Center for Minimally Invasive Surgery, PLLC has 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."
- The ASC will be known as Soundview Ambulatory Surgery Center.
- The ASC will be located at 5801 Soundview Drive in Gig Harbor, within Pierce County. Services provided at the surgery center include hernia and gall bladder surgery. A listing of services to be provided at the surgery center is included in the supplemental information.
- As a solo practice, only the owning physician, James Rifenberg, MD, will use the ASC.
- The ASC will be operated under the practice corporation of Center for Minimally Invasive Surgery, PLLC.
- The ASC 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 surgery center.

CONCLUSION

The ASC, to be known as Soundview Ambulatory Surgery Center, is subject to the statutory requirement to obtain a CN. It does not conform to the exemption to the definition of an ambulatory surgical facility because it will be a new free-standing ambulatory surgery center operating primarily for the purpose of performing surgical procedures. Therefore, you must submit a CN application if you intend to implement your proposal.

¹ Determination of Reviewability #14-31.

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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:

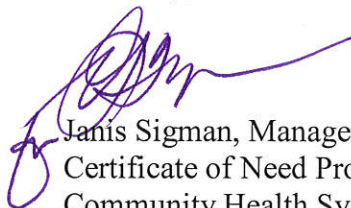
Department of Health
Adjudicative Service Unit
Mail Stop 47879
Olympia, WA 98504-7879

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: Department of Health, Construction Review Services