



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

April 26, 2011

Harold Kelly, President and CEO
Puget Sound Kidney Centers
1005 Pacific Avenue
Everett, Washington 98201

Dear Mr. Kelly:

Thank you for your March 21, 2011, letter requesting a Determination of Reviewability (DOR) related to Puget Sound Kidney Centers (PSKC) proposed relocation of PSKC-Whidbey Island. Below are the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding your proposed relocation project.

FACTS

- On May 25, 2004, PSKC was issued Certificate of Need (CN) #1284 approving the establishment of the four-station dialysis center known as PSKC-Whidbey Island. The facility became operational in March 2005 at the approved location of 430 Southeast Midway Boulevard in Oak Harbor, within Island County.
- On April 10, 2006, PSKC was issued CN #1327 approving the addition of two stations to PSKC-Whidbey Island, for a facility total of six. The dialysis center remained at its Midway Boulevard location in Oak Harbor. The project was complete in April 2006.
- PSKC-Whidbey Island has remained in continuous operation at its current location since its inception in March 2005.
- On March 23, 2011, the Certificate of Need Program received this request from PSKC's consultant related to the proposed relocation of PSKC-Whidbey Island. The March 23 request provides the following information.
 - The new site is on the same property as the existing site. According to the postmaster, the address of the site will remain at 430 Southeast Midway Boulevard in Oak Harbor. Information obtained by the CN Program demonstrates that the current site and proposed site are both located in Island County planning area as defined in Washington Administrative Code (WAC) 246-310-280(9).
 - The existing facility would cease operation once the relocated facility was operational.
 - No break in dialysis services would occur as a result of the relocation
 - The relocated facility would continue to operate with six dialysis stations, and no new stations would be added in conjunction with the relocation.



ANALYSIS

- Revised Code of Washington (RCW) 70.38.105(4) identifies the types of projects subject to prior Certificate of Need review and approval. Subsection (a) identifies that the construction, development, or other establishment of a new health care facility is subject to CON review. RCW 70.38.025(6) defines “health care facility” to include kidney disease treatment centers.
- WAC 246-310-289 allows for relocation of a kidney disease treatment center within the same planning area [as defined in WAC 246-310-280(9)] without undergoing prior Certificate of Need review and approval, provided the following five requirements are met.
 - (a) The existing facility ceases operation;
 - (b) No new stations are added to the replacement facility;
 - (c) There is no break in service between the closure of the existing facility and the operation of the replacement facility;
 - (d) The existing facility has been in operation for at least five years at its present location; and
 - (e) The existing facility has not been purchased, sold, or leased within the past five years.

CONCLUSION

Based on the above factual information, the Certificate of Need Program concludes that the proposed relocation of PSKC-Whidbey Island qualifies for a relocation exemption under WAC 246-310-289. You may proceed with the relocation of PSKC-Whidbey Island without further Certificate of Need approvals.

This determination of non-reviewability does not constitute approval under any other local, federal, or state statute, or implementing rules and regulations. Examples where additional approval may be necessary include, but are not limited to, construction plan approval through the Construction Review Section of the Department of Health, facility licensing/certification through the Department of Social and Health Services or Department of Health, and other federal or local jurisdiction permits.

We monitor projects until completed or the expiration date, whichever occurs last. We do this with quarterly progress reports. Near the end of June 2011, you will receive a progress report to complete and return.

APPEAL OPTIONS

This decision may be appealed. The two appeal options are listed below.

Appeal Option 1:

You or any interested or affected person may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington

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Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Department of Health	Department of Health
Certificate of Need Program	Certificate of Need Program
Mail Stop 47852	310 Israel Road SE
Olympia, WA 98504-7852	Tumwater, WA 98501

Appeal Option 2:

You or any affected 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 following addresses:

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Adjudicative Service Unit	Adjudicative Clerk Office
Mail Stop 47879	310 Israel Road SE, Building 6
Olympia, WA 98504-7879	Tumwater, WA 98501

Please call me at (360) 236-2957 if you have any questions regarding this determination.

Sincerely,



Karen Nidermayer, Analyst
Certificate of Need Program
Office of Certification and Technical Support

cc: Department of Health, Investigations and Inspections Office
Jody Carona, Health Facilities Planning and Development