



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

November 8, 2013

Thomas Krech, Chief Operating Officer
Aesthetic Physicians PC dba Sonobello
8900 East Pinnacle Peak Road, #E200
Scottsdale, Arizona 85255

DOR #14-13-Tacoma

Dear Mr. Krech:

The Department of Health has completed its review of your exemption request regarding the proposed construction of an ambulatory surgery center in Tacoma within Pierce County. Below is the information considered and the facts relied upon by the department's Certificate of Need Program in reaching its conclusion regarding your project.

INFORMATION CONSIDERED

- Ambulatory Surgery Center (ASC) exemption application submitted October 7, 2013
- Supplemental information received November 1, 2013¹
- 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)

FACTS CONSIDERED

- Aesthetic Physicians, PC is an active corporation governed by Eduardo Avila, MD and Thomas Krech. [source: Secretary of State website]
- On April 1, 2009, Aesthetic Physicians, PC registered with the Washington State Department of Revenue [source: Department of Revenue website]
- Aesthetic Physicians, PC has two Washington State practice sites. The two sites are identified on the following page.

¹ Supplemental information submitted by Adam Snyder, attorney with Ogden Murphy Wallace PLLC.

| Address | City | Zip Code |
|---|---------------|--------------|
| 1200 – 112 th Avenue Northeast, #C-154 | Bellevue | 98004 |
| 3209 South 23rd Street, #170 | Tacoma | 98405 |

- Aesthetic Physicians, PC intends to establish an exempt ASC at the practice site in Tacoma, identified in bold above.
- The exempt ASC would be operated under the corporation of Aesthetic Physicians, PC and under the trade name of ‘Sonobello.’
- The exemption application indicates that two physicians would use the ASC. Both physicians are employees of Aesthetic Physicians, PC. Information regarding both physicians is below.

| Name | Credential Status | Partner or Employed | % of Time Employed by Practice |
|-----------------------------------|-------------------|---------------------|--------------------------------|
| Louis David Potyondy ² | Active | Employee | 80% |
| Scott C. Sattler | Active | Employee | 80% |

- No other entity would have ownership of the proposed ASC.
- Procedures to be performed at the ASC are laser assisted tumescent liposuction using minimal sedation without IV sedation or general anesthesia.
- Aesthetic Physicians, PC contracts with a separate corporation for management services. The management corporation is Body Contour Centers, LLC, which is governed by Christofer Michael Par [source: Secretary of State website]
- A copy of the management Services Agreement between Aesthetic Physicians, PC dba Sonobello and Body Contour Centers, LLC, was provided in the application. The agreement became effective February 25, 2012, and identifies a 10 year term.

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 On January 8, 2013, Dr. Potyondy received a Certificate of Need exemption for the establishment of an ASC associated with his practice. The Certificate of Need Program will notify Dr. Potyondy of the impact of this decision on his own practice exemption.

- 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 of the practice or at least 75% employed by Aesthetic Physicians, PC.
- 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 to a hospital for observation care.

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 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.

Mailing Address:

Department of Health
Certificate of Need Program
Mail Stop 47852
Olympia, WA 98504-7852

Other Than By Mail

Department of Health
Certificate of Need Program
111 Israel Road SE
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:

Mailing Address:

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

Other Than By Mail

Department of Health
Adjudicative Service Unit
111 Israel Road SE
Tumwater, WA 98501

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If you have any questions regarding the exemption approval, you may call me at 360-206-2957.

Sincerely,



Karen Nidermayer, Analyst
Certificate of Need Program
Community Health Services

cc: Department of Health, Investigations and Inspections Office
ASF #60386753
Department of Health, Construction Review Services
Adam Snyder, Attorney w/ Ogden Murphy Wallace, PLLC