



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

March 12, 2015

Elana Zana, Attorney
Ogden Murphy Wallace, PLLC
902 Fifth Avenue, #3500
Seattle Washington 98164

Dear Ms. Zana:

RE: DOR 15-23

The Department of Health (DOH) has completed its review of Yakima Valley Memorial Hospital Association's (YMHA) Determination of Reviewability (DOR) request. The DOH's Certificate of Need (CON) Program considered the information below in reaching its conclusions.

INFORMATION CONSIDERED

- Determination of Reviewability received December 31, 2014
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Certificate of Need #1496 issued to Yakima Urology Associates, PLLC on January 18, 2013
- Application, supplemental documents, and the Department of Health evaluation for Certificate of Need application #12-31
- Certificate of Need historical files

FACTS CONSIDERED

- On June 1, 1998, Yakima Urology Associates, PLLC was granted an exemption for the development of an ambulatory surgery center (ASC) within the group practice and used exclusive by group practice members.
- On April 24, 2012, Yakima Urology Surgery Center submitted a Certificate of Need application proposing to establish an ASC in Yakima, within Yakima County by opening up its exempt ASC to other physicians.
- On December 27, 2012, the Department of Health released its conditional approval of the project.
- On January 18, 2013, Yakima Urology Surgery Center agreed to the conditions related to the approval, and Certificate of Need #1496 was issued.

- According to your December 31, 2014, letter, Yakima Valley Memorial Hospital Association intends to purchase the assets of Yakima Urology Associates, PLLC, which includes the CON, approved ASC Yakima Urology Surgery Center.
- Yakima Valley Memorial Hospital Association intends to convert the freestanding ASC located at 2500 Racquet Lane #150, Yakima Washington to a hospital based ASC operated under the umbrella of the hospital license.

CONCLUSION

Your DOR requests confirmation of the three separate statements. Below is a restatement of each and the department's response.

No new Certificate of Need is required for this transaction

Response: A new CON is generally not required for the sale or purchase of a CON approved ambulatory surgery center. There may be instances however where the sale would require CON review. That decision would be based on how the ASC was licensed. Additionally, when a CON approved facility is purchased, the new owners are also acquiring the obligations to meet any and all conditions the CON placed on that facility. For example, the ASC location, number of operating/procedure rooms, or limits on types of surgical procedures performed.

Following close of the transaction, Yakima Valley Memorial Hospital Association will possess the Certificate of Need associated with Yakima Urology Surgery Center.

Response: Once Yakima Urology Associates, PLLC is purchased by YVMHA its assets including CN #1496 will be owned by YVMHA. As stated earlier, YVMHA will also be acquiring the obligations to meet any and all conditions the CON placed on that facility. After the purchase CN #1496 remains in effect. A detached, provider based ASC must have its own CON regardless of whether the hospital chooses to operate it under the hospital's license umbrella.

If Yakima Valley Memorial Hospital Association decides to sell or change the billing of Yakima Urology Surgery Center, Yakima Valley Memorial Hospital Association will not have to reapply for a Certificate of Need because #1496 will still apply.

Response: Whether a new CON would be required if YVMHA decided to sell the ASC in the future would depend on the CON requirements at that time. Additionally, whether a new CON would be required if YVMHA decided to change the billing of the ASC in the future would depend on the CON requirements at that time and consideration of other changes anticipated in the operation of the ASC.

This determination is not transferable and the conclusions reached are based on the facts about this facility and it should not be assumed the department would reach the same conclusion in future requests. If other changes are made in the operation or ownership of Yakima Urology Surgery, this conclusion may become invalid. Below are other actions that may invalidate this conclusion.

- The scope of services is expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020.
- Change in site of the ASC.
- Expansion of the number of approved general or special procedure operating rooms.
- The provision of any procedure as identified under WAC 246-310-705(4).
- The ASC is moved to a different site than identified in the exemption application.
- 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 using the appeal option listed below.

Appeal Option 1:

You 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 below.

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 regarding this decision, you can call me at (360) 236-2955.

Sincerely,



Janis Sigman, Manager
Certificate of Need Program
Community Health Systems

cc: Department of Health, Investigations and Inspections Office
Department of Health, Construction Review Services