



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

September 25, 2015

Louis Potyondy, MD
Aesthetica Clinique, LLC
801 Pacific Avenue
Tacoma, Washington 98402

Dear Dr. Potyondy:

RE: DOR 16-02

The Department of Health has completed its review of your exemption request regarding the establishment of an ambulatory surgery center in Tacoma, within Pierce 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 exemption application received August 13, 2015
- Supplemental information received September 18, 2015
- 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)
- Aesthetica Clinique Certificate of Need facility file
- Certificate of Need historical files

FACTS CONSIDERED

- On September 7, 2012, Aesthetica Clinique, LLC established the professional limited liability corporation with the Washington State Secretary of State's office. That corporation is governed by one individual: Louis Potyondy.
- Aesthetica Clinique, LLC has been registered with the Washington State Department of Revenue since September 1, 2012.
- On January 8, 2013, the Certificate of Need Program issued a solo practice exemption to Aesthetica Clinique, LLC approving the establishment of an ambulatory surgery center in

Tacoma, within Pierce County. At that time, the surgery center would be located at the practice site of 801 Pacific Avenue in Tacoma.¹

- On February 18, 2014, the Certificate of Need Program notified Aesthetica Clinique, LLC that the January 8, 2013, exemption approval was no longer valid. This conclusion was based on an exemption approval issued to Aesthetic Physicians, PC dba Sonobello on November 8, 2013. Louis Potyondy, MD was identified as an employee of Aesthetic Physicians, PC dba Sonobello.²
- On October 7, 2014, the Certificate of Need Program issued an exemption to Avalon Clinic for Cosmetic Surgery located at 6103 Mount Tacoma Drive Southwest in Lakewood [98499]. Within the exemption application, Louis Potyondy, MD was identified as an employee of Avalon Clinic for Cosmetic Surgery.³ Documentation provided in the exemption request demonstrated that Dr. Potyondy was no longer employed or associated with Sonobello.
- On August 31, 2015, representatives from Avalon Clinic for Cosmetic Surgery notified me of the unexpected passing of the owner of Avalon Clinic—Robert Kenevan, MD. Dr. Kenevan passed on August 22, 2015. The clinic, including the surgery center, closed on August 31, 2015.⁴
- With the closure of Avalon Clinic for Cosmetic Surgery, Dr. Potyondy has elected to establish his own practice and surgery center located at 801 Pacific Avenue in Tacoma. This application proposes to establish an exempt ASC under the solo practice corporation of Aesthetica Clinique, LLC.
- The practice and the surgery center will remain at the current location of 801 Pacific Avenue in Tacoma [98402].
- The procedures proposed include those typically associated with cosmetic and reconstructive plastic surgery.
- The ASC will not be operated as a separate legal entity from the Aesthetica Clinique, LLC which is a solo practice.
- No other physicians will use the surgery center.
- No management agreement is proposed.

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.

¹ Determination of Reviewability (DOR) #13-23.

² DOR #14-13.

³ DOR #15-13.

⁴ While the Avalon Clinic website indicates that the facility may still be operational; the answering service verified closure of the facility.

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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.

- Changes in the legal structure of the practice or ASC.
- 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 outside of the Aesthetica Clinique, LLC solo 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 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 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, Investigations and Inspections Office