



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

February 6, 2017

Mark Nelson, MD Executive Officer
Sound Retina, PS
2245 South 19th Street
Tacoma, Washington 98405

RE: Determination of Reviewability [DOR] 16-25

Dear Dr. Nelson:

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 (ASC) exemption application received March 14, 2016
- Supplemental information received April 22, 2016
- E-mails from Rebecca Reitingner, consultant for Sound Retina, received June 1, 2016, July 29, 2016, and October 7, 2016,
- Revised ASC exemption application received December 20, 2016
- 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)
- Department of Health Construction Review Services Application #60648943
- Sound Retina, PS website at www.soundretina.com
- Certificate of Need historical files

FACTS CONSIDERED

- Sound Retina, PS has been registered with the Washington Secretary of State's office since January 22, 2010. The corporate structure includes two governors: Anthony Truxal, MD and Mark L. Nelson, MD.

- Sound Retina, PS has been registered with the Department of Revenue since July 1, 2010.
- With this application, Sound Retina, PS intends to establish an ambulatory surgery center (ASC) in Tacoma, within Pierce County. The address of the practice and the surgery center is 2245 South 19th Street in Tacoma [98405]. The clinical practice is located on ½ of the first floor and the entire second floor. The surgery center is located in the remaining ½ of the first floor.
- The ASC will be operated under the practice corporation and Unified Business Identifier [UBI] number of Sound Retina, PS.¹
- At this time, three physicians intend to use the ASC. Future owners or employees may have access to the ASC.² A table with specific physician credentialing information and practice association is in the table below.

Name	Credential Status	Practice Status	Percent of Time
Mark L. Nelson	Active	50% Owner	100%
Anthony R. Truxal	Active	50% Owner	100%
Kenneth H. Fung	Active	Employee	100%

- The procedures proposed at the surgery center include those typically associated with ophthalmology procedures.
- The ASC will not be operated as a separate legal entity from the Sound Retina, PS. practice.
- 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.

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.

- The scope of services is expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020.
- The scope of services is expanded beyond the services as identified in the Certificate of Need exemption application.
- The provision of any procedure as identified under WAC 246-310-705(4).
- The ASC is operated under a management agreement.

¹ Sound Retina, PS UBI number is 602985022.

² Employed physicians must be employed by Sound Retina, PS a minimum of 75% and perform their full range of services through Sound Retina, PS.

- The ASC is organized as a separate legal entity from the practice or obtains a separate UBI number from Sound Retina, PS.
- 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/owner or employed by Sound Retina, PS.
- Use of the ASC is extended to any physician that is an independent contractor.
- The ASC obtains a new or separate Medicare certification from the clinical 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 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,



for Janis Sigman, Manager
Certificate of Need Program
Community Health Systems