



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

November 26, 2012

Sarah McMillan, MD
Yarrow Bay Plastic Surgery
5209 Lake Washington Boulevard Northeast, #115
Kirkland, Washington 98033

Dear Dr. McMillan:

Thank you for your October 29, 2012, application for an exemption from Certificate of Need for the establishment of an ambulatory surgery center (ASC) to be known as Yarrow Bay Plastic Surgery Center, LLC. Below are the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding this project.

FACTS

- Sarah E. McMillan, MD, PLLC is a solo practice corporation governed solely by one member—Sarah E. McMillan, MD. [source: Secretary of State website]
- Yarrow Bay Plastic Surgery Center, LLC is a separate corporation governed solely by one member—Sarah E. McMillan, MD. [source: Secretary of State website]
- The practice of Sarah E. McMillan, MD, PLLC currently has one site at 5209 Lake Washington Boulevard Northeast, #115 in Kirkland [98033], within King County.
- You intend to establish an exempt ASC at the Lake Washington Boulevard practice site.
- At this time, only one physician would have access to the proposed ASC—Sarah E. McMillan, MD. Information related to the physician is listed below.

Name	Credential Status	% of Time Employed by Practice
Sarah E. McMillan	Active	100% - sole owner

- Procedures to be performed at the ASC include those surgeries typically associated with plastic surgery, such as scar revisions, facial surgeries, and liposuction. A common listing of procedures was provided within the exemption application.
- The exemption application indicates that no management agreement for the ASC is proposed.

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” as *hospices, hospice care centers, hospitals, psychiatric hospitals, nursing homes, kidney disease treatment centers, ambulatory surgical facilities, and home health agencies, and includes such facilities when owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include any health facility or institution conducted by and for those who rely exclusively upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or any health facility or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services; and (c) if not contrary to federal law as necessary to the receipt of federal funds by the state.*
- Washington Administrative Code (WAC 246-310-010) defines “ambulatory surgical facility” as *any free-standing entity, including an ambulatory surgery center, that operates primarily for the purpose of performing surgical procedures to treat patients not requiring hospitalization. This term does not include a facility in the offices of private physicians or dentists, whether for individual or group practice, if the privilege of using such facility is not extended to physicians or dentists outside the individual or group practice.*

CONCLUSION

Based on the above factual information provided within the application, the ASC would be a separate legal entity from the Sarah E. McMillan, MD, PLLC practice. As a result, the Certificate of Need Program concludes that the establishment of the ASC associated with the practice meets the definition of an ASC under the Certificate of Need provisions of WAC 246-310-010. Therefore, the proposed ASC is subject to prior Certificate of Need review and approval before it is established. Enclosed is a copy of the Certificate of Need rules, (WAC 246-310), regulations (RCW 70.38), and a blank application form should you wish to pursue this project.

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 reconsideration of 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

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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

Please call me directly at (360) 236-2957 if you have any questions or you would like to meet to discuss this determination.

Sincerely,



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

Enclosure