



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

June 13, 2013

Candy Chapman, Administrator  
Urology Northwest, PS  
6005 – 244<sup>th</sup> Street Southwest, #111  
Mountlake Terrace, Washington 98043

DOR #13-39

Dear Ms. Chapman:

The department has completed the review of your exemption request regarding the proposed construction of an ambulatory surgery center in Mountlake Terrace, within Snohomish County. Below is the information considered and the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding your project.

**INFORMATION CONSIDERED**

- Ambulatory Surgery Center (ASC) exemption application submitted May 15, 2013
- Your supplemental information received June 7, 2013
- 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**

- Urology Northwest, PS is an active corporation governed by Karny Jacoby MD; Susan Walters, MD; and James Downey, MD. [source: Secretary of State website]
- Urology Northwest, PS has one practice site located at 6005 – 244<sup>th</sup> Street Southwest, #111 in Mountlake Terrace [98043]. Urology Northwest, PS does not have an out-of-state practice.
- The practice is owned by three physicians and employs one additional physician. Information related to each of the four physicians is listed on the following page.



Name	Credential Status	Partner or Employed	% of Time Employed by Practice
James R. Downey	Active	Partner	100%
Karny Jacoby	Active	Partner	100%
Timothy Michael Roddy	Active	Employed	100%
Susan JS Walters	Active	Partner	100%

- As shown above, all four physicians spend 100% of their time at the Urology Northwest, PS practice.
- Urology Northwest, PS intends to establish an exempt ASC at the practice site in Mountlake Terrace.
- Under the advice of an out-of-state consultant, on February 5, 2013, Urology Northwest, PS established a separate corporation known as Urology Northwest Surgery Center, LLC. The exempt ASC was to be operated under this new corporation. After consultation with Certificate of Need Program staff, Urology Northwest, PS intends to dissolve the corporation known as Urology Northwest Surgery Center, LLC and operate the exempt ASC under the Urology Northwest, PS corporation.
- No other entity would have ownership of the proposed ASC.
- Procedures to be performed at the ASC include those surgeries typically associated with urological care.
- The exemption application indicates that no management agreement for the ASC is proposed.

### **CONCLUSION**

Based on the totality of information considered, the department concludes the proposed ASC would be exempt from Certificate of Need review provided that Urology Northwest, PS agrees to the following condition.

#### **Condition of Exemption Approval**

Urology Northwest, PS will provide a copy of the Certificate of Dissolution for the corporation known as Urology Northwest Surgery Center, LLC. This documentation must be provided to the Certificate of Need Program by September 10, 2013.

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 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 Urology Northwest, PS.
- 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

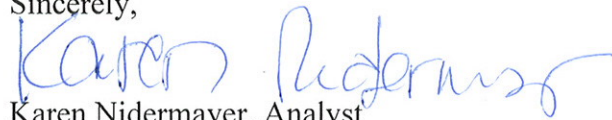
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Please provide a response to this letter by June 30, 2013, acknowledging acceptance of the condition of this exemption approval. If you have any questions regarding the exemption approval, you may call me directly at 360-206-2957.

Sincerely,

A handwritten signature in blue ink that reads "Karen Nidermayer". The signature is written in a cursive style with a large initial "K".

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

Enclosure

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