



STATE OF WASHINGTON  
**DEPARTMENT OF HEALTH**

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

March 11, 2016

Mark Paxton, MD  
Northwest Sleep Dentistry  
9911 North Nevada Street, #120  
Spokane, Washington 99218

Dear Dr. Paxton:

RE: DOR 15-39

The Department of Health has completed its review of your exemption request regarding the establishment of an ambulatory surgery center in Spokane, within Spokane 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 April 14, 2015
- Supplemental information received October 23, 2015, November 4, 2015, November 11, 2015, November 30, 2015, December 11, 2015, December 15, 2015, January 20, 2016, March 9, 2016, and March 10, 2016
- Supplemental information received during a phone call with administrative manager, Renee Bancroft, on June 11, 2015, October 23, 2015, and March 11, 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)
- Certificate of Need historical files

**FACTS CONSIDERED**

- On December 4, 2004, Spokane OMS, PLLC established the professional corporation with the Washington Secretary of State's office. The corporation was governed by two members: Bryan W. McLelland, and Mark C. Paxton. [source: Secretary of State website]
- Spokane OMS, PLLC has been registered with the Washington State Department of Revenue since January 1, 2005. [source: Department of Revenue website]

- On December 31, 2015, Spokane OMS, PLLC corporation registration expired and Drs. McLelland and Paxton are no longer partners.
- On July 14, 1995, the professional services corporation of Mark C. Paxton, DDS, PS was created.
- Mark C. Paxton, DDS, PS has been registered with the Washington State Department of Revenue since July 1, 2014. [source: Department of Revenue website]
- Mark C. Paxton, DDS, PS has one practice site located at 9911 North Nevada Street, #120 in Spokane [99218], within Spokane County. Both the practice and the surgery center are located at that address.
- The ASC will be operated under the practice corporation of Mark C. Paxton, DDS, PS.
- Only the sole owning physician, Mark C. Paxton, will use the ASC. Future owners or employees may have access to the ASC.<sup>1</sup> A table with specific physician credentialing information and practice association is below.

Name	Credential Status	Practice Status	Percent of Time
Mark C. Paxton	Active	Member	100% <sup>2</sup>

- The procedures proposed include those typically associated with dentistry, such as dental implants, extractions, and other dental and oral related surgeries. A listing of common procedures is included in the exemption application.
- The ASC will not be operated as a separate legal entity from the Mark C. Paxton, DDS, 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

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<sup>1</sup> Employed physicians must be employed by the Mark C. Paxton practice a minimum of 75% and perform their full range of services through Mark C. Paxton practice.

<sup>2</sup> Dr. Paxton maintains privileges at Providence Sacred Heart Medical Center and Children's Hospital. Dental and oral surgeries on pediatric patients are provided by Dr. Paxton at the hospital, rather than the ASC. These pediatric patients comprise less than 10% of the outpatient surgeries performed by Dr. Paxton.

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/owner or employed by Mark C. Paxton, DDS, 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:

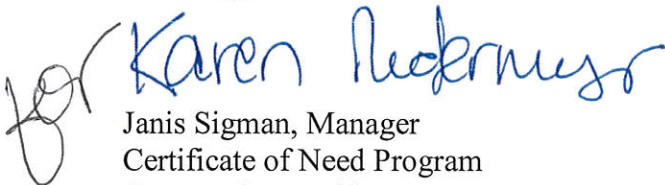
Department of Health  
Adjudicative Service Unit  
Mail Stop 47879  
Olympia, WA 98504-7879

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,

Handwritten signature of Janis Sigman in blue ink.

Janis Sigman, Manager  
Certificate of Need Program  
Community Health Systems