



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

June 23, 2011

Mahadeep Virk, DMD MSD  
VP Surgery Center of Auburn  
6981 Coal Creek Parkway  
Renton, Washington 98058

Dear Dr. Virk:

Thank you for your Ambulatory Surgical Center Determination of Reviewability (DOR) Application received on June 6, 2011. Below are the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding your interest in establishing an Ambulatory Surgical Center (ASC) associated with your practice.

**FACTS**

- You and another physician—Ellen Polsky—each have 50% ownership in a practice. It is unclear from your application whether it is a group practice. If it is a group practice, a copy of the group practice agreement was not provided with your application.
- The practice currently has three sites, which are listed below.

<b>Location</b>	<b>Address</b>	<b>City</b>
Puyallup Clinic	9317 -113 <sup>th</sup> Street East	Puyallup
Tukwila Clinic	505 Strander Boulevard	Tukwila
Tacoma Clinic	3402 South 18 <sup>th</sup> Street	Tacoma

- An additional practice site at 1102 – 15<sup>th</sup> Street Southwest, #200 in Auburn is under construction.<sup>1</sup>
- You intend to establish an exempt ASC at the Auburn site currently under construction.
- The ASC will be operated under a separate legal entity from the practice.
- Six physicians would have access to the proposed ASC. The six physicians, along with a practice credential status summary, are listed below.

<b>Name</b>	<b>Credential Status</b>	<b>Name</b>	<b>Credential Status</b>
Bo Martin Davidson	Active	Ellen B. Polsky	Active
Mariella T. Garcia dba Fulle	Active	Julia Richmond	Unlicensed
Dorothy Yuling Nelson	Active	Mahadeep S. Virk	Active

<sup>1</sup> CRS #60228715



- Procedures to be performed at the ASC include those surgeries typically associated with pediatric dentistry. General anesthesia will be used at the proposed ASC.
- 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 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 your application, the ASC would be a separate legal entity from the practice. Further, one of the physicians that would be using the ASC is not licensed to practice dentistry in Washington State. Finally, it is unclear whether you operate under a group practice. If so, a copy of the group practice agreement was not provided as required in the application.

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 Washington Administrative Code (WAC) 246-310-010. Therefore, the proposed ASC is subject to prior Certificate of Need review and approval before it is established.

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Enclosed is a copy of the Certificate of Need rules, (WAC 246-30), regulations (RCW 70.38), and a blank application form should you wish to pursue this project.

Please call me at (360) 236-2957 if you have any questions regarding this determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Nidermayer". The signature is fluid and cursive, with the first name "Karen" being more prominent and the last name "Nidermayer" written in a continuous, flowing style.

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

Enclosure

cc: Department of Health, Construction Review Services