



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

April 25, 2013

Jan Zemplenyi, MD  
Athenix Physicians Group Northwest, PLLC  
636 – 120<sup>th</sup> Avenue Northeast, #202  
Bellevue, Washington 98005

RE: DOR #13-19

Dear Dr. Zemplenyi:

The department has completed the review of your exemption request regarding the proposed construction of an ambulatory surgery center in Bellevue, within King 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 received January 4, 2013
- Supplemental information received February 12, 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)
- Information obtained from Athenix Body Sculpting Institute website
- Information obtained from the Northwest Surgical Development, Inc. website

**FACTS CONSIDERED**

- Athenix Physicians Group Northwest, PLLC was established as a Washington State professional limited liability company on October 26 2012.
- Members of the PLLC are not identified in the PLLC Agreement.<sup>1</sup> The initial officer is Jan Zemplenyi, MD, who acts as Executive Manager and Secretary.
- Athenix Physicians Group Northwest, PLLC is owned by Athenix Body Sculpting Institute, which is located in the states of Washington and California.

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<sup>1</sup> This information was requested on January 17, 2013, but was not provided within the supplemental information received on February 12 2012.

- For Washington State, Athenix Body Sculpting Institute has one site located at 636 -120th Avenue Northeast, #202 in Bellevue [98005].
- You intend to establish an exempt ASC at the practice site listed in Bellevue.
- The application identifies two physicians would have access to the proposed ASC. Information related to each of the physicians is listed below.

<b>Physician Name</b>	<b>Credential Status</b>	<b>% of Time Employed by Practice</b>
William John Bullis	Active	100%
Lisa Precht	Active	75%

- Copies of Employment Agreements for both physicians were provided in the application.
- Procedures to be performed at the ASC typically require general anesthesia and include those surgeries generally associated cosmetic plastic surgery or liposuction. A listing of common procedures was provided in the application.
- The surgery center would not be a separate legal entity from the Athenix Physicians Group Northwest, PLLC practice. It would be a separate legal entity from the Athenix Body Sculpting Institute corporation.
- Athenix Physicians Group Northwest, PLLC contracts with a separate corporation for management services. The management corporation is Northwest Surgical Development, Inc. which is governed by James Clark and James Haefner, both of Aliso Viejo California. [source: Secretary of State website]
- A copy of the Administrative Services Agreement between Athenix Physicians Group Northwest, PLLC and Northwest Surgical Development, Inc. was provided in the application. The agreement identifies a three year term, but is unsigned and not dated. It is considered to be a draft.

### **CONCLUSION**

Based on the totality of information considered your exemption request is denied. The proposed ASC meets the definition of an ASC under the Certificate of Need provisions of WAC 246-310-010 and is subject to prior Certificate of Need review and approval before it is established. This conclusion is based on the following information.

- The employment agreements provided in the application indicate that association with Athenix Physicians Group Northwest, PLLC is primarily for use of the ASC. This conclusion is based on the statement that the physicians are employed "*to serve as cosmetic surgeon at Athenix Bellevue*" ASC.
- The ASC would be a separate legal entity from the Athenix Body Sculpting Institute corporation.
- An incomplete PLLC agreement was provided in the application.

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 OPTION**

This decision may be appealed. Your appeal option is identified below.

Appeal Option:

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