



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

February 24, 2017

Tyler Jung, MD
The Everett Clinic
3901 Hoyt Avenue
Everett, Washington 98201

RE: Determination of Reviewability [DOR] 17-07

Dear Dr. Jung:

The Department of Health has completed its review of your exemption request regarding the establishment of an ambulatory surgery center in Everett, within Snohomish 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 September 15, 2016
- Supplemental information received October 31, 2016, and December 20, 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)
- Department of Health Construction Review Services Application #60692404
- DaVita HealthCare Partners, Inc. website at www.DaVita.com
- Documents submitted by DaVita HealthCare Partners, Inc. to the US Securities and Exchange Commission (SEC)
- The Everett Clinic website at www.everettclinic.com
- Certificate of Need historical files
- Published opinion Court of Appeals Division II, Providence Physician Services Co. v Washington State Department of Health; Rockwood Health System d/b/a Valley Hospital No. 47885-4-II.

FACTS CONSIDERED

DaVita HealthCare Partners, Inc.

- DaVita HealthCare Partners, Inc. is the result of DaVita Inc. a leading provider of kidney care services and HealthCare Partners, the country’s largest operator of medical groups and physician networks merging in November 2012. HealthCare Partners became an operating division of DaVita HealthCare Partners. [source: DaVita and HealthCare Partners news release, November 1, 2012]
- DaVita HealthCare Partners, a Fortune 500 company, is the parent company of DaVita and HealthCare Partners. DaVita is a leading provider of kidney care in the United States. As of September 2012 DaVita operated or provided administrative services at 1,912 outpatient dialysis centers in 43 states. HealthCare Partners manages and operates medical groups and affiliated physician networks in Arizona, California, Nevada, Florida, Colorado, and New Mexico. [source: DaVita news release, November 1, 2012 and March 1, 2016]
- March 2015 DaVita HealthCare Partners and The Everett Clinic complete a merger under which DaVita acquired The Everett Clinic. The Everett Clinic is now a division of DaVita HealthCare Partners [source: DaVita news release, March 1, 2016, August 30, 2016 and The Everett Clinic website]

The Everett Clinic

- The Everett Clinic, P.S. was established as a corporation on February 9, 1925 with the Washington Secretary of State’s office. [source: Washington Secretary of State documents]
- The Everett Clinic, PLLC (Everett Clinic) was established as a result of reorganization by The Everett Clinic, P.S. to complete the merger transaction with DaVita HealthCare Partners. The PLLC became registered with the Washington Secretary of State’s office February 26, 2016. [source: Washington Secretary of State documents and Determination of Reviewability 16-18 documents]
- The Everett Clinic is registered with the Washington State Department of Revenue. [source: Department of Revenue website]
- The Everett Clinic has 26 practice sites in the counties of Snohomish (24), Island (1), and King (1). The address for each site is listed below.

Building Name	Address	City/Zip	County Location
Pacific Building	1303 Pacific Avenue	Everett/98201	Snohomish
Colby Building	3726 Colby Avenue	Everett/98201	Snohomish
Colby Building	4004 Colby Avenue	Everett/98201	Snohomish
Hoyt Building	4005 Hoyt Avenue	Everett/98201	Snohomish
Hoyt Building	4027 Hoyt Avenue	Everett/98201	Snohomish
Conference Center	3830 Hoyt Avenue	Everett/98201	Snohomish

Building Name	Address	City/Zip	County Location
Evergreen Building	7600 Evergreen Way	Everett/98203	Snohomish
Founders Building	3901 Hoyt Avenue	Everett/98201	Snohomish
Gunderson Building	3927 Rucker Avenue	Everett/98201	Snohomish
<i>Kemp Surgery Center</i>	<i>3927 Rucker Avenue</i>	<i>Everett/98201</i>	<i>Snohomish</i>
Marina Village	1728 West Marine View Dr	Everett/98201	Snohomish
Medical Office Building	1330 Rockefeller Avenue	Everett/98201	Snohomish
Pavilion for Women & Children	900 Pacific Avenue	Everett/98201	Snohomish
Providence Regional Cancer Partnership	1717 13 th Street	Everett/98201	Snohomish
Vision Center Building	3802 Colby Avenue	Everett/98201	Snohomish
Silver Lake	1818 – 121 st Street SE	Everett/98208	Snohomish
Lake Stevens	8910 Vernon Road	Lake Stevens/98258	Snohomish
Marysville	4420 – 76 th Street NE	Marysville/98270	Snohomish
Smokey Point	2901 174 th Street NE	Marysville/98271	Snohomish
Mill Creek	15418 Main Street	Mill Creek/98012	Snohomish
Harbour Pointe	4410 – 106 th Street SW	Mukilteo/98275	Snohomish
Harbour Pointe Pediatrics	4430 – 106 th Street SW	Mukilteo/98275	Snohomish
Snohomish	401 Second Street	Snohomish/98290	Snohomish
The Everett Clinic Shoreline	1201 N 175 th Street	Shoreline/98133	King
Stanwood	7205 – 256 th Street NW	Stanwood/98292	Island
Everett Clinic at Edmonds	21401 – 72nd Avenue W	Edmonds/98026	Snohomish

- Exhibit 2 of the application provides a listing of services provided by The Everett Clinic at its practice sites. Since the Kemp Surgery Center (in italics above) is the only practice site with an associated surgery center, the surgical services are provided at this site.
- The Everett Clinic has a total of 81 physicians associated with the practice. All physicians are 100% employed by The Everett Clinic, PLLC.

Everett Clinic at Edmonds-Site of the Proposed ASC

- The exemption application focuses on The Everett Clinic at Edmonds practice site identified in bold above. The proposed surgery center would be located at this site.
- The ASC will be operated under the practice corporation of The Everett Clinic.
- The ASC will not be operated as a separate legal entity from The Everett Clinic practice.
- No management agreement is proposed.
- The procedures proposed at the surgery center include cataracts, blepharoplasty, knee arthroscopy, shoulder arthroscopy, sinus surgery, tonsils and adenoids, myringotomy, epidural

steroid injections, carpal tunnel, bunionectomy, cystoscopy, hysteroscopy (D&C), laparoscopic cholecystectomy, inguinal hernia repair, and ventral hernia repair. Information provided in the December 19, 2016, responses state that total joint replacements will not be provided at the surgery center.

- All 81 physicians would have access to the surgery center associated with The Everett Clinic. Future employed physicians may also have access to the ASC.
- DaVita Everett Physicians, Inc. P.S. is identified as having 100% ownership in the clinical practice. The sole shareholder of DaVita Everett Physicians, Inc. P.S. is identified as Dr. Tyler Jung. [source: Application, pg 3]
- DaVita Everett Physicians, Inc. P.S. is also identified at having 100% ownership of the ASC. [source: Application, pg 5]

DaVita Everett Physicians, Inc. P.S.

- DaVita Everett Physicians, Inc. P.S. was established as a corporation with the Washington Secretary of State's office February 26, 2016. [source: Washington Secretary of State documents]
- DaVita Everett Physicians, Inc. P.S. is not registered with the Washington State Department of Revenue. [source: Department of Revenue website]
- DaVita Everett Physicians, Inc. P.S. adopted a Limited Liability Company Agreement of Everett Clinic Merger Sub, LLC February 28, 2016. This LLC was formed by DaVita Everett Physicians, Inc. for the purpose of merging Everett Clinic Merger Sub, LLC with The Everett Clinic, PLLC. The merger is undertaken in furtherance of the conversion of The Everett Clinic, P.S., a Washington professional service corporation into a PLLC and the subsequent merger, with the Everett Clinic, PLLC being the survivor of that Merger. [source: Limited Liability Company Agreement of Everett Clinic Merger Sub, PLLC (and after a Planned Merger, the Limited Liability Company Agreement) of The Everett Clinic, PLLC]

Dr. Tyler Jung

- Dr. Jung is board certified in internal medicine, critical care, and pulmonary medicine. [source: DaVita HealthCare Partners website]
- Dr. Jung received a temporary Washington State physician's permit February 12, 2016. He received his physician's license November 23, 2016. [source: DoH external provider lookup and ILRS]
- Dr. Jung is identified as the Chief Medical Officer of HealthCare Partners, LLC, an operating division of DaVita HealthCare Partners. [source: DaVita HealthCare Partners website]

Tyler Jung, MD
The Everett Clinic
DOR 17-07
February 24, 2017
Page 5 of 5

CONCLUSION

Based on the totality of information considered, the department concludes DaVita HealthCare Partners, Inc. through one of its subsidiaries owns The Everett Clinic, PLLC. As a result, the proposed Everett Clinic at Edmonds ASC is not in the offices of private physicians in a group practice and therefore does not qualify for an exemption.

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,



Janis R. Sigman, Manager
Certificate of Need Program
Community Health Systems

cc: Steve Bowman, Director
Office of Community Health Systems