



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

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

September 12, 2018

Debbie Eldredge, Executive VP, COO  
Pacific Cataract & Laser Institute  
Corporate Office  
2517 NE Kresky Ave  
Chehalis, WA 98532

RE: Determination of Reviewability #18-23

Dear Ms. Eldredge:

The Department of Health has completed its review of your exemption request regarding the construction of a two operating room ambulatory surgery facility (ASF) in Vancouver within Clark. For the reasons state below, the ASF to be located at 9309 N.E. 86th Street in Vancouver [98662] and operating for a total of 16 hours a week does not meet the definition of an ASF requiring a Certificate of Need. This same location will operate as a clinic 37 hours per week.

Below is the background information and facts considered and relied upon by the Department of Health Certificate of Need Program in reaching its conclusion regarding your project.

**INFORMATION CONSIDERED**

- Ambulatory Surgery Center (ASC) exemption application received May 24, 2018
- Supplemental information received July 24, 2018; August 8, 2018, August 9, 2018, August 23, 2018, and September 10, 2018.
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Department of Health Office of Community Health Systems Interpretive Statement #CN 01-18
- Washington Secretary of State and Department of Revenue information obtained from the respective websites
- Department of Health Integrated Licensing and Regulatory System (ILRS)
- Pacific Cataract and Laser Institute website: <http://www.pcli.com/>
- Certificate of Need historical files

**FACTS CONSIDERED**

- Pacific Cataract & Laser Institute has been registered with the Washington Secretary of State’s office since 1987.
- Pacific Cataract & Laser Institute located in Vancouver has been registered with the Department of Revenue since 1995.
- PCLI is 100% owned by Robert O. Ford, MD
- On October 6, 2005, the department issued a determination of reviewability identifying that Pacific Cataract & Laser Institute’s Vancouver did not meet the definition of Ambulatory Surgical Facility and was not subject to Certificate of Need (CN) review.
- Pacific Cataract and Laser Institute in Vancouver is currently licensed with the Department of Health [ASF.FS.60101114].
- Pacific Cataract and Laser Institute currently operates a one room operating surgery center located at 2205 NE 129<sup>th</sup> Street, Vancouver, [98686].
- Your May 24, 2018, application requests relocation and expansion of the current CN exempt Pacific Cataract and Laser Institute located at 2205 NE 129<sup>th</sup> Street, Vancouver, [98686].
- Below is a summary of the information provided by Pacific Cataract and Laser Institute:
  - Pacific Cataract and Laser Institute will relocate to: to 9309 NE 86<sup>th</sup> Street, Vancouver [98662]. Clark County Tax Parcel number 986043034.
  - Pacific Cataract and Laser Institute anticipates that upon approval of this application, construction will begin at the new site upon.
  - Based on the line drawings submitted the new Pacific Cataract and Laser Institute ASF will be built with three operating rooms. However only two rooms will be used for ASF surgeries. The third operating room (room #168) will be used as non-ASF space and will only be used when the ASF is closed.
  - Use of the surgery center is limited to the owner of the surgery center and employees. Future owners or employees may have access to the surgery center.<sup>1</sup> A table with specific physician credentialing information and practice association is shown below.

| <b>Name</b>         | <b>Credential Status</b> | <b>Practice Status</b> | <b>Percent of Time</b> |
|---------------------|--------------------------|------------------------|------------------------|
| Robert Ford, MD     | Active                   | Owner                  | 100%                   |
| Joyce Choe, MD      | Active                   | Employee               | 100%                   |
| Bryan Edgington, MD | Active                   | Employee               | 100%                   |
| Gordon Johns, MD    | Active                   | Employee               | 100%                   |

- The procedures provided at the surgery center include those typically associated with ophthalmology, such as cataracts, lens, cornea, glaucoma, and LASIK. A listing of common procedures was included with the application.
- The ASF will not be operated as a separate legal entity from Pacific Cataract and Laser Institute practice.

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<sup>1</sup> Employed physicians must be employed by PCLI Vancouver a minimum of 75% and perform their full range of services through PCLI Vancouver.

- Pacific Cataract and Laser Institute Vancouver ASF hours of operation is Monday and Wednesday from 8:00 am to 5:00 pm for a total of 16 hours each week. The clinic is open Monday, Tuesday, Wednesday, and Thursday from 8:00 am to 5:00 pm; and on Fridays from 8:00 am to 1:00 pm for a total of 37 hours each week.
- The floor plan provided with the application is specific to the new site.
- No management agreement is proposed.
- Pacific Cataract and Laser Institute will apply for a new license for the ASF at its new location.
- The estimated capital cost of the ASF is \$5,994,233.

### **CONCLUSION**

1. Based on the totality of information considered, the department concludes the proposed ASF would be exempt from Certificate of Need review. This exemption is not transferable and the conclusions reached concerning this proposed ASF are based on the facts about this facility and it should be assumed the department would reach the same conclusion in future exemption requests for other future ASFs.

### **CHANGES THAT MAY AFFECT THIS DECISION**

If changes are made in the operation or ownership of this proposed ASF, the ASF may no longer be eligible for this exemption. In that case, prior Certificate of Need review and approval or new exemption may be required. Examples of such changes include the following. This list is not intended to be all inclusive.

- Changes in hours or days the site is used as an ASF.
- The scope of services is expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020.
- The scope of services is expanded beyond the services as identified in the Certificate of Need exemption application.
- The provision of any procedure as identified under WAC 246-310-705(4).
- The ASF is operated under a management agreement.
- The ASF is organized as a separate legal entity from the practice or obtains a separate UBI number from Pacific Cataract and Laser Institute
- The ASF is moved to a different site than identified in the exemption application.
- Use of the ASF is extended to any physician who is not a member/owner or employed by Pacific Cataract and Laser Institute.<sup>2</sup>
- Use of the ASF is extended to any physician that is an independent contractor.
- The ASF obtains a new or separate Medicare certification from the clinical practice.
- The ASF ceases operations or relinquishes its Medicare certification and then chooses to resume services as an ASF.
- The ASF or the practice is purchased or leased.
- A joint venture is formed that includes the ASF.

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<sup>2</sup> Employed physicians must be employed by Pacific Cataract and Laser Institute a minimum of 75% and perform their full range of services through Pacific Cataract and Laser Institute.

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- ASF patients are routinely transferred from the ASF 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.

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 our decision, please contact me at (360) 236-2955.

Sincerely,



Janis Sigman, Manager  
Certificate of Need Program  
Community Health Systems