



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

April 27, 2012

Debbie Eldredge, EVP & COO  
Pacific Cataract and Laser Institute, Inc. PC  
2517 Northeast Kresky Avenue  
Chehalis, Washington 98532

Dear Ms. Eldredge:

Thank you for your March 28, 2012, application for an exemption from Certificate of Need for the establishment of an ambulatory surgery center (ASC) related to Pacific Cataract and Laser Institute, Inc. PC. Below are the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding this project.

**FACTS**

- Pacific Cataract and Laser Institute, Inc. PC is a practice owned by one physician, Robert O. Ford, MD.
- A copy of the corporate By-Laws of Pacific Cataract and Laser Institute, Inc. PC was provided as part of this exemption application.
- The practice currently has a total of 17 practice sites located in the states of Alaska (1), Idaho (2), Oregon (2), Montana (1), New Mexico (1), and Washington (10). The Washington State practice sites are listed below.

Address	City	Zip Code	County
10500 Northeast 8 <sup>th</sup> Street, #1650	Bellevue	98004	King
4330 Mitchell Way	Bellingham	98226	Whatcom
2517 Northeast Kresky Avenue	Chehalis	98532	Lewis
8200 West Grandridge Boulevard	Kennewick	99336	Benton
115 New View Court NE	Olympia	98506	Thurston
<b>9951 Mickelberry Road Northwest, #123</b>	<b>Silverdale</b>	<b>98383</b>	<b>Kitsap</b>
534 East Spokane Falls Boulevard, #200	Spokane	99202	Spokane
2915 South Alder Street	Tacoma	98409	Pierce
2205 Northeast 129 <sup>th</sup> Street	Vancouver	98686	Clark
3900 Kern Road	Yakima	98902	Yakima

- Pacific Cataract and Laser Institute, Inc. PC intends to establish an exempt ASC located at the Silverdale site listed in bold above.
- The ASC would not be operated under a separate legal entity from the Pacific Cataract and Laser Institute, Inc. PC practice.



- At this time, eleven physicians may have access to the proposed ASC. Information related to the eleven physicians is listed below. Future owners or employees may have access to the ASC.

Name	Credential Status	Practice Status	% of Time Employed by Practice
Brian J. Carey	Active	Employee	100%
Joyce Eunyong Choe	Active	Employee	100%
Paul Y. Chung	Active	Employee	100%
Robert Marshall Ford	Active	Employee	100%
Robert Orland Ford	Active	Employee	100%
David L. Gano	Active	Employee	100%
William D. Gruzensky	Active	Employee	100%
James P. Guzek	Active	Employee	100%
Gordon E. Johns	Active	Employee	100%
Jason W. Leng	Active	Employee	100%
Ronald Kingo Sugiyama	Active	Employee	60%

- Procedures to be performed at the ASC include those surgeries typically associated with eye surgery, such as cataract, corneal, plastics, and glaucoma procedures.
- 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 CON 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 by you, the Certificate of Need Program concludes that the establishment of the ASC associated with the group practice known as Wilson, Allen and Associates, PLLC does not meet the definition of an ASC under the Certificate of Need provisions of Washington Administrative Code (WAC) 246-310-010. Therefore, the proposed ASC is not subject to Certificate of Need review.

**Please note:** This exemption is not transferable and is based on the facts submitted in the exemption application. Prior Certificate of Need review and approval may be required under the provisions of WAC 246-310-020 if changes occur in your project. Examples of such changes include the following. This list is not intended to be all inclusive.

- 1) should Pacific Cataract and Laser Institute, Inc. PC decide to extend the privilege of using the ASC to physicians not part of the practice; OR
- 2) should Pacific Cataract and Laser Institute, Inc. PC decide to expand the scope of services at the ASC to include services subject to Certificate of Need review under the provisions of WAC 246-310-020; OR
- 3) should Pacific Cataract and Laser Institute, Inc. PC decide to organize the ASC as a separate legal entity from the group practice; OR
- 4) should Pacific Cataract and Laser Institute, Inc. PC decide to operate the ASC under a management agreement; OR
- 5) should any entity other than Pacific Cataract and Laser Institute, Inc. PC hold the Medicare certification; OR
- 6) should the ASC cease operations or relinquish its Medicare certification and then choose to resume services as an ASC; OR
- 7) should the group practice or ASC be purchased or leased.

This exemption approval does not constitute approval under any other local, federal, or state statute, or implementing rules and regulations. Examples where additional approval may be necessary include, but are not limited to, construction plan approval through the Construction Review Section of the Department of Health, facility licensing/certification through the Department of Social and Health Services or Department of Health, and other federal or local jurisdiction permits.

This decision may be appealed. The two appeal options are listed below.

#### **Appeal Option 1:**

You or any interested or affected person may request a public hearing to reconsider this decision. The request must state the specific reasons for reconsideration in accordance with Washington Administrative Code 246-310-560. A reconsideration request must be received within 28 calendar days from the date of the decision at one of the following addresses:

Debbie Eldredge, EVP & COO  
Pacific Cataract and Laser Institute, Inc. PC  
DOR #12-19  
April 27, 2012  
Page 4 of 4

Mailing Address:  
Department of Health  
Certificate of Need Program  
Mail Stop 47852  
Olympia, WA 98504-7852

Other Than By Mail  
Department of Health  
Certificate of Need Program  
111 Israel Road SE  
Tumwater, WA 98501

Appeal Option 2:

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:  
Adjudicative Service Unit  
Mail Stop 47879  
Olympia, WA 98504-7879

Other Than By Mail  
Adjudicative Clerk Office  
310 Israel Road SE, Building 6  
Tumwater, WA 98501

Please call me at (360) 236-2957 if you have any further questions regarding the establishment of the exempt ASC.

Sincerely,



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

cc: Department of Health, Office of Customer Service  
Department of Health, Construction Review Services