

STUDEBAKER | NAULT

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September 26, 2025

Eric Hernandez, Manager
Certificate of Need Program
Department of Health
111 Israel Road S.E.
Tumwater, WA 98501

VIA EMAIL: eric.hernandez@doh.wa.gov; CN@doh.wa.gov

Re: Spokane Eye Clinic, P.S.

Dear Mr. Hernandez:

This correspondence concerns Spokane Eye Clinic, P.S. (“Spokane Eye Clinic”), which received its determination of reviewability for its ambulatory surgery center (the “ASC”) from the Washington State Department of Health (the “Department”) on September 18, 2007 (the “DOR”). A copy of the DOR is enclosed for your reference. The purpose of our letter is to request confirmation that a proposed transaction involving Spokane Eye Clinic and described below would not affect the validity of the DOR or require that Spokane Eye Clinic apply for a new determination of reviewability.

Background

In the DOR, the Department determined that the operation of the ASC by Spokane Eye Clinic at its clinical office location in Spokane, Washington (and used exclusively by Spokane Eye Clinic’s owners and employees) did not require a certificate of need.

Proposed Transaction

In the proposed transaction, the physician investors in Spokane Eye Clinic will decrease in number, with Steven A. Madreperla, M.D. holding a 51 percent interest in Spokane Eye Clinic, and Andrew G. Cheek, M.D. holding a 49 percent interest in Spokane Eye Clinic. There will be no change in the tax identification number of Spokane Eye Clinic, which will continue to be the entity that owns and operates the ASC. Use of the ASC will continue to be limited to owners and employees of Spokane Eye Clinic. The surgical services provided at the ASC will

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not change and will continue to be limited to ophthalmic surgical services. Following the proposed transaction, Spokane MSO, Inc. will provide administrative services to the ASC.

We are seeking confirmation from the Department that the proposed transaction described above would not affect the validity of the DOR or require that Spokane Eye Clinic apply for a new DOR.

If you need any additional information, please do not hesitate to ask.

Regards,

STUDEBAKER NAULT, PLLC

A handwritten signature in black ink, appearing to read "E. Studebaker", with a stylized flourish at the end.

Emily R. Studebaker



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

September 18, 2007

Dan Simonson, CRNA
Spokane Eye Clinic
208 West Fifth Avenue
Spokane, Washington 99204

Dear Mr. Simonson:

Thank you for your Determination of Non-Reviewability (DOR) Application related to the practice known as Spokane Eye Clinic. 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 the Spokane Eye Clinic practice.

FACTS

- Spokane Eye Clinic is a group practice with 12 owning members. Each member owns equal share (8.3%) of the Spokane Eye Clinic practice. The owning members are identified below.

Steven E. Day, MD	Jerry E. LeClaire, MD	Barbara Smit, MD, PhD
F. Jane Durcan, MD	Stephen C. Maher, MD	Erik D. Skoog, MD
Randall K. Jacobson, MD	Nicholas T. Ranson, MD	Jeffery M. Snow, MD
Jason H. Jones, MD	Dan Simonson, CRNA	Robert Wirthlin, MD
- No other party has an ownership in the Spokane Eye Clinic practice.
- Spokane Eye Clinic has one practice site located at 208 West 5th Avenue, in the city and county of Spokane.
- Each of the physicians listed above are employed 100% by the Spokane Eye Clinic practice.
- This determination proposes to establish an exempt ASC at the practice site identified above for Spokane Eye Clinic.
- The ASC would be known as "Spoken Eye Surgery Center" and would be located within the same building as the Spokane Eye Clinic practice.
- Only 11 of the 12 owning members would have access to the proposed ASC. Dan Simonson, CRNA, would not have surgical privileges at the ASC. (Future Spokane Eye Clinic partners or employees will be allowed surgical privileges to the ASC.)
- The ASC will not be structured as a separate legal entity from the Spokane Eye Clinic practice.
- Procedures to be performed at the ASC include those surgeries typically associated with ophthalmic procedures.
- No management agreement is proposed.
- Billing for the ASC is provided through the Spokane Eye Clinic practice.



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 Spokane Eye Clinic practice 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 determination 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 the facts as presented in the DOR application. Prior Certificate of Need review and approval may be required under the provisions of WAC 246-310-020 if any of the following changes occur:

- 1) should Spokane Eye Clinic later decide to extend the privilege of using the ASC to physicians not part of the practice; OR
- 2) should Spokane Eye Clinic 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 Spokane Eye Clinic decide to organize the ASC as a separate legal entity from the practice; OR
- 4) should Spokane Eye Clinic decide to operate the ASC under a management agreement; OR
- 5) should any entity, other than Spokane Eye Clinic, 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 Spokane Eye Clinic practice or ASC be purchased or leased.

This determination of non-reviewability 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 Health, and other federal or local jurisdiction permits.

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

Sincerely,



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

cc: Department of Health, Office of Health Care Survey