



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

July 12, 2013

Barry Landau, MD
Fourth Corner Neurosurgical Associates, PS
710 Birchwood Avenue, #101
Bellingham, Washington 98225

DOR #13-44

Dear Dr. Landau:

The department has completed the review of your exemption request regarding the establishment of an ambulatory surgery center in Bellingham, within Whatcom 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 submitted June 3, 2013
- Your supplemental information received July 10, 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)

FACTS CONSIDERED

- Fourth Corner Neurosurgical Associates, PS is an active corporation governed by David Baker, MD; David Goldman, MD; Barry Landau, MD; and Michael Lawrence, MD. [source: Secretary of State website]
- Fourth Corner Neurosurgical Associates, PS has one practice site located at 710 Birchwood Avenue, #101 in Bellingham [98225]. Fourth Corner Neurosurgical Associates, PS does not have an out-of-state practice.
- The practice is owned by five physicians and employs one additional physician. Information related to each of the six physicians is listed on the following page.

Name	Credential Status	Partner or Employed	% of Time Employed by Practice
David Edward Baker	Active	Partner	100%
David Lawrence Goldman	Active	Partner	100%
Tung Mai Ha	Active	Partner	100%
Barry J. Landau	Active	Partner	100%
Michael Scott Lawrence	Active	Partner	100%
Carlton K. McQueen	Active	Employed	100%

- As shown above, all six physicians spend 100% of their time at the Fourth Corner Neurosurgical Associates, PS practice.
- Fourth Corner Neurosurgical Associates, PS intends to establish an exempt ASC at the practice site in Bellingham.
- The exempt ASC would be operated under the corporation of Fourth Corner Neurosurgical Associates, PS.
- The exemption application indicates that five of the six physicians listed above would use the exempt ASC. Michael Scott Lawrence, MD does not intend to use the ASC.
- No other entity would have ownership of the proposed ASC.
- Procedures to be performed at the ASC include those surgeries typically associated with neurological care. Typical procedures include neurological lumbar and cervical surgeries, lumbar and cervical pain management injections.
- The exemption application indicates that no management agreement for the ASC is proposed.

CONCLUSION

Based on the totality of information considered, the department concludes the proposed ASC would be exempt from Certificate of Need review. This exemption is not transferable and the conclusions reached concerning this proposed ASC are based on the facts about this facility and it should not be assumed the department would reach the same conclusion in future exemption requests for other future ASCs. If changes are made in the operation or ownership of this proposed ASC, the ASC may no longer be eligible for this exemption. In that case, prior Certificate of Need review and approval or new exemption would be required. Examples of such changes include the following. This list is not intended to be all inclusive.

- The scope of services is expanded to include services subject to Certificate of Need review under the provisions of WAC 246-310-020.
- The provision of any procedure as identified under WAC 246-310-705(4).
- The ASC is operated under a management agreement.
- The ASC is organized as a separate legal entity from the practice.
- The ASC is moved to a different site than identified in the exemption application.
- Use of the ASC is extended to any physician who is not a member of the practice or at least 75% employed by Fourth Corner Neurosurgical Associates, PS.
- The ASC ceases operations or relinquishes its Medicare certification and then chooses to resume services as an ASC.

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- The ASC or the practice is purchased or leased.
- ASC patients are routinely transferred from the ASC to a hospital for observation care.

APPEAL OPTIONS

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.

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Department of Health	Department of Health
Certificate of Need Program	Certificate of Need Program
Mail Stop 47852	111 Israel Road SE
Olympia, WA 98504-7852	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:

<u>Mailing Address:</u>	<u>Other Than By Mail</u>
Department of Health	Department of Health
Adjudicative Service Unit	Adjudicative Service Unit
Mail Stop 47879	111 Israel Road SE
Olympia, WA 98504-7879	Tumwater, WA 98501

If you have any questions regarding the exemption approval, you may call me at 360-206-2957.

Sincerely,



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

cc: Department of Health, Investigations and Inspections Office
Department of Health, Construction Review Services