



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

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

June 27, 2018

Zachary Smith, COO
Evergreen Eye Partners, LLC
34719 6th Avenue S
Federal Way, 980003 - 8714

RE: Determination of Reviewability #18-22

Dear Mr. Smith:

The Department of Health has completed its review of your exemption request regarding Northwest Glaucoma and Cataract Consultants, PLLC change of ownership. For the reasons stated below, Northwest Glaucoma and Cataract Consultants, PLLC located at 1229 Madison Street, Suite 1250 in Seattle [98104] and operating exclusively as an ASF on Tuesday from 8:00 am to 5:00 pm for a total of 8 hours each week does not meet the definition of an ASF requiring a Certificate of Need. The same location will operate exclusively as a clinic on Monday, Wednesday; Thursday and Friday from 8:00 am to 5:00 pm for a total of 32 hours each week.

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 May 15, 2018
- Supplemental information received June 11, 2018
- Revised Code of Washington (RCW) 70.38
- Washington Administrative Code (WAC) 246-310
- Department of Health's 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)
- Evergreen Eye Partners, LLC website: www.evergreeneye.com
- Northwest Glaucoma and Cataract Consultants, PLLC website: www.nwgc surgrey.com
- Certificate of Need historical files

FACTS CONSIDERED

- Evergreen Eye Partners, LLC has been registered with the Washington Secretary of State's office since July 28, 2011. The professional service corporation is governed by the following four physicians: Gary W. Chung, MD; Robert A. Tester, MD; John Whitehead, MD; and Brice Nicholson, MD.
- Evergreen Eye Partners, LLC has been registered with the Department of Revenue since July 1, 2011.
- Northwest Glaucoma and Cataract Consultants, PLLC has been registered with the Washington Secretary of State's office since March 14, 2016. The professional service corporation is governed by one physician: John Whitehead, MD
- Northwest Glaucoma and Cataract Consultants, PLLC has been registered with the Department of Revenue since May 1, 2016.
- With this application, Evergreen Eye Partners, LLC purchased Northwest Glaucoma and Cataract Consultants, PLLC and intends to absolved Northwest Glaucoma and Cataract Consultants, PLLC as an ambulatory surgery facility (ASF) to be known as Evergreen Eye Center- Seattle.
- Evergreen Eye Center - Seattle is located at 1229 Madison Street, Suite 1250 in Seattle [98104] within King County. The ASF would continue to be located at the same site.
- Evergreen Eye Center - Seattle practice and ASF would be operated under the corporation and Unified Business Identifier [UBI] number of Evergreen Eye Center, Inc. P.S.¹
- Four physicians intend to use the ASF. Future owners or employees may have access to the surgery center. A table with specific physician credentialing information and practice association is in the table below.

Name	Credential Status	Practice Status	Percent of Time
Robert Tester, MD	Active	Owner	100%
Gary Chung, MD	Active	Owner	100%
Brice Nicholson, DO	Active	Owner	100%
John Whitehead, MD	Active	Owner	100%

- Evergreen Eye Center- Seattle has two operating rooms.
- Evergreen Eye Center- Seattle will not be operated as a separate legal entity from Evergreen Eye Center Partners, PLLC practice.
- Clinical and surgical services provided at Evergreen Eye Center - Seattle include those typically associated with ophthalmological surgical services. A listing of common ophthalmological surgical services was included in the determination of non reviewability application.
- Evergreen Eye Center- Seattle ASF hours of operation is Monday 8:00 am to 5:00 pm for a total of 8 hours each week. The clinic is open Monday, Wednesday; Thursday, and Friday from 8:00 am to 5:00 pm for a total of 32 hours each week.
- No management agreement is proposed.

¹ Evergreen Eye Center, Inc. P.S UBI number is 601512780.

CONCLUSION

Based on the totality of information considered, the department concludes Evergreen Eye Center- Seattle is exempt from Certificate of Need review. This exemption is not transferable and the conclusions reached concerning this ASF 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 ASFs.

CHANGES THAT MAY EFFECT THIS DECISION

If changes are made in the operation or ownership of Evergreen Eye Center- Seattle, the ASF 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.

- Changes in hours or days the site is used exclusively 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 number of operating rooms increases beyond two.
- 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).
- Evergreen Eye Center- Seattle is operated under a management agreement.
- Evergreen Eye Center- Seattle is organized as a separate legal entity from the practice or obtains a separate UBI number from Evergreen Eye Center, Inc. P.S.
- Evergreen Eye Center- Seattle is moved to a different site than identified in the exemption application.
- Use of the Evergreen Eye Center- Seattle is extended to any physician who is not a member/owner or employed by Evergreen Eye Center, Inc. P.S.²
- Use of the Evergreen Eye Center- Seattle is extended to any physician that is an independent contractor.
- Evergreen Eye Center- Seattle obtains a new or separate Medicare certification from the clinical practice.
- Evergreen Eye Center- Seattle ceases operations or relinquishes its Medicare certification and then chooses to resume services as an ASF.
- Evergreen Eye Center- Seattle or the practice is purchased or leased.
- A joint venture is formed that includes the ASF.
- Evergreen Eye Center- Seattle patients are routinely transferred from the ASF for observation care at one of the area's hospitals.

² Employed physicians must be employed by Evergreen Eye Center, Inc. P.S a minimum of 75% and perform their full range of services through Evergreen Eye Center, Inc. P.S.

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 Sigman, Manager
Certificate of Need Program
Community Health Systems