



STATE OF WASHINGTON  
DEPARTMENT OF HEALTH

December 10, 2012

Philip Haeck, MD  
Plastic Surgery Associates of Seattle  
901 Boren Avenue, #1650  
Seattle, Washington 98104

Dear Dr. Haeck:

Thank you for your November 1, 2012, application for an exemption from Certificate of Need for the establishment of an ambulatory surgery center (ASC) related to your group practice. Your application was received in the Certificate of Need Program office on November 9, 2012, and your subsequent documents were received on December 5, 2012. Below are the facts relied upon by the Certificate of Need Program in reaching its conclusion regarding this project.

**FACTS**

- Plastic Surgery Associates of Seattle, PLLC is a legal corporation registered with the Washington State Secretary of State and governed by four members.
- At this time, Plastic Surgery Associates of Seattle, PLLC does not have an associated ASC.
- On May 24, 2007, Orthopedics International, Ltd received an exemption from Certificate of Need for the establishment of an ASC located at 600 Broadway in Seattle [98104].
- Orthopedics International, Ltd is disbanding as of January 1, 2013, and the exemption for the ASC will be relinquished.<sup>1</sup>
- Plastic Surgery Associates of Seattle, PLLC intends to relocate its practice at 901 Boren Avenue in Seattle to the former Orthopedics International, Ltd site of 600 Broadway.
- Plastic Surgery Associates of Seattle, PLLC also intends to operate an exempt ASC at the 600 Broadway site.
- The ASC would be in the same building and office suite of the group practice.
- The proposed ASC would not be operated under a separate legal entity from the Plastic Surgery Associates of Seattle, PLLC practice.
- At this time, only the four physician members of Plastic Surgery Associates of Seattle, PLLC would have access to the proposed ASC. Information related to each physician is listed in the table on the following page.

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<sup>1</sup> Your December 3, 2012, supplemental information indicates that the Orthopedics International physicians will be joining a Proliance Surgeons practice.

Name	Credential Status	% of Time Employed by Practice
Phillip Carl Haeck	Active	100%
Mary Lee Peters	Active	100%
Shahram Salemy	Active	100%
Lisa Lynn Sowder	Active	100%

- Procedures to be performed at the ASC include those surgeries typically associated with reconstructive or cosmetic plastic surgeries.
- 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 your group practice known as Plastic Surgery Associates of Seattle, 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 Plastic Surgery Associates of Seattle, PLLC decide to extend the privilege of using the ASC to physicians not part of the practice; OR
- 2) should Plastic Surgery Associates of Seattle, PLLC 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 Plastic Surgery Associates of Seattle, PLLC decide to organize the ASC as a separate legal entity from the practice; OR
- 4) should Plastic Surgery Associates of Seattle, PLLC decide to operate the ASC under a management agreement; OR
- 5) should any entity other than Plastic Surgery Associates of Seattle, PLLC 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 practice or ASC be purchased or leased; OR
- 8) should the ASC be moved to a different site than identified in the exemption application.

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:

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:

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Mailing Address:  
Department of Health  
Adjudicative Service Unit  
Mail Stop 47879  
Olympia, WA 98504-7879

Other Than By Mail  
Department of Health  
Adjudicative Service Unit  
111 Israel Road SE  
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, Investigations and Inspections Office  
Department of Health, Construction Review Services