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September 12, 2012 **RECEIVED**

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DIVISION OF  
LICENSING & REGULATORY SERVICES

Phyllis Powell, Assistant Director  
Planning, Development and Quality  
Division of Licensing and Regulatory Services  
Maine Department of Health & Human Services  
State House Station 11  
Augusta, ME 04333-0011

RE: **Eye Center of Central Maine, LLC**

Dear Phyllis:

This office represents Eye Center of Central Maine, LLC ("Eye Center"), a Maine limited liability company. Eye Center is comprised of two ophthalmologists, Drs. Marc B. Daniels and Peter C. Kohler. On behalf of Eye Center, this letter serves as a Letter of Intent pursuant to 22 M.R.S.A. §337(1) and Chapter 6 of the Maine Certificate of Need Procedures Manual, as well as a request for a determination from your office that the proposed new activities by Eye Center will not trigger CON review.

**Background.** As you are aware from related correspondence, Eye Center is housed in the same 40 Airport Road building in Waterville in which the Central Maine Endoscopy ambulatory surgical unit is located. The building is owned by CV Diagnostics, and Eye Center (or a related entity consisting of the same two ophthalmologists) will enter into a lease for its proportionate use of the facility. While Dr. Irwin plans to continue performing endoscopic procedures at the Central Maine Endoscopy ASU into the future, with renovations the facility has the capacity to allow additional procedures by other practitioners. To that end, Eye Center (or the related entity) through Drs. Daniels and Kohler plan to perform ophthalmologic surgical procedures in a portion of the renovated ASU. Currently, those ophthalmologic procedures are performed entirely at hospitals, and this proposal simply entails moving the location of a number of these procedures to the Airport Road ASU. Because of the location of patients, a number of the procedures performed by Drs. Daniels and Kohler will still be done in the hospital setting for the sake of patient convenience.

**Certificate of Need Issues.** The introduction of ophthalmologic surgical procedures into the existing ASU represents a departure from the endoscopic procedures ongoing at the facility.

However, the ophthalmologists, in conjunction with Central Maine Endoscopy, have conducted an analysis of both the proposed capital expenditures and the proposed third-year incremental operating expenses associated with the introduction of the new procedures, and in both instances the projected expenses fall well below the new financial thresholds for a “new health service” under the Act.

First, with respect to proposed capital expenditures, the physicians have commissioned architectural plans for the renovations (see enclosed Exhibit A). The plans in entirety call for expansion of the existing building footprint; renovation and reconfiguration of existing office, conference and storage space; expanded parking; and development of two new operating rooms and expanded patient waiting and receiving rooms. As set forth in the enclosed materials (See Exhibit B), the entire budget for the construction project, inclusive of every aspect including non-ASU elements, comes to \$894,300. The projected cost for this renovation as it pertains to the expansion of the surgical unit and adjoining areas, however, based on a square footage calculation of all ASU-related areas as called for under the Act, comes to \$501,000. In addition, the ophthalmologists anticipate the purchase of \$225,000 in equipment for the facility, consisting of the following: (1) Phacoemulsification machine \$60,000; (2) Microscope \$100,000; (3) Stretchers \$25,000; (4) Autoclave \$20,000; and (5) Instruments \$20,000. In total, therefore, the projected capital expenditure for the ASU expansion comes to \$726,000.

Second, the physicians have undertaken a very comprehensive analysis of the projected third-year incremental operating costs on a “per procedure basis” associated with the addition of the ophthalmologic procedures. See Exhibit C. They have estimated not only the incremental staffing costs and medical supplies and drugs attributed to the new procedures, but they have itemized in exhaustive detail every item of expense associated with performing the new procedures. Please see the attached spreadsheet estimating each such line item of expense. As reflected in the spreadsheet, the total “per procedure” expense is projected to be \$702.59. The physicians then projected the annual surgical case volume for the new ophthalmology procedures, multiplying the projected 825 surgical cases per year by the per procedure third-year operating costs. The resulting projected incremental third-year operating cost figure comes to \$579,637.

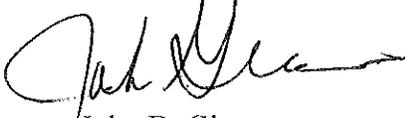
In short, the proposed capital expenditures and incremental third-year operating expenses associated with these new procedures fall well below the new statutory thresholds of \$3 million for capital expenditures and \$1 million for incremental third-year operating costs associated with a new health service. Moreover, the ownership of the ASU is not being transferred in any manner to Eye Center or its members; rather, Eye Center is simply entering into a lease for its use of the facility. As a result, it is our belief that a CON review of this proposed addition to the existing ASU based on the capital and third-year incremental operating expenditures is not warranted.

Phyllis Powell, Manager  
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With the submission of the enclosed materials, Eye Center of Central Maine is requesting a determination from your office as to whether its proposed participation in the expansion and use of the ASU-related facilities and services is subject to a Certificate of Need review.

Thank you for your consideration in this matter.

Sincerely,



John D. Gleason

JDG/ml

Enclosures

cc: Marc B. Daniels, M.D.  
Peter C. Kohler, M.D.



## Renovation of existing ASU for another Class B OR

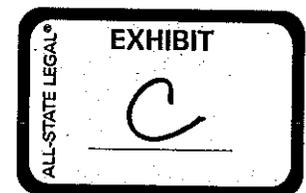
General Conditions	\$	50,000.00
Permitting	\$	2,000.00
Demolition	\$	8,000.00
Sitework	\$	134,000.00
Concrete	\$	40,000.00
Electrical	\$	60,000.00
HVAC	\$	60,000.00
Plumbing	\$	15,000.00
Exterior framing shell	\$	150,000.00
Interior fitout	\$	274,000.00
Equipment	\$	20,000.00
<b>Subtotal</b>	<b>\$</b>	<b>813,000.00</b>
<b>OH &amp; P 10%</b>	<b>\$</b>	<b>81,300.00</b>
<b>Total Project Budget</b>	<b>\$</b>	<b>894,300.00</b>

Class B OR Work	3340	sf	\$ 150.00	\$ 501,000.00
Overall Project	5560	sf	\$ 160.85	\$ 894,300.00



## Estimation for 3rd year operating expenses

Expense	(per surgical case)	
Internet		0.39
Anesthesia Services		60.79
Bank Service Charges		0.02
Bldg Cleaning Expense		4.83
Care Credit Card Fees		5.09
Clearing House Fee		1.49
Contract Labor		101.80
Contributions		0.15
Depreciation Expense		9.03
Dues and Subscriptions		1.22
Facility Certification Expense		4.69
Grounds Keeping Expense		4.43
Hazardous Waste Disposal		0.78
Insurance		
Fire		0.20
Total Insurance		0.20
Laundry Expense		5.27
Licenses and Permits		0.66
Maintenance Contracts		1.07
Office Supplies		0.20
Patient Refund		17.11
Payroll Expense		
Simple Match		2.06
Payroll Expense - Other		74.12
Total Payroll Expense		76.18
Payroll Processing Fees		0.20
Pest Control		0.49
Pharmaceutical Expense		0.17
Postage and Delivery		0.32
Professional Fees		
Accounting		1.22
Consulting		0.00
ASC Comp		6.43
Syndicator		24.13
Consulting		6.82
Total Consulting		37.37
Total Professional Fees		38.59
Rental Expense to CMR, LLC		69.98
Repairs		
Building Repairs		0.99
Equipment Repairs		1.12
Total Repairs		2.12



Supplies	0.00	
Marketing	4.24	
Medical	4.55	
Office	0.63	
Pharmaceutical	6.84	
Surgical		
IOL Expense	238.21	
Medical Gas	0.76	
OR Kits	3.06	
Surgical - C	8.28	
Total Surgical	250.31	
Supplies - Other	0.02	
Total Supplies	266.60	
Taxes		
Real Estate Taxes	5.53	
Property	3.21	
Total Taxes	8.74	
Telephone	0.51	
Travel & Ent		
Parking	0.29	
Lodging	1.00	
car Rental	0.85	
Entertainment	0.19	
Meals	5.20	
Travel	3.82	
Travel & Ent - Other	0.01	
Total Travel & Ent	11.36	
Utilities		
Trash Removal	0.09	
Heating Expense	3.43	
Electric	3.77	
Natural Gas	0.16	
Water	0.59	
Utilities - Other	0.06	
Total Utilities	8.11	
<b>Total Expense</b>	<b>702.59</b>	<b>per surgical case</b>

**Anticipated annual surgical case volume, base on current**

Dr. Kohler	450
Dr. Daniels	375
<b>Total</b>	<b>825 surgical cases per year</b>

\*Total estimated 3rd year operating costs      **825 x \$702.59**  
**\$579,637**