



MASSACHUSETTS
HEALTH POLICY COMMISSION

NOTICE OF MATERIAL CHANGE FORM

Health Policy Commission
50 Milk Street, 8th Floor
Boston, MA 02109

GENERAL INSTRUCTIONS

The attached form should be used by a Provider or Provider Organization to provide a Notice of Material Change (“Notice”) to the Health Policy Commission (“Commission”), as required under M.G.L. c. 6D, § 13 and 958 CMR 7.00, Notices of Material Change and Cost and Market Impact Reviews. To complete the Notice, it is necessary to read and comply with 958 CMR 7.00, a copy of which may be obtained on the Commission’s website at www.mass.gov/hpc. Capitalized terms in this Notice are defined in 958 CMR 7.02. Additional sub-regulatory guidance may be available on the Commission’s website (e.g., Technical Bulletins, FAQs). For further assistance, please contact the Health Policy Commission at HPC-Notice@state.ma.us. This form is subject to statutory and regulatory changes that may take place from time to time.

REQUIREMENT TO FILE

This Notice must be submitted by any Provider or Provider Organization with \$25 million or more in Net Patient Service Revenue in the preceding fiscal year that is proposing a Material Change, as defined in 958 CMR 7.02. Notice must be filed with the Commission not fewer than 60 days before the consummation or closing of the transaction (i.e., the proposed effective date of the proposed Material Change).

SUBMISSION OF NOTICE

One electronic copy of the Notice, in a portable document form (pdf), should be submitted to the following:

Health Policy Commission HPC-Notice@state.ma.us;

Office of the Attorney General HCD-6D-NOTICE@state.ma.us;

Center for Health Information and Analysis CHIA-Legal@state.ma.us

PRELIMINARY REVIEW AND NOTICE OF COST AND MARKET IMPACT REVIEW

If the Commission considers the Notice to be incomplete, or if the Commission requires clarification of any information to make its determination, the Commission may, within 30 days of receipt of the Notice, notify the Provider or Provider Organization of the information or clarification necessary to complete the Notice.

The Commission will inform each notifying Provider or Provider Organization of any determination to initiate a Cost and Market Impact Review within 30 days of its receipt of a completed Notice and all required information, or by a later date as may be set by mutual agreement of the Provider or Provider Organization and the Commission.

CONFIDENTIALITY

Information on this Notice form itself shall be a public record and will be posted on the Commission’s website. Pursuant to 958 CMR 7.09, the Commission shall keep confidential all nonpublic information and documents obtained in connection with a Notice of Material Change and shall not disclose the information or documents to any person without the consent of the Provider or Payer that produced the information or documents, except in a Preliminary Report or Final Report of a Cost and Market Impact Review if the Commission believes that such disclosure should be made in the public interest after taking into account any privacy, trade secret or anti-competitive considerations. The confidential information and documents shall not be public records and shall be exempt from disclosure under M.G.L. c. 4, § 7 cl. 26 or M.G.L. c. 66, § 10.

NOTICE OF MATERIAL CHANGE

DATE OF NOTICE: 3/5/2021

1. Name: EYE HEALTH SERVICES, INC.

	Federal TAX ID #	MA DPH Facility ID #	NPI #
2.	04-2486837	N/A	Please see attached.

CONTACT INFORMATION

3. Business Address 1: 97 Libbey Industrial Parkway

4. Business Address 2: Suite 202

5. City: Weymouth State: MA Zip Code: 02189

6. Business Website: <https://www.eyehalthservices.com/>

7. Contact First Name: Shawn Contact Last Name: King

8. Title: Chief Financial Officer

9. Contact Phone: 1.508.746.8536 Extension: 128

10. Contact Email: sking@eyehalthservices.com

DESCRIPTION OF ORGANIZATION

11. Briefly describe your organization.

Eye Health Services, Inc. ("EHS") was founded in 1971. EHS's sub-specialty areas include cornea/cataract, glaucoma/cataract, oculoplastics, retina, cataract, comprehensive, pediatric and strabismus, and refractive surgery. EHS currently employs 194 individuals, including 20 ophthalmologists, 14 of whom are shareholders of the corporation. EHS has nine practice locations in Dorchester, East Bridgewater, Easton, East Weymouth, Milton, Pembroke, Plymouth, Quincy, and South Yarmouth. Approximately 48% of EHS's patients are Medicare/MassHealth beneficiaries, representing approximately 47% of EHS's patient service revenue.

TYPE OF MATERIAL CHANGE

12. Check the box that most accurately describes the proposed Material Change involving a Provider or Provider Organization:

- ☐ A Merger or affiliation with, or Acquisition of or by, a Carrier;
- ☐ A Merger with or Acquisition of or by a Hospital or a hospital system;
- ☒ Any other Acquisition, Merger, or affiliation (such as a Corporate Affiliation, Contracting Affiliation, or employment of Health Care Professionals) of, by, or with another Provider, Providers (such as multiple Health Care Professionals from the same Provider or Provider Organization), or Provider Organization that would result in an increase in annual Net Patient Service Revenue of the Provider or Provider Organization of ten million dollars or more, or in the Provider or Provider Organization having a near-majority of market share in a given service or region;
- ☐ Any Clinical Affiliation between two or more Providers or Provider Organizations that each had annual Net Patient Service Revenue of \$25 million or more in the preceding fiscal year; provided that this shall not include a Clinical Affiliation solely for the purpose of collaborating on clinical trials or graduate medical education programs; and
- ☐ Any formation of a partnership, joint venture, accountable care organization, parent corporation, management services organization, or other organization created for administering contracts with Carriers or third-party administrators or current or future contracting on behalf of one or more Providers or Provider Organizations.

13. What is the proposed effective date of the proposed Material Change? June 30, 2021

MATERIAL CHANGE NARRATIVE

14. Briefly describe the nature and objectives of the proposed Material Change, including any exchange of funds between the parties (such as any arrangement in which one party agrees to furnish the other party with a discount, rebate, or any other type of refund or remuneration in exchange for, or in any way related to, the provision of Health Care Services) and whether any changes in Health Care Services are anticipated in connection with the proposed Material Change:

Please see attached.

15. Briefly describe the anticipated impact of the proposed Material Change, including but not limited to any anticipated impact on reimbursement rates, care referral patterns, access to needed services, and/or quality of care:

Please see attached.

DEVELOPMENT OF THE MATERIAL CHANGE

16. Describe any other Material Changes you anticipate making in the next 12 months:

Following the Transaction, EHS will cease operating medical practices and commence to wind-down and dissolve its corporation. Due to the nature of the Transaction, EHS does not anticipate any additional Material Changes in the next 12 months. Notwithstanding, in the event of a change, EHS will provide any and all required Notices of Material Change and regulatory applications to the applicable government agencies.

17. Indicate the date and nature of any applications, forms, notices or other materials you have submitted regarding the proposed Material Change to any other state or federal agency:

No such documents are required to be submitted in connection with the Transaction; accordingly, EHS has not submitted any such documents to any other state or federal agency.

SUPPLEMENTAL MATERIALS

18. Submit the following materials, if applicable, under separate cover to HPC-Notice@state.ma.us.

The Health Policy Commission shall keep confidential all nonpublic information, as requested by the parties, in accordance with M.G.L. c. 6D, § 13(c), as amended by 2013 Mass. Acts, c. 38, § 20 (July 12, 2013).

- a. Copies of all current agreement(s) (with accompanying appendices and exhibits) governing the proposed Material Change (e.g., definitive agreements, affiliation agreements);
- b. A current organizational chart of your organization
- c. Any analytic support for your responses to Questions 14 and 15 above.

[Remainder of this page intentionally left blank]

This signed and notarized Affidavit of Truthfulness and Proper Submission is required for a complete submission.

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

I, the undersigned, certify that:

1. I have read 958 CMR 7.00, Notices of Material Change and Cost and Market Impact Reviews.
2. I have read this Notice of Material Change and the information contained therein is accurate and true.
3. I have submitted the required copies of this Notice to the Health Policy Commission, the Office of the Attorney General, and the Center for Health Information and Analysis as required.

Signed on the 5th day of March, 2021, under the pains and penalties of perjury.

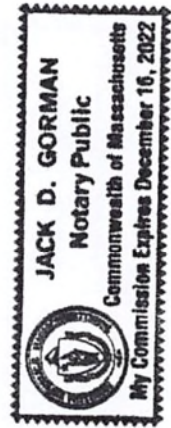
Signature: _____

John Mandeville

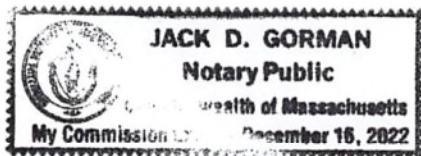
Name: _____

President

Title: _____



FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:



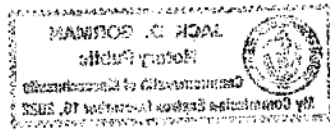
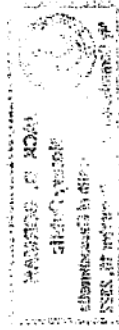
Jack D. Gorman
Notary Signature



Copies of this application have been submitted electronically as follows:

Office of the Attorney General (1)

Center for Health Information and Analysis (1)



EXPLANATIONS AND DEFINITIONS

1.	Name	Legal business name as reported with Internal Revenue Service. This may be the parent organization or local Provider Organization name.
2.	Federal TAX ID #	9-digit federal tax identification number also known as an employer identification number (EIN) assigned by the internal revenue service.
	MA DPH Facility ID #	If applicable, Massachusetts Department of Public Health Facility Identification Number.
	National Provider Identification Number (NPI)	10-digit National Provider identification number issued by the Centers for Medicare and Medicaid Services (CMS). This element pertains to the organization or entity directly providing service.
3.	Business Address 1	Address location/site of applicant
4.	Business Address 2	Address location/site of applicant continued often used to capture suite number, etc.
5.	City, State, Zip Code	Indicate the City, State, and Zip Code for the Provider Organization as defined by the US Postal Service.
6.	Business Website	Business website URL
7.	Contact Last Name, First Name	Last name and first name of the primary administrator completing the registration form.
8.	Title:	Professional title of the administrator completing the registration form.
9.	Contact Telephone and Extension	10-digit telephone number and telephone extension (if applicable) for administrator completing the registration form
10.	Contact Email	Contact email for administrator
11.	Description of Organization	Provide a brief description of the notifying organization's ownership, governance, and operational structure, including but not limited to Provider type (acute Hospital, physician group, skilled nursing facilities, independent practice organization, etc.), number of licensed beds, ownership type (corporation, partnership, limited liability corporation, etc.), service lines and service area(s).
		Indicate the nature of the proposed Material Change.
12.	Type of Material Change	<p><i>Definitions of terms:</i></p> <p>“Carrier”, an insurer licensed or otherwise authorized to transact accident or health insurance under M.G.L. c. 175; a nonprofit Hospital service corporation organized under M.G.L. c. 176A; a nonprofit medical service corporation organized under M.G.L. c. 176B; a health maintenance organization organized under M.G.L. c. 176G; and an organization entering into a preferred provider arrangement under M.G.L. c. 176I; provided, that this shall not include an employer purchasing coverage or acting on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer; provided that, unless otherwise noted, the term “Carrier” shall not include any entity to the extent it offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services.</p>

“Hospital”, any hospital licensed under section 51 of chapter 111, the teaching hospital of the University of Massachusetts Medical School and any psychiatric facility licensed under section 19 of chapter 19.

“Net Patient Service Revenue”, the total revenue received for patient care from any third party Payer net of any contractual adjustments. For Hospitals, Net Patient Service Revenue should be as reported to the Center under M.G.L. c. 12C, § 8. For other Providers or Provider Organizations, Net Patient Service Revenue shall include the total revenue received for patient care from any third Party payer net of any contractual adjustments, including: (1) prior year third party settlements; and (2) premium revenue, which means per-member-per-month amounts received from a third party Payer to provide comprehensive Health Care Services for that period, for all Providers represented by the Provider or Provider Organization in contracting with Carriers, for all Providers represented by the Provider or Provider Organization in contracting with third party Payers..

“Provider”, any person, corporation, partnership, governmental unit, state institution or any other entity qualified under the laws of the Commonwealth to perform or provide Health Care Services.

“Provider Organization”, any corporation, partnership, business trust, association or organized group of persons, which is in the business of health care delivery or management, whether incorporated or not that represents one or more health care Providers in contracting with Carriers or third-party administrators for the payments of Health Care Services; provided, that a Provider Organization shall include, but not be limited to, physician organizations, physician-hospital organizations, independent practice associations, Provider networks, accountable care organizations and any other organization that contracts with Carriers for payment for Health Care Services.

13.	Proposed Effective Date of the Proposed Material Change	Indicate the effective date of the proposed Material Change. NOTE: The effective date may not be fewer than 60 days from the date of the filing of the Notice.
14.	Description of the Proposed Material Change	Provide a brief narrative describing the nature and objectives of the proposed Material Change, including any exchange of funds between the parties (such as any arrangement in which one party agrees to furnish the other party with a discount, rebate, or any other type of refund or remuneration in exchange for, or in any way related to, the provision of Health Care Services). Include organizational charts and other supporting materials as necessary to illustrate the proposed change in ownership, governance, or operational structure.
15.	Impact of the Proposed Material Change	Provide a brief description of any analysis conducted by the notifying organization as to the anticipated impact of the proposed Material Change including, but not limited to, the following factors, as applicable: <ul style="list-style-type: none"> • Costs • Prices, including prices of the Provider or Provider Organization involved in the proposed Merger, Acquisition, affiliation or other proposed Material Change • Utilization • Health Status Adjusted Total Medical Expenses • Market Share • Referral Patterns • Payer Mix • Service Area(s) • Service Line(s) • Service Mix

16.	Future Planned Material Changes	Provide a brief description of the nature, scope and dates of any pending or planned Material Changes, occurring between the notifying organization and any other entity, within the 12 months following the date of the notice.
17.	Submission to Other State or Federal Agencies	Indicate the date and nature of any other applications, forms, notices or other materials provided to other state or federal agencies relative to the proposed Material Change, including but not limited to the Department of Public Health (e.g., Determination of Need Application, Notice of Intent to Acquire, Change in Licensure), Massachusetts Attorney General (e.g., notice pursuant to G.L. c. 180, §8A(c)), U.S. Department of Health and Human Services (e.g., Pioneer ACO or Medicare Shared Savings Program application) and Federal Trade Commission/Department of Justice (e.g., Notification and Report Form pursuant to 15 U.S.C. sec. 18a).

Notice of Material Change – Attachment

Eye Health Services, Inc.

Federal TAX ID # 04-2486837

2. NPI

- 1093726770
- 1528077989
- 1821008400
- 1902817687
- 1225277361

14. Briefly describe the nature and objectives of the proposed Material Change, including any exchange of funds between the parties (such as any arrangement in which one party agrees to furnish the other party with a discount, rebate, or any other type of refund or remuneration in exchange for, or in any way related to, the provision of Health Care Services) and whether any changes in Health Care Services are anticipated in connection with the proposed Material Change:

In light of increasing regulatory burdens, decreasing reimbursement rates, and the current COVID-19 pandemic, providers are experiencing unprecedented financial strain, making independent medical practices difficult to sustain. The long-term objective of the proposed Material Change (“Transaction”) is to maintain a sustainable, high-quality eye care practice that benefits the collective patients of EHS and Ophthalmic Consultants of Boston, Inc. (“OCB”) in many ways, including by ensuring expanded access to local care and continued cost-effective delivery of care.

OCB was founded in 1969 as a sub-specialty ophthalmic practice and became the first private multi-specialty ophthalmic practice in the country. OCB’s sub-specialty areas include cornea/cataract, glaucoma/cataract, oculoplastics, retina, cataract, comprehensive, uveitis, and refractive surgery. As a Massachusetts professional corporation, OCB currently employs 394 individuals, including 35 ophthalmologists, 27 of whom are shareholders of the corporation, and 34 of whom serve as Directors of the corporation. OCB has ten practice sites located in Boston, Cambridge, Danvers, Falmouth, Framingham, Plymouth, Sandwich, Waltham, Wareham, and Yarmouth. Approximately 63% of OCB’s patients are Medicare/MassHealth beneficiaries, representing approximately 61% of OCB’s patient service revenue.

OCB and EHS have entered into an Asset Purchase Agreement, under which, following receipt of all necessary consents and approvals, OCB will pay a fair market purchase price to EHS to acquire substantially all of the tangible assets of EHS (increasing OCB's annual NPSR by more than \$10M). As a result of the Transaction, OCB will own and operate the combined operations of the parties as an expanded multi-specialty ophthalmic practice that will benefit patients from the North Shore, Metro Boston, Metro West, and throughout the South Shore and Cape Cod. Following the Transaction, EHS will cease operating medical practices and commence to wind-down and dissolve its corporation.

In connection with the Transaction, EHS physician owners will have the opportunity to become shareholders and Directors of OCB, and OCB will offer to employ all other EHS clinical and non-clinical personnel. As a result, following the Transaction closing, OCB will employ approximately 600 staff members, including 55 ophthalmologists and 20 optometrists, across 18 locations.

The Transaction will support the growth and expansion of the combined groups, through OCB, such that they can continue to be dedicated to providing compassionate eye care of the highest quality and lowest cost while advancing ophthalmology through education, research and leadership. The Transaction will expand the specialty services available to each party's patients, and nearly double the practice locations from which those patients can receive high quality ophthalmic services, thereby substantially improving accessibility of local care over a wider geographic area. Furthermore, the EHS physicians and OCB physicians have medical staff membership and privileges at five standalone, non-hospital based ambulatory surgery centers ("ASCs") that are within the geographic regions of their practice locations, thereby enabling EHS and OCB patients to receive cost effective surgical and laser services locally and conveniently. The Health Care Services currently provided to EHS and OCB patients will not in any way be decreased or negatively impacted in type or amount.

The Transaction also will ensure continued cost-effective delivery of care by improving economic efficiencies of the parties to the Transaction while also ensuring the continuation of services that are charged and paid at physician office rates. Furthermore, considering EHS physicians' and OCB physicians' medical staff membership and privileges at the five-patient friendly, efficient, and cost-effective ASCs, the Transaction will enable them to maintain their position as the lowest cost surgery and laser providers in the region.

Ultimately, the Transaction will result in a sustainable ophthalmic practice that will ensure continuity of access to premier quality local care that EHS and OCB patients have come to know and expect.

Note that although some EHS physicians and OCB physicians have ownership interests in one or more of the ASCs, the ASCs are not part of the Transaction.

15. Briefly describe the anticipated impact of the proposed Material Change, including but not limited to any anticipated impact on reimbursement rates, care referral patterns, access to needed services, and/or quality of care:

The parties anticipate that the Transaction will have a meaningful and positive impact as follows:

- **Reimbursement Rates.** The Transaction will not increase costs to patients or payors. The Transaction will enable services to continue to be charged and paid at the physician office rates. Conversely, in light of the current market and environment and the pressures on private practices to consolidate, if either party were alternatively to consummate the same or a similar transaction with a hospital provider, such alternative transaction could significantly increase costs to both patients and payors, because services would be charged and paid at hospital outpatient payment rates rather than physician office rates, and would include a facility fee charge for each office visit and diagnostic test. The proposed Transaction maintains the lowest possible exam and diagnostic rates and does not result in an outpatient hospital facility fee.
- **Access to Needed Services.** Patients will have access to 18 different practice locations, thereby increasing the ability of patients to conveniently receive ophthalmic care locally. As a result, current EHS patients and current OCB patients will each have access to nearly twice as many practice locations and therefore patients will have more local ophthalmic care options than they currently have prior to the Transaction. Following the Transaction, each existing EHS and OCB location will remain operational, with the exception of EHS Plymouth, which will consolidate into OCB Plymouth. As the affiliation matures, the EHS Yarmouth and the OCB West Yarmouth practices may merge into a new Mid-Cape/Lower-Cape location. Following the Transaction, the parties anticipate that the Medicare/Medicaid mix of the combined enterprise will equal 58% of total patient revenue.
- **Nature of Health Care Services.** There will be no reduction in the lines of ophthalmic care currently provided by each practice following the Transaction. As a result, the Transaction will enable both parties to expand the collective scope services offered to their respective patients. For example, the Transaction will enable EHS to expand its services to include uveitis care.
- **Care Referral Patterns/Utilization.** EHS will continue to provide care to patients who currently are referred by external providers for sub-specialty and surgical care, with the added benefit of

greater accessibility through additional access to OCB's nine clinical practice locations. In addition, the Transaction will result in care referral patterns and utilization that will serve to reduce health care costs in the following ways:

- (i) Prior to the Transaction, EHS referred patients to hospital-based uveitis specialists and OCB referred patients to hospital-based pediatric and strabismus specialists. Following the Transaction, such patients can be treated within the combined physician enterprise and such hospital-based referrals will be less likely required. Treatment through the combined enterprise provides a lower-cost alternative to hospital-based treatment.
- (ii) Following the Transaction, the growth in the number of same-sub-specialty providers will allow for greater ASC accessibility and therefore reduced referrals to hospital-based sub-specialists. ASC-based procedures are a lower-cost alternative to hospital-based procedures.
- (iii) Prior to the Transaction, EHS provides retinal surgery in hospital-based surgical settings or refers patients to hospital-based surgical facilities because the ASC with which the EHS providers are affiliated is not equipped to perform retinal surgery. Following the Transaction, retinal surgery cases could be performed at the OCB affiliated ASCs in Boston and Cape Cod, a lower-cost alternative to hospital-based retinal surgery.

The parties' providers will continue, as necessary, to triage and refer patients for tertiary surgical care at MEEI or Tufts when surgical care at the local ASCs is not warranted.

- **Reduced Cost of Care.** The Transaction creates a number of opportunities to reduce the cost of care: (i) eliminating redundant expenses (e.g., administrative costs and management personnel) and lowering overhead expenses, (ii) generating savings from economies of scale (e.g., purchasing power for products and equipment), and (iii) capitalizing on operational integration and resulting improvements (e.g., scheduling and staffing personnel reductions due to integration of the parties on one electronic medical record platform). EHS and OCB, as private practices, have significantly lower total medical expenses than hospital-based ophthalmic practices. Accordingly, the consolidation of these private practices will enable the parties to provide care at a lower cost than it otherwise could provide in connection with an alternative consolidation with a hospital provider.

- **Quality of Care.** EHS and OCB providers possess a wealth of clinical and surgical knowledge and skill. A substantial number of the providers have been named as Top Doctors by Castle Connolly for several years. Combining their resources will provide an opportunity to enhance the quality of patient-driven eye care by leveraging the combined expertise that currently resides in each independent entity. The affiliation also will improve the coordination of patient care, as primary care and specialty care providers of eye care will practice within the same entity and utilize the same electronic medical record system.
- **Market Share.** Although the Transaction will result in a greater number of practice locations where EHS patients and OCB patients can receive ophthalmic care, the Transaction will not increase EHS's Service Area and the Transaction will have a negligible effect on provider concentration.
 - (i) **Service Area.** The geographic areas from which EHS will draw its patients following the Transaction as a combined enterprise with OCB are the same geographic areas from which EHS currently draws its patients.
 - (ii) **Provider Concentration.** The Board of Registration in Medicine website lists 579 active licensed ophthalmologists in Massachusetts; and the 2017 US Bureau of Labor and Statistics lists 1,111 optometrists employed in Massachusetts. Prior to the Transaction, EHS employs 20 ophthalmologists (approximately 3% of the state's licensed ophthalmologists), and OCB employs 35 ophthalmologists and 20 optometrists (approximately 6% of the state's licensed ophthalmologists and 2% of the state's employed optometrists). Following the Transaction, the combined enterprise will employ 55 ophthalmologists and 20 optometrists – that is, just under 9% of the state's licensed ophthalmologists, and 2% of the state's employed optometrists. Within EHS's Service Area, the combined enterprise will have no effect on the concentration of providers. That is, prior to the Transaction, the EHS and OCB ophthalmologists, combined, account for 10% of the total ophthalmologists practicing in the Service Area, and this will remain the case following the Transaction as well. Similarly, prior to the Transaction, EHS and OCB ophthalmologists and optometrists, combined, account for 5% of the total eye care providers in the Service Area, and this will remain the case following the Transaction as well.