



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NEIL ABERCROMBIE
GOVERNOR OF HAWAII

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August 7, 2012

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 12-15
Yacht Harbor ASC, LLC)	
)	
Applicant)	
_____)	DECISION ON THE MERITS

DECISION ON THE MERITS

The State Health Planning and Development Agency (hereinafter "Agency"), having taken into consideration all of the records pertaining to Certificate of Need Application No. 12-15 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons, the recommendations of the Oahuwide Certificate of Need Review Committee, the Certificate of Need Review Panel and the Statewide Health Coordinating Council, the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law, order, and written notice on Certificate of Need Application No. 12-15. Where appropriate, Findings of Fact shall operate as Conclusions of Law, and Conclusions of Law shall operate as Findings of Fact. As many of the criteria for CON are interrelated, each of the criteria and subheadings within the Findings of Fact shall be deemed to incorporate and include all other Findings of Fact to the extent relevant.

I

FINDINGS OF FACT

1. This is an application for a Certificate of Need ("Cert") for the establishment of an ambulatory surgery center limited to ophthalmologic procedures at 1600 Ala Moana Blvd., Comm 1 & 2, Honolulu, Hawaii, at a capital cost of \$2,868,464.
2. The applicant, Yacht Harbor ASC, LLC is a limited liability corporation.

3. The Agency administers the State of Hawaii's Certificate Program, pursuant to Chapter 323D, Hawaii Revised Statutes (HRS), and Title 11, Chapter 186, Hawaii Administrative Rules (HAR).
4. On April 24, 2012, the applicant filed with the Agency, a Certificate of Need application for the establishment of an ambulatory surgery center limited to ophthalmologic procedures at 1600 Ala Moana Blvd., Comm 1 & 2, Honolulu, Hawaii, at a capital cost of \$2,868,464 (the "Proposal"). On June 4, 2012 and June 14, 2012, the applicant submitted additional information. On June 25, 2012 the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #12-15.
5. The period for Agency review of the application commenced on July 3, 2012, the day notice was provided to the public pursuant to 11-186-39 HAR.
6. The application was reviewed by the Oahuwide Certificate of Need Review Committee at a public meeting on July 10, 2012. The Committee voted 3 to 0, with one abstention in favor of recommending approval of the application.
7. The application was reviewed by the Certificate of Need Review Panel at a public meeting on July 19, 2012. The Committee voted 6 to 0 in favor of recommending approval of the application.
8. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on July 26, 2012. The Council voted 14 to 0 with one abstention, in favor of recommending approval of the application.
9. This application was reviewed in accordance with Section 11-186-15, HAR.
10. Section 323D-43(b), HRS states:

“(b) No certificate of need shall be issued unless the state agency has determined that:

 - (1) There is a public need for the facility or service; and
 - (2) The cost of the facility or service will not be unreasonable in the light of the benefits it will provide and its impact on health care costs.”
11. Burden of proof. Section 11-186-42, HAR, provides:

“The applicant for a certificate of need or for an exemption from certificate of need requirements shall have the burden of proof, including the burden of producing evidence and the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.”

II

FINDINGS OF FACT
CERTIFICATE OF NEED CRITERIA

A. REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH SERVICES AND FACILITIES PLAN

12. The applicant states that “The proposed ASC will enter into a required collaborative agreement with Queen's Medical Center, and in the event that one of its patients requires hospitalization, the ASC's professional staff will coordinate the transfer of the patient to Queen's Medical Center...”

13. The applicant states that “The services offered by the ASC will maintain access by continuing to embody the RIH philosophy of care of treating all Hawaii residents regardless of their ability to pay, as evidenced by Project Vision support and annual charity care provided to residents of Hawaii. Yacht Harbor ASC LLC will provide services to Oahu-wide residents, and through the existing Retina Institute of Hawaii (RIH) network of clinics and ophthalmologist across the state of Hawaii, extend services to the rural areas.”

14. The applicant states that “The proposed ASC will support the regional and statewide continuum of care. The proposed ASC will work with the long-standing RIH relationships with the state's optometrists to coordinate the care from early detection to treatment with quality outcomes. The proposed ASC will also extend the continuum of care through its relationship with Project Vision, reaching out to the most underserved areas in Hawaii and identifying to need for such services provided by the ASC.”

15. The applicant states that “The proposed ASC will ensure the needed capacity and access of care is available for the aging Hawaii population and all residents of Hawaii in a coordinated approach focused on the highest quality outcomes.”

16. The applicant states that “The proposed ASC will staff 16 health care professionals from the Hawaii labor market with ongoing education and training to ensure the highest customer service and quality outcomes are provided. In respect to the senior care services, the proposed ASC will support the increasing Hawaii over 65 market, that has higher rates of vision impairment, with the most current technology and surgical services not currently available anywhere else in Hawaii.”

17. The Agency finds that this criterion has been met.

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

18. The applicant states that “According to the CDC, more than 3.3 million Americans 40 years and older are either legally blind or are with low vision in the better-seeing eye, excluding those who were categorized as being blind. The leading causes of blindness and low vision in the United States are primarily age-related eye diseases such as age-related macular degeneration, cataract, diabetic retinopathy, and glaucoma.”

19. The applicant states that “According to the Census Bureau, Hawaii's 2011 population estimate is 1.4 million of which 48.1% are 40 years and older, or more than 650,000 Hawaii residents. For Oahu only, there are over 950K residents and more than 450K over the age of 40.”

20. The applicant states that “Based on the CDC Vision Health Initiative and the Census Bureau's population statistics, the following Hawaii populations would be at risk of some form of vision impairment:

CDC Risk Factor	Population Range		Total Related Population		Percentage of at Risk Population	Potential at Risk Population	
	Hawaii	Oahu	Hawaii	Oahu		Hawaii	Oahu
Near vision impairment	40 and older		654,082	458,336	Approx. 41%	268,174	187,918
No eye exam in prior year					Approx. 33%	215,847	151,251
Distance visual impairment					Up to 20%	130,816	91,667
Diabetic retinopathy					Up to 20%	130,816	91,667
Age-related macular degeneration					Approx. 4%	26,163	18,333”

21. The applicant states that “Age-related macular degeneration is the leading cause of permanent impairment of reading and fine or close-up vision among people aged 65 years and older. Additionally, Hawaii has an aging population that exceeds the national average. Again per the Census Bureau, Hawaii's 65 and older population represents 14.3% of our state's total compared with only 13.0% nationally, and this trend is increasing.”

22. The applicant states that "...based on the Hawaii Diabetes Report 2010 from the Hawaii State Department on Health, more than 102,000 Hawaii residents have diabetes, a leading cause of vision complications such as blurred vision, double vision, flashing lights, clouds or streaks in the field of vision, dark or floating spots and blank spots. These complications can be early warning signs of diabetic retinopathy, which is a leading cause of blindness."

23. The applicant states that "Currently, the island of Oahu has both ASC and hospitals that provide the surgical procedures such as corneal transplants, retina surgeries and cataract procedures, but no facilities provide either the adipose derived stem cell therapy or the retinal pigment epithelium transplant. The proposed ASC will be the first in Hawaii to perform these new procedures. The calculated population with a potential form of vision impairment 40 years old and older would be addressed by optometrists. However, the potential surgical procedures required for Hawaii's aging population and growing diabetic population in Hawaii creates a growing demand for surgical services, and new technology services to be offered by the proposed ASC."

24. The applicant states that "Based on the Hawaii population aging and diabetic population trends, both leading causes of vision impairment, there is an existing and increasing demand for ophthalmology services in Hawaii. The identified current gap in diabetic patients reporting vision problems by the Hawaii Department on Health is existing support for a gap in the health care system today. The rate of diabetics and associated vision problems is projected to continue in Hawaii. Additionally, the calculated demand on Oahu for surgical eye procedures today is estimated at 25,377 for freestanding ASC's only. The existing eye center ASC's on Oahu perform a variety of surgical procedures with only three offering retina related surgeries. With an estimated 92,000 residents on Oahu with diabetic retinopathy, the surgical services to be offered by the proposed ASC will work towards meeting this gap in care today and continue to service all residents as the population continues to grow."

25. The applicant states that "The proposed ASC will be accessible to all the residents of the community, in particular low income persons, racial and ethnic minorities, women, people with disabilities, other underserved groups, and the elderly. The proposed ASC will continue the long standing care delivery model delivered by RIH, where all patients are treated regardless of their ability to pay. RIH has provided services locally and internationally to benefit people who could otherwise not afford the required treatment. The proposed ASC is a wholly owned subsidiary of RIH and the existing access services, such as the concierge service, will be extended to close access issues."

26. The Agency finds that the need and accessibility criteria have been met.

C. REGARDING QUALITY AND LICENSURE CRITERIA

27. The applicant states that "The proposed ASC will comply with all federal and state statutes and regulations governing the delivery of care and maintenance of equipment."
28. The applicant states that "Accreditation will be sought from the Accreditation Association of Ambulatory Health Care, be licensed by the State of Hawaii Department of Health and participate in Medicare and Medicaid programs."
29. The applicant states that "A quality improvement plan will be implemented that complies with the Medicare conditions of participation for ASCs and deliver patient care through well-defined processes for caregivers."
30. The applicant states that "Each staff member will undergo general orientation and in-service education to assure the highest standard of care is being delivered in accordance with management expectations. In addition, regular orientation sessions and ongoing CME courses will be offered to continually maintain the highest level of care."
31. The Agency finds that the quality and licensure criteria have been met.

D. REGARDING THE COST AND FINANCIAL CRITERIA

32. The applicant states that "...the proposed ASC will work to lower the overall cost of health care services in Hawaii by coordinating patient care with related optometrist and primary care physician, reducing the gaps in care. The professional team at the proposed ASC deliver the quality outcomes experienced by the RIH surgeons across all surgical procedures. Additionally, the latest technology and procedures will be delivered by the surgical team to improve overall outcomes lowering to total cost of health care for patients."
33. The applicant states that "Operating revenue for the first year of operations is projected at \$5.75M and operating expenses are projected at \$5.14M leaving a net operating margin of \$553K after debt service. By year three, operating revenue is projected at \$6.45M and operating expenses are projected at \$5.65M resulting in a net operating margin of \$764K after debt service."

34. The applicant states that "The projected net operating margins will provide access to all residents of the area regardless of their ability to pay, and in particular low income and ethnic minority groups residents that tend to demonstrate a higher rate of diabetes, a high risk factor for vision impairment."

35. The Agency finds that the cost and financial criteria have been met.

E. REGARDING THE RELATIONSHIP OF THE PROPOSAL TO THE EXISTING HEALTH CARE SYSTEM OF THE AREA

36. The applicant states that "The proposed ASC will coordinate patient care reducing the gaps in care delivery by providing provider follow reports on the care of the referred patient. Additionally, the proposed ASC will offer stem cell therapy and retinal pigment epithelium transplant, both of which offer promising outcomes not available at any other location in Hawaii."

37. The applicant states that "The proposed ASC will support the regional and statewide continuum of care. The proposed ASC will work with the long-standing RIH relationships with the state's optometrists to coordinate the care from early detection to treatment with quality outcomes. The proposed ASC will also extend the continuum of care through its relationship with Project Vision, reaching out to the most underserved areas in Hawaii and identifying to need for such services provided by the ASC."

38. The Agency finds that these criteria have been met.

F. REGARDING THE AVAILABILITY OF RESOURCES

39. The applicant states that "Funds for the project will be obtained by Yacht Harbor ASC through a term loan with First Hawaiian Bank... with RIH paying for the equipment and construction costs. The \$1.868M cash contribution by RIH will be made from cash flow from operations."

40. The applicant states that "The proposed ASC will employ 16.0 FTE's... through various hiring strategies such as local recruitment across the State of Hawaii, newspaper, online job postings and other recruitment channels. Based on the tenure of the RIH employees and success in filings positions, there are no anticipated staffing issues. Additionally, with the closure of the two Hawaii Medical Center facilities, the proposed ASC will focus on recruiting in the local market first."

41. The Agency finds that the applicant has met this criterion.

III

CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 12-15 on file with the Agency, including the written and oral testimony and exhibits submitted by the applicant and other affected persons, the recommendations of the Oahuwide Certificate of Need Review Committee, the Certificate of Need Review Panel and the Statewide Health Coordinating Council and based upon the findings of fact contained herein, the Agency concludes as follows:

The applicant has met the requisite burden of proof and has shown by a preponderance of the evidence that the Proposal meets the criteria established in Section 11-186-15, HAR.

Accordingly, the Agency hereby determines that, pursuant to Chapter 323D-43(b):

- (1) There is a public need for this Proposal; and
- (2) The cost of the Proposal will not be unreasonable in light of the benefits it will provide and its impact on health care costs.

ORDER

Pursuant to the findings of fact and conclusions of law contained herein, IT IS HEREBY DECIDED AND ORDERED THAT:

The State Health Planning and Development Agency hereby APPROVES and ISSUES a Certificate of Need to Yacht Harbor ASC, LLC for the Proposal described in Certificate of Need application No. 12-15. The maximum capital expenditure allowed under this approval is \$2,868,464.

WRITTEN NOTICE

Please read carefully the written notice below. It contains material that may affect the Decision on the Merits. The written notice is required by Section 11-186-70 of the Agency's Certificate of Need Program rules.

The decision on the merits is not a final decision of the Agency when it is filed. Any person may request a public hearing for reconsideration of the decision pursuant to Section 11-186-82 HAR. The decision shall become final if no person makes a timely request for a public hearing for reconsideration of the decision. If there is a timely request for a public hearing for reconsideration of the decision and after the Agency's final action on the reconsideration, the decision shall become final.

(Note, pursuant to Chapter 323D-47, Hawaii Revised Statutes, a request for reconsideration shall be received by the Agency within ten working days of the state agency decision.)

DATED: August 7, 2012
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Romala Sue Radcliffe
Administrator