



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

LINDA LINGLE
GOVERNOR OF HAWAII
CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH
RONALD E. TERRY
ADMINISTRATOR

1177 Alakea St. #402, Honolulu, HI 96813 Phone: 587-0788 Fax: 587-0783 www.shpda.org

March 13, 2009

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 08-07
Newport Hospital Corporation)	
)	
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. 08-07 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 Trilsle Subarea Health Planning Council, 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. 08-07.

I

BACKGROUND

1. This is an application for a Certificate of Need ("Cert.") for the establishment of 19 Medical/Surgical beds, 6 Critical Care beds, 40 SNF/ICF beds, Emergency Room services, Blended Operating Room services, Diagnostic Radiology services, Stationary Magnetic Resonance Imaging services, Stationary Computed Tomography services, Clinical Laboratory, Pharmacy and Social Services at TMK: (2) 4-4-06:70 (portion) Lahaina, Hawaii, at a capital cost of \$45,750,000.
2. The applicant, Newport Hospital Corporation, is a for-profit 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 February 29, 2008, the applicant filed with the Agency a Certificate of Need application for the establishment of 19 Medical/Surgical beds, 6 Critical Care beds, 40 SNF/ICF beds, Emergency Room services, Blended Operating Room services, Diagnostic Radiology services, Stationary Magnetic Resonance Imaging services, Stationary Computed Tomography services, Clinical Laboratory, Pharmacy and Social Services at TMK: (2) 4-4-06:70 (portion) Lahaina, Hawaii, at a capital cost of \$45,750,000 (the "Proposal"). On March 28, 2008, the Agency determined that the application was incomplete and notified the applicant of the additional information required to complete the application. On April 22, June 24, August 8, September 5, September 8, September 18, September 29, October 29, November 12, December 9, December 17, 2008 and January 2, January 14, and January 15, 2009, the applicant submitted additional information. On January 15, 2009, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #08-07.
5. The period for Agency review of the application commenced on February 6, 2009, the day notice was provided to the public pursuant to 11-186-39 HAR.
6. The application was reviewed by the Trilsle Subarea Health Planning Council at a public meeting on February 13, 2009. The Council voted 6 to 0 in favor of recommending approval of the application.
7. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on February 26, 2009. The Council voted 12 to 0 in favor of recommending approval of the application.
8. The application was reviewed by the Certificate of Need Review Panel at a public meeting on March 4, 2009. The Panel voted 6 to 0 in favor of recommending approval of the application.
9. This application was reviewed in accordance with Section 11-186-15, HAR.
10. Pursuant to Section 323D-43(b), HRS:

 "(b) No Certificate shall be issued unless the 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

A. REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH SERVICES AND FACILITIES PLAN (HAWAII HEALTH PERFORMANCE PLAN) OR "H2P2"

12. With respect to the goals of H2P2, the applicant states that "Overall, WMHMC will promote equitable and effective access to care at a reasonable cost by providing available treatment services *within* the growing West Maui community. It will alleviate a health disparity for Maui and help sustain a safer community."

13. With respect to the objectives of H2P2, the applicant states that "The West Maui Hospital Medical Center (WMHMC) Critical Access Hospital (CAH) will also support the objectives of the Hawaii Health Performance Plan. Because WMHMC will be situated in the Lahaina area, it will improve and promote more accessible care, early detection and diagnosis of treatable diseases for the 69,000 people of West Maui. It will provide emergency services in West Maui, 24 hours a day, 7 days a week. WMHMC's Emergency Department will work within the existing Maui EMS system to ensure that West Maui patients are transported to the appropriate facility... Providing emergency and diagnostic services locally in West Maui should reduce morbidity and pain through more timely treatment."

14. The applicant states that the H2P2 basic principles for a health care delivery system call for "A health care delivery system that is comprehensive, cost-effective, well-coordinated and responsive to community/regional needs."

15. The applicant states that "In establishing a Critical Access Hospital (CAH) in West Maui, WMHMC will coordinate care with the Department of Health, MMMC, and the Maui County EMS system to assure appropriate routing and transfer of West Maui patients that need emergency services or continuing acute care or higher levels of specialized care at other facilities...WMHMC will routinely

work collaboratively with health care providers in our community, such as MMMC, Community Clinic Maui, Hale Makua, Doctors on Call, Kaiser, DOH and other private providers, to assure an appropriate continuum of care for Maui."

16. With respect to the H2P2 threshold for Medical/Surgical beds, the applicant states that "...for 'new or additional medical /surgical beds, all existing medical/surgical beds in the service area average an annual occupancy rate of 80 percent or higher based on the number of licensed beds rather than on staffed beds'. Based on SHPDA 2005 Utilization Report, MMMC hospital's 129 licensed medical/surgical beds are 95.26% occupied; Kula Hospital's 2 licensed medical surgical beds are 8.63% occupied and the combined utilization occupancy of the 131 licensed medical surgical beds on the island of Maui being 93.93% which surpasses the H2P2 utilization threshold."

17. With respect to the H2P2 threshold for Critical Care beds, the applicant states that "...for a new or additional CCU bed, the minimum occupancy rate, based on total licensed beds is 60 percent and the optimal rate is 85%'. Based on SHPDA 2005 Utilization Report, the existing Critical Care/ICU beds in the Maui service area have an annual occupancy rate of 69%+, which is above the minimum occupancy rate ..."

18. With respect to the H2P2 threshold for Long Term Care beds, the applicant states that "...for a new or additional long term care bed, the average annual occupancy rate for all existing long term care beds in the service area is at least 95%. The target average annual occupancy rate for a long term care facility is at least 90%'. ...The weighted average occupancy level for all Maui LTC beds (blended ICF/SNF) is 95%, which is at/above the minimum occupancy rate threshold."

19. The applicant states that "Based on SHPDA 2005 Utilization Report, Maui Medical Group (MMG) has 1 CT machine with annual utilization of 4,241 procedures; MMMC has 1 machine that did 14,957 procedures and Maui Diagnostic Imaging (MDI) has 1 machine that did 3,087 procedures and demonstrates that all providers surpassed the H2P2 threshold. WMHMC projects the minimum threshold of 3,000 CT procedures in Year 1 of operation ..."

20. For Magnetic Resonance Imaging (MRI) services, the applicant states that "Based on SHPDA 2005 Utilization Report, Maui Memorial Medical Center (MMMC) and Maui Diagnostic Imaging reported utilization numbers of 3,601 (MMMC) and 3,350 (MDI) respectively, surpassing the H2P2 utilization threshold. In 2009, MMG estimates that its new open MRI will perform 1500 'Open MRI' procedures in year 1 of operation, which meets SHPDA's minimum procedure

threshold. WMHMC projects meeting the minimum threshold of 1,500 MRI procedures in Year 1..."

21. With respect to the H2P2 Operating Room thresholds, the applicant states that "...the proposed service at WMHMC is eligible for a sub-optimum utilization range.... 'In each case where sub-optimization is proposed, the benefits – in the form of improved access for the service area population combined with significant improvement in quality and/or significant reduction in price to the public – clearly outweigh the costs to the community of duplicating or under-using services, facilities or technology.' We propose that developing a hospital with an emergency room in West Maui with available emergency services 24 hours a day, 7 days a week to *improve access* requires operating rooms to help handle those emergencies. To build a hospital with an emergency room and no operating rooms would compromise minimal clinical quality of care standards and practices."

22. The applicant states that "WMHMC will integrate statewide health priorities identified in H2P2 into its project. Establishing a new Critical Access Hospital in the Lahaina area allows people in need of emergency and/or acute care in West Maui well-situated geographical access to services, reduces travel time which expedites patient care and promotes faster diagnosis and treatment, in coordination with outpatient services, allows for more cost-effective, seamless continuity of care for ongoing patient treatment plans."

23. The applicant states that "The recommended regional priorities for modifying or adding to the health care delivery system for the Tri-Isle Subarea include... Priority 2. Emergency Medical Services... Providing emergency and diagnostic services locally in West Maui will improve quality of care by reducing morbidity and pain through more timely treatment."

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

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

25. The applicant states that "The only automobile access into and out of West Maui is the Honoapiilani Highway, a two-lane road built in 1951 that winds along the ocean and cliffs on Maui's west coastline. Residents, commuters and visitors in West Maui must travel the road in order to reach the only emergency care facility on the island, which is MMMC some 25-35 miles away and a 45-65 minute drive on a good day. ...When the highway is shut down due to an accident or fire or high surf or repair, an emergency trip could take hours, or may simply become impossible by road travel."

26. The applicant states that "The major focus of the WMHMC project is to provide timely access to Emergency Services for the West Maui community because of its growing population and geographical isolation. In SHPDA's H2P2, *emergency service* is among the top recommended regional priorities for modifying or adding to the health care delivery system for the Tri-Isle Subarea... There is no medical facility in West Maui that accepts ambulance patients at any time, day or night, and urgent care is only available through the standard clinic hours of operation. The emergency department is the core of the proposed Critical Access Hospital in West Maui."

27. The applicant states that "WMHMC used the *Maui Bed Needs Report, 2005-2025* data and its methodologies targeted specifically to bed needs for Maui as the basis for identifying its estimates of need and demand, supply and utilization, identified deficits or surpluses and future utilization. The Report was created to address 'Maui's healthcare future', the methodologies are sound and the data, with few exceptions, remains accurate...According to HHIC's Maui Bed Needs Study, 2005-2025:

- 'Without waitlist patients, MMMCs existing supply of licensed beds (196) is adequate for the short term, through 2005. To meet the bed needs of waitlisted patients an additional 41 beds need to be added to MMMC's capacity to meet current demand.'
- 'Bed capacity expansion is needed beyond 2005 to meet the acute care needs of the growing and aging population. High estimates indicate that approximately 30 more beds (are) needed every 5 years beginning in 2015. With waitlisted patients included, increases need to be 30-40 bed increases every five years beginning in 2005.'
- 'To meet the needs of the population 99% of the time, 21-31 beds need to be added every five years beginning in 2015 if the need is only for acute care, and beginning in 2005 if the high volume of waitlisted patients is to continue.'

28. The applicant states that "The Maui Bed Needs Study does not specify *where* the acute care beds are needed on Maui because it addresses the island's need, but we know that 69,000+ of Maui's total population live, work and visit West Maui; that's 48% of 2007's population of 144,440. If we use the Maui projected bed needs for 2010 and West Maui's population, $.48 \times 55$, we would need 26 beds in West Maui by 2010 and WMHMC is proposing 25 acute beds."

29. The applicant states that "The increase of 19 new acute beds at MMMC in 2006 still falls shy of the 2005 recommendation of 41 additional acute beds in the

Maui Bed Needs Study and is nowhere near meeting the 2010 recommendations of 55 beds."

30. The applicant states that "HMSA's Health Trends Hawaii...reports that 'Hawaii's bed rate of 24 long term care beds per 1,000 residents aged 65 and older, is almost one-half that of the U.S. rate of 43 long term care beds per 1,000 population aged 65 or older...'"

31. The applicant states that Maui has a total of 484 long term care beds island-wide with an average occupancy level of 95% and that there are no long term care beds in West Maui.

32. The applicant states that "The analysis of LTC bed needs using Hawaii data indicates that Maui is significantly behind in the supply of long term care beds, based on national supply and utilization trends. Using the 2007 West Maui population of 69,994 and subtracting out the 26,492 estimated visitors gives us 43,502 West Maui residents who potentially need LTC. Using the national average rate of 43 beds per 1000 people, West Maui needed 1,139 beds in 2007, identifying a serious service deficit."

33. The applicant states that "WMHMC is proposing 40 LTC beds which only meet a portion of that need, but it will help with the MMMC waitlist and will serve West Maui patients coming from WMHMC acute care."

34. The applicant states that "A state-of-the-art CT machine is a requirement for the timely and accurate diagnosis of critical patients coming into the Emergency Room and CT machines have become standard diagnosis equipment in hospital settings today. According to the CDC's 'National Hospital Ambulatory Medical Care Survey, 2001', diagnostic/screening services and procedures were provided at hospital emergency rooms on average 85.4 percent of the time and Imaging was provided at 40.8% percent of visits. This includes X-ray and CT services."

35. The applicant states that "An MRI machine is a requirement for the timely and accurate diagnosis of critical patients coming into the Emergency Room... According to the CDC's National Hospital Ambulatory Medical Care Survey, 2001, 'the use of MRI/CAT scan in hospital emergency rooms had increased by over 160 percent from 1992 to 2001' and 'MRI imaging was used in approximately 40% of the cases.'"

36. The applicant states that "To build a hospital with an emergency room and no operating rooms would compromise minimal clinical quality of care standards and practices. According to the CDC's National Hospital Ambulatory Medical

Care 2004 Emergency Department Summary, an estimated 47% of ER visits result in surgery cases....We propose that developing a hospital with an emergency room in West Maui with available emergency services 24 hours a day, 7 days a week to *improve access* requires operating rooms to handle those estimated 2,846 emergencies that present themselves to ER. West Maui currently has no such services..."

37. The applicant states "Because there are currently no diagnostic radiology services in West Maui available 24/7, WMHMC will need x-ray and ultrasound machines to provide timely diagnostic service for the care of patients coming into the Emergency Department. Diagnostic services are a requirement of any hospital with 24/7 emergency services."

38. The applicant states that "In support of Emergency Services, a clinical lab is needed to help diagnose illness, monitor treatment progress or regression and/or to respond to patients in emergency situations of traumatic injury, shock or critical illness... There is a Clinical Laboratory of Hawaii site in Lahaina, but it is not available 24 hours a day. WMHMC needs an on-site functioning Clinical Laboratory Department, including a Blood Bank, to provide timely quality diagnostic laboratory services available for patients 24/7."

39. The applicant states that "A Pharmacy is a requirement for a licensed acute care hospital providing Emergency Services. To support emergency treatment, access and management of medications must be available 24/7...The pharmacy will support WMHMC inpatient and outpatient care and is essential to the medical center."

40. The applicant states that "A Social Service Department is critical for patients and their families in a hospital setting...Any hospital with Emergency services utilizes social services 24/7 – workers are on-call around the clock to assist patient and family needs during crisis intervention. Social services will serve and support WMHMC inpatient, outpatient and LTC services."

41. The applicant states that "WMHMC services 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."

42. The Agency finds that the proposal meets the need and accessibility criteria.

C. REGARDING QUALITY AND LICENSURE CRITERIA

43. The applicant states that "The WMHMC project will improve the quality of care for the 69,000 people of West Maui by creating health care services unavailable in West Maui today. It will raise the quality of care provided to all residents, commuters, and visitors of West Maui because they will have timely access to emergency and urgent care, 24 hours a day, and 7 days a week."

44. The applicant states that "WHHMC will be licensed by the state of Hawaii as an acute care facility; it will seek full JCAHO accreditation and will be certified as a Critical Access Hospital (CAH) by CMS and the State... The clinical laboratory will be certified by CLIA; the diagnostic imaging center will pursue ACR accreditation and its diagnostic equipment, technologists and radiologists will be in compliance with established accreditation performance standards. The LTC will be Medicare certified. As stipulated in CMS requirements for CAH certification, WMHMC will operate internal quality assessment and performance improvement programs and follow all appropriate procedures for ongoing CMS review of utilization of services."

45. The applicant states that "The Emergency Department will develop and implement policies, procedures, and protocols for care that meet the clinical standards set forth by the Association of Emergency Physicians and Association of Emergency Room Nurses."

46. The applicant states that "Emergency physicians will be board certified in Emergency Medicine and a hospitalist that is certified in Hospital Medicine is desired to oversee the care of hospitalized patients. Every technologist will be certified by the American Registry of Radiologic Technologists (ARRT) in their specific modalities and licensed in the state of Hawaii."

47. The applicant states that "All staff will meet the qualifications required by JCAHO, the Hawaii Department of Health, and community standards to work in a specific area."

48. The applicant states that "The WMHMC will refer and/or transfer patients requiring tertiary care services to MMMC and/or an Oahu facility, using appropriate transportation services."

49. The applicant states that "In establishing a Critical Access Hospital (CAH) in West Maui, WMHMC will coordinate care with the Department of Health, MMMC, and the Maui County EMS system to assure appropriate routing and transfer of West Maui patients that need emergency services or continuing acute care or higher levels of specialized care at other facilities...WMHMC will routinely

work collaboratively with health care providers in our community, such as MMMC, Community Clinic Maui, Hale Makua, Doctors on Call, Kaiser, DOH and other private providers, to assure an appropriate continuum of care for Maui."

50. The Agency finds that the quality and licensure criteria have been met.

D. REGARDING THE COST AND FINANCIAL CRITERIA

51. The applicant states that "The Project Financial Projections ...show that the CAH is projected to have a Base Year positive Income from Operations while the SNF/ICF is projected to have a First Year Net Loss from Operations. Until WMHMC is designated a Critical Access Hospital by CMS, there will be adequate start-up capital to cover the first year costs. CMS approval is anticipated by the end of the first year of operation, which will provide full CMS eligible reimbursement at 101% in the second year of operation and anticipated growth in occupancy levels, with private and government programs reimbursement will be underway by the third year of operation."

52. The applicant projects net income in Year 3 of operations from acute and ancillary services of \$4,145,354 and net income in Year 3 of operations from Long Term Care services of \$461,373."

53. The applicant states that "The WMHMC project will help reduce the cost of healthcare on Maui by adding additional beds to help MMMC alleviate the 'waitlist' patients. The Maui Bed Needs study, 2005-2025, addresses the problem of *waitlist patients* at length...The Maui Bed Needs Study also points out the growing need for more treatment beds on Maui, now and into the future for its growing and aging population. The WMHMC project will add 25 new acute care beds and a new 40 bed SNF in West Maui, both well-documented needs for the community. The potential savings for MMMC and its waitlisted patients is significant."

54. The applicant states that "HMSA's 'Health Trends in Hawaii' (2007) astutely notes that 'lack of availability and access to appropriate resources in rural areas may contribute to higher rates of preventable hospitalizations and increasing healthcare costs.'"

55. The applicant states that "...the availability of a West Maui medical center with emergency services available 24/7 will enhance accessibility, reduce travel time for residents and visitors, improve outcomes and, ultimately our project will help reduce healthcare costs by providing early detection and treatment of

chronic health problems, as well as by facilitating primary health care to the unserved and underserved population in need."

56. The applicant states that the capital cost of the project is \$45,750,000 and that the source of funding for the WMHMC project will consist of \$10 million cash, which will be provided by Brian H. Hoyle, President and Sole shareholder of the Newport Hospital Corporation and American Healthcare Investments, L.L.C. and \$35.75 million debt, to be financed by a loan from Citywide Lending Group.

57. 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

58. The applicant states that "The WMHMC project will fill the currently unmet delivery gap for the community by providing easily accessible emergency medical services, urgent care, acute care, comprehensive diagnostic services and skilled nursing care, 24 hours a day, 7 days a week..."

59. The applicant states that "Additionally, by developing the proposed 40 bed SNF facility in West Maui, this project will also help reduce the gap between demand and supply of sub-acute beds on the island. These new beds will help alleviate MMMC's ongoing waitlist patient situation (averaging 41 patients daily), who now occupy acute care beds due to the shortage of LTC beds in the current healthcare system."

60. The applicant states that "The WMHMC will refer and/or transfer patients requiring tertiary care services to MMMC and/or an Oahu facility, using appropriate transportation services."

61. The applicant states that "In establishing a Critical Access Hospital (CAH) in West Maui, WMHMC will coordinate care with the Department of Health, MMMC, and the Maui County EMS system to assure appropriate routing and transfer of West Maui patients that need emergency services or continuing acute care or higher levels of specialized care at other facilities...WMHMC will routinely work collaboratively with health care providers in our community, such as MMMC, Community Clinic Maui, Hale Makua, Doctors on Call, Kaiser, DOH and other private providers, to assure an appropriate continuum of care for Maui."

62. The applicant states that "The focus for West Maui has always been timely access to emergency services and a 'one stop' medical center for its residents

and visitors. Over the years, the community has explored multiple alternatives to improve health care delivery in West Maui, including:

- Building a Lahaina bypass road to improve travel time,
- Purchasing a helicopter for air emergency services

Both of these alternatives were prohibitive due to costs, inadequate funding, safety and regulatory requirements."

63. The Agency finds that the applicant has met these criteria.

F. REGARDING THE AVAILABILITY OF RESOURCES

64. The applicant states that the capital cost of the project is \$45,750,000 and that the source of funding for the WMHMC project will consist of \$10 million cash, which will be provided by Brian H. Hoyle, President and Sole shareholder of the Newport Hospital Corporation and American Healthcare Investments, L.L.C. and \$35.75 million debt, to be financed by a loan from Citywide Lending Group.

65. The applicant states that "The CAH will be managed by Southwest Health Group (SHG) whose Partners have developed, managed, and operated physician owned acute care hospitals and surgery centers on a national level since 1965. SHG will look to recruit local physicians in Hawaii as Physician Partners in the CAH, along with other local healthcare professionals. SHG can also obtain physician partners for operation of WMHMC and staff the CAH through SHG's extensive national network of past and current physician partners ...SHG will also offer paid internships (New Graduate Program) for all qualified nursing graduates of Maui Community College and the University of Hawaii, so that they can make a smooth transition from student to practitioner. SHG will offer tuition forgiveness programs for staying at WMHMC for a multi-year period. WMHMC will be a clinical site for these programs to meet our mutual goal of training needed healthcare professionals in the community. The CAH staff will be provided priority status for 100 units of affordable housing approved to be built in the Kaanapali 2020 Development site, less than one mile from the WMHMC site."

66. The applicant states that "The 40 bed SNF/ICF will be managed by Mission Health Services, Inc. (MHS), an established LTC organization that manages SNF/ICF facilities nationally. MHS will pursue local staff recruits and it also has access to very qualified professionals and personnel to staff the SNF/ICF... The SNF/ICF staff will be provided priority status to occupy the 100 units of affordable housing approved to be built on another site in the Kaanapali 2020 Development and this housing assistance will be another incentive to

recruit SNF/ICF staff to West Maui. MHS plans to work closely with Maui Community College and the University of Hawaii on training and developing nursing assistants, RN, and LPN programs at the WMHMC SNF/ICF. WMHMC will serve as a clinical training site for those programs for our mutual goal to develop needed healthcare professionals for the community... MHS will also offer tuition forgiveness programs for all qualified nursing graduates of Maui Community College and the University of Hawaii that sign on to multi-year contracts."

67. 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. 08-07 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 Trilsle Subarea Health Planning Council, 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 Newport Hospital Corporation for the proposal described in Certificate Application No. 08-07. The maximum capital expenditure allowed under this approval is \$45,750,000.

WRITTEN NOTICE

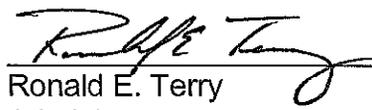
Please read carefully the written notice below. It contains material that may affect the Decision on the Merits. The written notice is required by Section 11-186-70 of the Agency's Certificate of Need Program rules.

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: March 13, 2009
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Ronald E. Terry
Administrator

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Decision on the Merits, including findings of fact, conclusions of law, order, and written notice, was duly served upon the applicant by sending it by certified mail, return receipt requested, in the United States Postal Service addressed as follows on March 13, 2009.

Brian H. Hoyle
President
Newport Hospital Corporation
601 Lido Park Dr. #1A
Newport Beach, CA 92663

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Ronald E. Terry
Administrator