

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

September 5, 2008

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

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| IN THE MATTER OF |) | CERTIFICATE OF NEED |
| |) | APPLICATION |
| |) | NO. 08-10 |
| Ministry Research Inc. dba Islands Hospice |) | |
| |) | |
| 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. 08-10 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. 08-10.

I

BACKGROUND

1. This is an application for a Certificate of Need ("Cert.") for the establishment of Hospice services on the island of Oahu, Hawaii, at a capital cost of \$140,260.
2. The applicant, Ministry Research Inc. dba Islands Hospice, is a not-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 March 19, 2008, the applicant filed with the Agency a Certificate of Need application for the establishment of Hospice services on the island of Oahu, Hawaii, at a capital cost of \$140,260. (the "Proposal"). On May 12, 2008 and June 27, 2008, the applicant submitted additional information. On June 27, 2008, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #08-10. The applicant provided additional information on July 14th, 15th, 17th, 23rd and 24th, 2008.

5. The period for Agency review of the application commenced on July 3, 2008, 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 15, 2008. The Committee voted 4 to 1 in favor of recommending conditional approval of the application. The conditions were that:

- The applicant provided further financial information, namely:
 - a. Pro forma cash flow statements and balance sheets for each of the first three years of operation.
 - b. Information/calculations reconciling the calculated revenue in Exhibit D-3 to the stated revenue in Exhibit D-2 of the application.
- The applicant provided a plan for dialoguing with existing care givers in the continuum of care (i.e. physicians, hospitals, nursing homes, care homes, other hospice providers, etc.) to enable the applicant to fully integrate its services into the existing healthcare system.
- The applicant research and prepare a cultural sensitivity plan for implementing its services.

7. The application was reviewed by the Certificate of Need Review Panel at a public meeting on July 17, 2008. The Panel voted 5 to 1 in favor of recommending disapproval of the application.

8. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on July 24, 2008. The Council voted 8 to 4 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. 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. The applicant states that "By increasing access to hospice care, Islands Hospice will minimize the pain and discomfort and maximize the quality of the few remaining days of life of the terminally ill."

13. The applicant states that "Islands Hospice's policy of providing care to terminally ill regardless of ability to pay, location, race, color, creed, religion, etc., will reduce the disparity of care for residents."

14. The applicant states that "Hospice's interdisciplinary approach to using health care professionals, social workers, chaplains, and volunteers is specifically designed to address the holistic needs of patients and their families."

15. The applicant states that "The primary objective of hospice care is to provide high-quality palliative care to provide comfort to patients suffering from chronic pain and preserve the highest possible quality of life for terminally ill patients and their families."

16. The applicant states that "By reducing preventable hospitalizations and more effectively managing the physical and psychological pain unique to terminal illnesses, Islands Hospice will provide better care for terminally ill residents at lower cost."

17. The applicant states that "Through our volunteer and community outreach programs, Islands Hospice will educate the community about the benefits and availability of hospice, as well as solicit valued input from the community on the best ways to provide care that respects the cultural and religious differences of the various ethnic groups located in Honolulu County."

18. The applicant states that "...hospice is widely recognized by the health care community as the most appropriate, comprehensive and cost-effective care for terminally ill patients. Although Hawaii ranks among the highest in the nation in terms of its concentration of seniors and its growth rate in the number of deaths, Hawaii ranks among the lowest in terms of access to hospice care, measured by its relative number of patients and hospice providers."

19. The applicant states that "By lowering health care costs, reducing avoidable hospitalizations, and providing other services not typically available through traditional health care, such as homemaker services, spiritual and bereavement counseling, we will significantly reduce the burden for families and the community imposed by intensive end-of-life needs."

20. The applicant states that "Relative to the subarea priorities specific to Honolulu County, Islands Hospice primary focus will be a significant increase in services to the areas rapidly growing elderly population, as well as focusing on disease management for terminally ill patients suffering from heart disease, stroke, cancer and diabetes."

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

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

22. The applicant states that "The NHPKO (National Hospice and Palliative Care Organization) estimates that there were more than 4,500 hospice programs operating in 2006... For 2006, the U.S. National Center for Health Statistics reported 2,416,000 total deaths nationwide. With 2,416,000 deaths and 4,500 hospice programs, there were 1.9 hospice programs available to provide care for every 1000 deaths in the U.S."

23. The applicant states that "...6,919 deaths were reported in Honolulu County in 2006, according to the Hawaii State Department of Health."
24. The applicant states that "...applying this national average benchmark to Honolulu County implies a need for 13 hospice programs in order to provide the island of Oahu with the same level of access to hospice care as the average U.S. resident."
25. The applicant states that "Using the national average of 1.9 hospice providers per 1000 deaths as a benchmark, Honolulu County needs 13 hospice providers or 4x as many providers than the current 3 in order to provide the same level of access to care currently available to the average U.S. resident."
26. The applicant states that a 4th Oahu hospice provider, Bel Care Hospice Hawaii, has not yet provided care to patients through 2007.
27. The applicant states that "One key predictor of the need for hospice care is the concentration of senior citizens. According to the U.S. Census Bureau's 2006 estimates, senior citizens represented 12.4% of the total population. Hawaii's senior population, in contrast, represented 14% of its population in 2006. At 14.4%, Honolulu County was even higher than the state average... the State of Hawaii ranks 8th highest in the nation in terms of its concentration of seniors."
28. The applicant states that "Using data collected by the Centers for Medicare & Medicaid Services (CMS) as reported by the Hospice Association of America...the State of Hawaii ranked 48th out of 51 states and the District of Columbia in terms of the number CMS enrolled hospice patients relative to the number of total deaths. . . With only 19.9 patients for every 100 deaths, Hawaii was 45% below the national average of 36.5, and 60-70% lower than the top 5 states. And four of these states had lower concentrations of seniors than Hawaii."
29. The applicant states that "Islands Hospice's policy of providing care to terminally ill regardless of ability to pay, location, race, color, creed, religion, etc., will reduce the disparity of care for residents. Islands Hospice's goal is for 10-20% of our patient mix to be comprised of individuals with no health care coverage or ability to pay. Islands Hospice will provide these individuals with all the medical care, equipment and medications related to their terminal diagnosis at no charge."
30. The Agency finds that the proposal meets the need and accessibility criteria.

C. REGARDING QUALITY AND LICENSURE CRITERIA

31. The applicant states that "Islands Hospice will secure all the necessary permits, licenses and certifications needed to provide hospice services. Upon receiving our Certificate of Need from the SHPDA, we will file for Certification in the Medicare Program, which we anticipate receiving in 60-90 days."

32. The applicant states that "In addition to compliance with the Hospice Conditions of Participation, our program will ensure all employees are adequately qualified, trained and receive a minimum number of continuing education hours to provide patients with the highest quality of care possible."

33. The applicant states that "We will have a Performance Improvement (PI) Program in place specifically intended to monitor and evaluate the quality of care provided to patients and their families."

34. The applicant states that "Islands Hospice will comply with the National Hospice and Palliative Care Organization guidelines for staffing."

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

36. The applicant projects that the net patient services revenue for the first year of operation will be \$1,219,055 and that the total expenses for the same period are projected to be \$1,366,113, resulting in a projected net loss from operations for the first year of \$147,058. The applicant projects that the net patient services revenue for the third year of operation will be \$4,211,745 and that the total expenses for the same period are projected to be \$3,969,437, resulting in projected net income from operations for the third year of \$242,309

37. The applicant states that the total capital cost of the project is \$140,260 and it has the sums of \$500,000 at MidFirst Bank plus \$321,792.32 in cash and investment accounts for this project.

38. The applicant states that "MRI believes Islands Hospice will have a significant impact on reducing health care costs for the residents and the county of Honolulu. Several studies (referred to in Exhibits B-1 and B-3) indicate that hospice care significantly lowers the cost of health care by reducing the need for acute care hospital visits... According to a 2007 Duke University study referenced in Exhibit B-1, hospice care reduced Medicare costs by an average of \$2,309 per hospice patient."

39. 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

40. The applicant states that "There are a variety of alternatives to hospice care, however, none provides the level of cost-effectiveness, breadth of service and coordination of care as hospice... alternative forms of treatment such as hospitalization and nursing care, cost hundreds or thousands of dollars more per day than hospice care."

41. In a memorandum dated July 16, 2008, Jennifer Diesman, Chair, Oahuwide Certificate of Need Review Committee forwarded the Committee's recommendation for conditional approval of this application. The recommendation states in pertinent part:

Relation to the Existing Health Care System:

Subject to the conditions, this criterion has been met. The proposal should complement the existing healthcare system.

42. The said memorandum recommended, inter alia, the following condition:

- The applicant provides a plan for dialoguing with existing care givers in the continuum of care (i.e. physicians, hospitals, nursing homes, care homes, other hospice providers, etc.) to enable the applicant to fully integrate its services into the existing healthcare system

43. The Agency finds that the proposal, if modified in accordance with condition on page 9 of this Decision on the Merits, meets the relationship to the existing health care system criteria.

F. REGARDING THE AVAILABILITY OF RESOURCES

44. The applicant states that the total capital cost of the project is \$140,260 and it has the sums of \$500,000 at MidFirst Bank plus \$321,792.32 in cash and investment accounts for this project.

45. The applicant states that it will require a total of 7.0 FTE patient care staff when the project is initiated.

46. The applicant states that Islands Hospice has already hired Trish Brooks as its executive Director, a woman with over 15 years of hospice and home

health experience... Ms. Brooks has developed extensive experience staffing rapidly growing hospice operations and recruiting, hiring and training personnel. In addition to recruiting locally, Ms. Brooks plans to also recruit experienced hospice professionals from the mainland to help further shore up Hawaii's shortage of health care personnel.

47. 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. 08-10 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:

1. The applicant has failed to show by a preponderance of the evidence that its proposal, as it is currently written, meets the certificate of need criteria in Section 11-186-15(a) (10) HAR.
2. The applicant's proposal, if it were modified as specified in the Order below, would meet the criteria for the issuance of a certificate of need.

Conditional Certification

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 CONDITIONAL certificate of need to Ministry Research Inc. dba Islands Hospice, for the proposal described in Certificate Application No. 08-10.

The condition is that on or before October 30, 2008, the applicant shall submit to the Agency, for Agency approval:

- A plan for dialoguing with existing care givers in the continuum of care (i.e. physicians, hospitals, nursing homes, care homes, other hospice providers, etc.) to enable the applicant to fully integrate its services into the existing healthcare system.

This modification is required for the application to successfully meet the criteria in Section 11-186-15 HAR.

As provided under Section 323D-46, HRS and Section 11-186-77 HAR, the Agency establishes Noon, September 29, 2008 as the date by which the applicant must certify, in writing, that it accepts this condition and that its application is thereby modified accordingly, otherwise this application shall be deemed to be DENIED as provided under Section 11-186-77 HAR.

As required under Section 323D-43(b), Hawaii Revised Statutes (HRS), the Agency finds that, if modified as specified in the above Order:

1. There will be a public need for this proposal.
2. The cost of the service will not be unreasonable in light of the benefits it will provide and its impact on health care costs.

The maximum capital expenditure allowed under this conditional approval is \$140,260.

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.

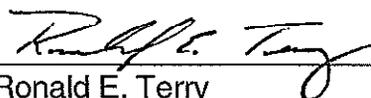
The decision on the merits is not a final decision of the Agency when it is filed. Any person may request a public hearing for reconsideration of the decision pursuant to Section 11-186-82 HAR. The decision shall become final if no person makes a timely request for a public hearing for reconsideration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

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(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: September 5, 2008
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 September 5, 2008.

Ed Gungor
President & Board Member
Ministry Research Inc.
Seven Waterfront Plaza
500 Ala Moana Blvd., Suite 400
Honolulu, HI 96813

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Ronald E. Terry
Administrator