



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

April 6, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 09-14
B.C.P., Inc. dba Nursefinders of Hawaii)	
)	
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. 09-14 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 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. 09-14.

I

BACKGROUND

1. This is an application for a Certificate of Need ("Cert.") for the establishment certified Home Health Agency services at 308 Kamehameha Avenue, Suite 200, Hilo, HI and 75-5737 Kuakini Highway, Suite 204, Kailua-Kona, HI, at a total capital cost of \$125,000.
2. The applicant, B.C.P., Inc. dba Nursefinders of Hawaii, 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 August 17, 2009, the applicant filed with the Agency a Certificate of Need application for the establishment certified Home Health Agency services at 308 Kamehameha Avenue, Suite 200, Hilo, HI and 75-5737 Kuakini Highway, Suite 204, Kailua-Kona, HI, at a total capital cost of \$125,000. (the "Proposal"). On November 4, 2009, the applicant submitted additional information. On December 4, 2009, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #09-14. On January 14, 2010, January 28, 2010 and February 26, 2010, the applicant submitted additional information.

5. The period for Agency review of the application commenced on January 7, 2010, the day notice was provided to the public pursuant to 11-186-39 HAR.

6. The application was reviewed by the Hawaii County Subarea Health Planning Council at a public meeting on January 14, 2010. Two of the three Hawaii County Subarea Health Planning Council members were present at the meeting. One member recommended that the application be approved while the other member recommended disapproval of the application.

7. The application was reviewed by the Statewide Health Coordinating at a public meeting on January 28, 2010. The Council voted 10 to 2 in favor of recommending conditional approval of the application. The condition was that the applicant provides additional information showing areas of need on the Big Island that are not currently being met.

8. The application was reviewed by Certificate of Need review Panel at a public meeting on February 26, 2010. There were no recommendations to the agency as there were separate motions recommending approval and disapproval of the application, both of which failed.

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

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

12. The applicant states that "Nursefinders works to ensure that proposed Home Health Agency (HHA) services will maintain and develop access to quality care at a reasonable cost. Nursefinders' home health services offer an affordable option for patients who would otherwise need to utilize more costly health care options...Nursefinders will continue to engage in quality assurance and improvement activities that will strengthen all of our programs, including this project."

13. The applicant states that "Nursefinders currently serves and will continue to service underserved and rural populations in which other organizations do not or cannot service...Our supervisors assure that we are delivering the same set of services with the same quality control standards throughout the state and county of Hawaii, thus reducing disparity related to quality of care."

14. The applicant states that "Nursefinders encourages and supports health education, promotion, and prevention initiatives...In monitoring multiple indicators such as appearance, well-being, responsiveness, and vital signs, regular contact will allow for a more rigorous screening for the advent of serious conditions which may instigate or necessitate return to a more restrictive and costly intervention."

15. The applicant states that "Nursefinders works to assure patients have access to mental health care services. Nursefinders of Hawaii has a dedicated Behavioral Health Division whose mission is to increase an individual's independence and to better the community."

16. The applicant states that "Nursefinders seeks to assist in the ability to provide home health to supplement the long-term care shortage in Hawaii County."

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

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

18. The applicant states that "The target population for this project is Medicare beneficiaries who are 65 years or older and residing in Hawaii County and are in need of home health services. In some circumstances the beneficiary may be under 65 and disabled...The elderly population (over 65 years of age) in Hawaii County will be 13.8% of the total County population next year and is projected to grow to nearly 20% by year 2030."

19. The applicant states that the Medicare eligible population in Hawaii County is 25,070 (184,344 total State Medicare-eligible population X Hawaii County's 13.6% of statewide population).

20. The applicant states that the national standards for Medicare patient utilization is 7.6% of the eligible senior population and that the Hawaii County patient demand for Medicare home health services is 7.6% of 25,070 =1,905 patients.

21. The applicant states that "There are an estimated 237 currently serviced patients in Hawaii County."

22. The applicant states that "Patient need is evidenced by supply totals subtracted from demand totals ...i.e. 1,905 patients - 237 served = 1,668 unserved beneficiaries."

23. The applicant states that The National Association for Home Care and Hospice (NAHC) 2008 data indicates that the utilization rate for Medicare home health visits per patient per year in Hawaii is 17.2 versus 31.5 Medicare home health visits per patient per year nationally.

24. The applicant states that "These rates are significantly below national averages. Home Health is a vehicle for preventive care and a means to limit more costly expenditures."

25. The applicant states that "There is currently a demonstrated need for these services and there will be an even greater demand for these services in the

future. As the aging population continues to grow, the increasing need for more resources and higher utilization of Medicare resources is self evident."

26. In a memorandum dated February 23, 2010, Patricia Uyehara-Wong, Chair, Statewide Health Coordinating Council forwarded the Council's recommendation for approval of this application. The recommendation states in pertinent part:

Need and Accessibility:

It appears that there are populations of the Big Island that are not being served adequately, are underserved or could be served better.

27. In written testimony dated November 3, 2009, Debra M. Nakaji, Executive Director of Services for Seniors, Inc., states "...our Puna clients are often met with no services because of the drive into the Puna district is sometimes prohibitive."

28. In written testimony dated January 10, 2010, Jessanie Marques, Executive Director of Ka'u Rural Health Community Association, Inc., states "...I strongly urge you to approve Nursefinders Medicare certification so that the frail, disabled elderly who live in underserved remote rural areas on Hawaii Island, can continue to receive the much needed health care services."

29. The applicant states that "Nursefinders will assure quality care is delivered to all persons regardless of age location, income, race, ethnicity, sex, sexual orientation, disability or other demographic indicator. We do not discriminate and we will provide services throughout all areas of Hawaii County."

30. The Agency finds that the applicant has met the burden of proof in 11-186-42, HAR to establish that there is a need for additional certified home health agency services in Hawaii County, although the Agency is of the opinion that the need is not as significant as stated on page B-7 of the application.

31. The Agency finds that the applicant has not met the said burden of proof to establish the extent to which, under its proposal, the residents of Ka'u and Puna are likely to have access to its proposed services.

32. The Agency finds that the Proposal, if modified in accordance with the condition on page 9 of this Decision on the Merits, would successfully meet the need and accessibility criteria.

C. REGARDING QUALITY AND LICENSURE CRITERIA

33. The applicant states that "The Quality Assurance program in place at Nursefinders encompasses caregiver hiring criteria, clinical assessments, clinical indicators measured quarterly, clinical record reviews, complaint resolution processes, and the Professional Advisory Committee (PAC)... Clinical indicators are measured quarterly. These indicators relate to compliance with regulatory issues (such as MD orders for patient care), case conferences and clinical record reviews. Patient progress and response to care is recorded and reported to physicians and state QIOs (quality improvement organizations) as required as evidence of patient outcomes. We conduct safety assessments on all admitted patients and at regular intervals with ongoing patients, and take proactive steps to correct identified problems."

34. The applicant states that "Nursefinders of Hawaii is seeking Medicare certification and will pursue OHCA certification to become a licensed home health agency."

35. The applicant states that "Nursefinders' Hawaii County branch will comply with Medicare's quality reporting initiatives upon receiving certification."

36. The applicant states that "Nursefinders of Hawaii has five regional offices statewide including Maui (Wailuku), Oahu (Honolulu), Kauai (Lihue), and two on the Big Island (Hilo and Kona). Internal audits are conducted quarterly to assure a high quality of care."

37. The applicant states that "Nursefinders evaluates all licensed personnel's competency to perform needed skills and intervention at the time of hire... Competency is also verified through in-service attendance with documented employee re-demonstrations, verified recent competency through outside sources, observation of skills, and current credentialing as documented proof of additional education and training."

38. The applicant states that "Nursefinders requires all field employees to complete in-service education each year to strengthen employee competency and the quality of services and offers employees the opportunity to develop new skills."

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

40. The applicant states that "With the availability of Medicare home health agency services through Nursefinders of Hawaii, residents on the island may be able to reduce their length of hospital stays and complete their recoveries at home. The result would be an overall cost reduction for comprehensive healthcare with increased continuity of care for the patient and their family caregivers."

41. The applicant states that "There are limited alternatives to adding Nursefinders of Hawaii to the Medicare treatment system. The probable alternative would be an increase in the number of residential beds to meet the growing needs of the aging population. As the number of inpatient beds increases so will the cost. Providing care in skilled facilities and hospitals will far surpass the cost of providing in-home care..."

42. The applicant states that "Home Health is a vehicle for preventive care and a means to limit more costly expenditures."

43. The applicant projects that the revenue for the first year of operation will be \$125,000 and that the net income for the first year will be \$8,750. The applicant projects that the revenue for the third year of operation will be \$375,000 and that the net income for the third year will be \$41,250.

44. 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

45. The applicant states that "There are limited alternatives to adding Nursefinders of Hawaii to the Medicare treatment system. The probable alternative would be an increase in the number of residential beds to meet the growing needs of the aging population. As the number of inpatient beds increases so will the cost. Providing care in skilled facilities and hospitals will far surpass the cost of providing in-home care..."

46. The applicant states that "With the availability of Medicare home health agency services through Nursefinders of Hawaii, residents on the island may be able to reduce their length of hospital stays and complete their recoveries at home. The result would be an overall cost reduction for comprehensive healthcare with increased continuity of care for the patient and their family caregivers."

47. The applicant states that "Nursefinders of Hawaii has a proven record of having the capability to extend services to all parts of Hawaii County to include rural areas, including North Kohala and Ka'u. Home Care will bring the needed care to communities that have geographical barriers to accessing care in Hawaii County."

48. The Agency finds that the Proposal, if modified in accordance with the 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

49. The applicant states that "B.C.P., Inc. will be providing the capital for the project costs of \$125,000."

50. The applicant states that "In addition to the current cash balance, B.C.P., Inc. has additional capital available from its parent company... Nursefinders, Inc., as the parent company, is committed to providing any additional capital for the project as needed."

51. The applicant states that "If granted the requested certification, Nursefinders will hire an experienced Client Service Representative and a Registered Nurse to support the patients and field staff. Existing field employees will provide direct care to the patients. When additional staff is needed, Nursefinders recruits and hires locally. If necessary, Nursefinders has the capacity to recruit employees from neighbor islands and on the mainland."

52. 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. 09-14 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 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 Subsections 11-186-15(a) (1) and 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 B.C.P., Inc. dba Nursefinders of Hawaii, for the proposal described in Certificate of Need application No. 09-14 as modified herein.

The condition is that on or before July 15, 2010, the applicant shall submit to the Agency, for Agency approval:

- A detailed plan (the "Plan") for providing ongoing accessible certified home health agency services to the Puna and Ka'u communities. The detailed Plan shall include, without limitation, all information necessary to implement and maintain the said services to the Puna and Ka'u communities and shall also include the following statements:

The applicant shall provide semi annual reports to the Agency, setting forth the efforts that the applicant is making to provide services and maintain certified home health agency services to the Puna and Ka'u communities. The report format and information required to be reported by the applicant shall be in the sole discretion of the Agency and may be amended by the Agency from time to time.

The applicant acknowledges and agrees that failure on the part of applicant to implement the Plan or any portion thereof, shall be deemed to be a substantial breach of Subsection 11-186-91(a) (2), Hawaii Administrative Rules (HAR) and upon such failure on the part of the applicant to implement the Plan or any portion thereof, the Agency may withdraw Certificate of Need #09-14 upon 60 days notice by the Agency to the applicant.

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, May 20, 2010, 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 \$125,000.

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: April 6, 2010
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Ronald E. Terry
Administrator