



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

October 5, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 10-02
Central Oahu 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. 10-02 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 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. 10-02.

I

BACKGROUND

1. This is an application for a Certificate of Need ("Cert") for the establishment of an ambulatory surgery center at 95-1091 Ainamakua Drive, Mililani, Hawaii, at a capital cost of \$5,250,000.
2. The applicant, Central Oahu 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 February 16, 2010, the applicant filed with the Agency a Certificate of Need application for the establishment of an ambulatory surgery center at 95-1091 Ainamakua Drive, Mililani, Hawaii, at a capital cost of \$5,250,000. (the "Proposal"). On February 19, 2010, February 22, 2010, May 28, 2010, June 16, 2010, and June 28, 2010, the applicant submitted additional information. On June 29, 2010, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #10-02.
5. The period for Agency review of the application commenced on July 6, 2010, 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 12, 2010. The Committee voted 4 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 September 9, 2010. The Council voted 10 to 0 with one abstention in favor of recommending approval of the application.
8. The Certificate of Need Review Panel review of the application was waived pursuant to Section 323D-44.6 HRS.
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 "The proposed ASC's operations will be integrated with those of WGH (Wahiawa General Hospital) and, in the event that an ASC patient requires hospitalization, ASC personnel will coordinate the patient's transfer to WGH."

13. The applicant states that "Personnel recruitment for the ASC will be coordinated with WGH, and the ASC's personnel will participate in the same training programs as WGH's inpatient surgery staff."

14. The applicant states that "...the ASC's operations will be integrated with WGH's emergency response planning and be ready to participate as necessary in caring for victims of natural disasters, pandemics or other emergencies."

15. The applicant states that its proposal "...will facilitate the expansion and retention of surgeons into the area by giving surgeons who are members of WGH's medical staff an opportunity to purchase interests in the proposed ASC, thereby providing those physicians with supplemental income and a chance to directly participate in the operation of the facility and play an active role in the maintenance of high patient care standards."

16. The applicant states that "Because it will function as part of WGH, the proposed ASC will fit within the larger continuum care offered by the hospital and augment the hospital's contribution to the continuum of care available on a regional and statewide basis."

17. The applicant states that "The West Oahu Subarea Council's priorities include improving and increasing access to acute care and specialty care. The ASC will advance these priorities by offering an easily accessible and cost-effective alternative to hospital-based outpatient surgery for patients for whom ambulatory surgery is suitable. It will improve and increase access to specialty care by facilitating WGH's efforts to attract more physicians into its service area."

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

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

19. The applicant states that "The primary service area (PSA) for the proposed ASC consists of Central and the North Shore of Oahu, and its target population is composed of individuals residing in the PSA."

20. The applicant states that the current demand for ASC procedures in the primary service area is estimated to be 2,982 procedures per year.

21. The applicant projects the demand for ASC procedures in the primary service area to grow to 3,087 procedures by 2015, 3,206 procedures by 2020 and 3,305 procedures by 2025.

22. The applicant states that "The Hawaii Department of Health website reports that of the nine licensed freestanding ASCs located on Oahu, only two are located within the proposed ASC's targeted service area. The services provided at these two centers are limited to endoscopy procedures and eye surgery, respectively."

23. The applicant states that "...because of limited facilities and surgical staff, WGH is now able to provide only about 60 ambulatory surgery procedures to residents of the PSA each month, or about 720 procedures annually."

24. The applicant states that "The existing facilities at WGH are inadequate to meet current demand, much less permit growth to accommodate the anticipated demand, both because of the limited space for expansion at the existing hospital campus and because the age of the current hospital building limits its ability to accommodate some modern equipment without expensive retrofitting. Hence, the need for new facilities is expected to become acute as the demand for medical services in the PSA continues to grow."

25. The applicant states "Like WGH, the proposed ASC will provide services for all residents of its service area, including low income persons, racial and ethnic minorities, women, handicapped persons, the elderly and other underserved groups."

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 State and Federal regulations for delivery of care, maintenance of service equipment, and maintenance of clinical environment. It will be accredited by the Accreditation

Association for Ambulatory Health Care ("AAAHC"), Medicare certified, and licensed by the Department of Health."

28. The applicant states that "Its internal policies will be developed in accordance with AAACH standards..."

29. The applicant states that "Patient care at the proposed ASC will be provided by credentialed physicians and RNs and LPNs with advanced specialty training, through well-defined and well-documented protocols for caregivers."

30. The applicant states that "Anesthesia services will be provided by Board Certified or Board Eligible anesthesiologists or Certified Registered Nurse Anesthetists."

31. The applicant states that "All licensed nursing personnel will be BLS certified. All PACU nurses will be ACLS certified."

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

33. The applicant states that "ASCs offer surgical and procedural services at a considerable cost savings when compared to hospital charges for the same services. Beginning in 2007, Medicare began reimbursing ASCs at rates lower than or equal to Medicare payments to hospital outpatient departments for all procedures approved for delivery in ASCs."

34. The applicant states that "Patients also typically pay lower coinsurance for procedures performed in ASCs... Patients may save as much as 61% by choosing to have procedures performed at a freestanding ASC. Private insurers tend to experience similar savings, which, in turn, results in lower health care expenditures by employers of patients (sic) have access to ASC services."

35. The applicant states that the total cost of the proposed project is \$5,250,000 and that sources of funds include \$588,000 to be provided by the physician members, \$612,000 will be provided by Smithfield Medical Development, \$2,350,000 will be obtained through a commercial loan, and the commercial lease, valued at \$2,250,000, will be paid through monthly lease payments from operating revenues.

36. The applicant states that the net revenue for the first year of operations is estimated at \$3,822,592 and that operating expenses for the first year are projected at \$3,392,355 and for the third year of operations, net revenue is

projected at \$4,055,390 and operating expenses at \$3,515,029.

37. 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

38. The applicant states that "The proposed project will improve the existing healthcare system by allowing WGH, a key provider of primary and secondary care services in its service area, (1) to proceed with its long term plan for modernizing its current facilities and expanding those facilities as needed to adapt to expected increased demand for health care services in the PSA through 2025 and (2) to recruit and retain additional physicians into the PSA."

39. The applicant states that "The project is expected to have minimal negative impact on the operations of other same-day surgery providers on Oahu because (1) there are currently only two ASCs in the PSA, each of which offers a very limited range of services, (2) there is a substantial unmet demand for ASC procedures in the services (sic) are and (3) the proposed ASC is intended to accommodate anticipated growth in demand for ASC procedures in the PSA."

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

F. REGARDING THE AVAILABILITY OF RESOURCES

41. The applicant states that Central Oahu ASC will employ 21 FTEs, as follows: 8.0 FTE Operating Room Nurses, 2.0 FTE Operating Room Nurse Assistant, 5.0 FTE OR Technicians, 1.0 FTE Administrator, 1.0 FTE Materials Manager, 4.0 FTE Administrative Staff.

42. The applicant states that "Central Oahu ASC will recruit staff for the proposed ASC through WGH's existing human resources department."

43. The applicant states that the total cost of the proposed project is \$5,250,000 and that sources of funds include \$588,000 to be provided by the physician members, \$612,000 will be provided by Smithfield Medical Development, \$2,350,000 will be obtained through a commercial loan, and the commercial lease, valued at \$2,250,000, will be paid through monthly lease payments from operating revenues.

44. 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. 10-02 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 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 Central Oahu ASC, LLC for the proposal described in Certificate of Need application No. 10-02. The maximum capital expenditure allowed under this approval is \$5,250,000.

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: October 5, 2010
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Ronald E. Terry
Administrator