



# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

LINDA LINGLE  
GOVERNOR OF HAWAII  
CHIYOME L. FUKINO, M.D.  
DIRECTOR OF HEALTH  
DAVID T. SAKAMOTO, M.D., M.B.A.  
ADMINISTRATOR

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

December 2, 2003

## CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	)	CERTIFICATE OF NEED
	)	APPLICATION
Avalon Care Center – Hale Nani, LLC	)	NO. 03-31
	)	
	)	
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. 03-31 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 Certificate of Need Review Panel, 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. 03-31.

I

## BACKGROUND

1. This is an application by Avalon Care Center – Hale Nani, LLC for a Certificate of Need ("Cert.") for the change of ownership of Hale Nani Rehabilitation and Nursing Center, 1677 Pensacola Street, Honolulu, HI, at a capital cost of \$33,800,000.
2. The applicant, Avalon Care Center – Hale Nani, LLC, is a Utah limited liability corporation duly registered to transact business in the State of Hawaii.

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 September 18, 2003, the applicant filed a Certificate of Need application with the Agency for the change of ownership of Hale Nani Rehabilitation and Nursing Center, 1677 Pensacola Street, Honolulu, HI, at a capital cost of \$33,800,000 (the "Proposal"). On October 23rd, October 30th, November 4th, November 6th, and November 12th, 2003, the applicant submitted additional information. On November 12, 2003, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #03-31.

5. The period for Agency review of the application commenced on November 12, 2003, the date on which written notification was mailed to the applicant.

6. The Oahuwide Certificate of Need Review Committee met at a public meeting on November 13, 2003 and recommended unanimous approval of this application by a vote of 5 in favor and none opposed.

7. The application was reviewed by the Certificate of Need Review Panel at a public meeting on November 20, 2003 and recommended unanimous approval of this application by a vote of 7 in favor and none opposed.

8. The Statewide Health Coordinating Council 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. 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"**

*Vision and Guiding Principles*

12. The applicant states that its Proposal will help to achieve the goals of H2P2 by offering high quality services to older adults to promote their good health and independent personal functioning.

13. With respect to the objectives of H2P2, the applicant states that it will implement effective clinical programs which mitigate the effects of chronic disease, decrease the risk of health complications and monitor/implement effective pain management techniques.

*Statewide and Regional Priorities*

14. The applicant states that its Proposal will assist in achieving the statewide priorities of H2P2 by ensuring that appropriate assessments, treatment interventions and clinical outcome monitoring is performed for the routine illnesses found in the elderly.

15. The applicant states that its Proposal will assist in achieving the Honolulu Subarea priorities of H2P2 by instituting programs which minimize or eliminate the risk of falls, physical and emotional abuse, and medication errors.

*Diseases and Conditions*

16. With respect to the disease specific/health condition chapters (IV-XI) of H2P2, the applicant states the following:

- Chapter IV (*Infectious Diseases*) - the applicant states that it will provide additional protocols to those already in place at the facility to monitor and effectively treat infections.
- Chapter V (*Cancer*) - the applicant states that it is presently working on pain management protocols to improve outcomes for those residents with cancer.

- Chapter VII (*Heart Disease and Stroke*) - the applicant states that it will provide medication management, diet and paced mobility activities, physical, speech and occupational therapies for residents recovering from acute stroke, heart attack or heart failure as well as those suffering from chronic heart disease.
- Chapter VIII (*Preventable Injuries and Violence*) – the applicant states:
  - it will implement a fall prevention program at the facility which includes ongoing assessment, escalating interventions and monitoring for effectiveness.
  - criminal background checks will be performed on all staff at the time of hire and annually, if appropriate.
  - preventive measures through an established Skin Integrity Program will be implemented which assures assessment of skin integrity, establishing appropriate interventions and monitoring outcomes through healing.
- Chapter IX (*Dental*) – the applicant states that relationships with local community dentists will be maintained or established to ensure that referrals can be made when dental problems arise. Staff will be trained in providing adequate oral and personal hygiene to prevent residents from developing major problems.

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

#### B. REGARDING NEED AND ACCESSIBILITY CRITERIA

18. The applicant states that "As a long term care facility, the majority of residents will fall into the category of the frail elderly (85+ years of age)."

19. The applicant states that "... it will serve a broad base of residents with differing clinical diagnoses including diabetes, heart disease, respiratory difficulties, general dementia, etc."

20. The applicant states that, according to the Hawaii State Health Planning and Development Agency's 2002 Healthcare Utilization Report, the facility's average occupancy for 2002 was 98.4%.

21. The applicant states that there are no planned changes in the facility size or bed capacity.

22. The applicant states that it will continue to offer its services in a manner which is equally accessible to all elderly and disabled who may need it, either on a short or long term basis, regardless of their age, ethnicity, religion, color or disability.

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

C. REGARDING QUALITY AND LICENSURE CRITERIA

24. The applicant states that its Utah Heritage Management operations will provide corporate oversight to implement corporate-wide standards of practice to ensure high quality of care.

25. The applicant states that it will implement Heritage Management's quality assurance program to maintain a high level of quality performance which includes programs for: orientation and ongoing training, fall prevention, skin integrity, hydration and nutrition, prevention of abuse, preventing medical errors, infection control and tracking.

26. The applicant states that it will seek a Department of Health license for the proposed facility and will also seek Medicare and Medicaid certifications.

27. The applicant states that all clinical employees are required to successfully complete annual clinical competency testing to ensure that employees are current in their skills.

28. The applicant states that the facility will have a Quality Assurance/Safety Committee which will meet on a monthly basis. The applicant states that the following areas will be routinely monitored and evaluated: pharmacy/medication administration, infection control, nutritional/weight issues, skin integrity/pressure sores, safety/environmental, resident assessment/documentation, resident satisfaction, quality of care/dignity, compliance with regulatory issues and concerns raised by residents/family.

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

30. The applicant states that the fair market value of the Proposal is \$33.8 million, with 100% of the financing coming from Credit Suisse First Boston through a sale leaseback arrangement.

31. The applicant projects that its net income for the first three years of operation will be as follows: yr 2004 = \$1,751,226; yr 2005 = \$1,753,568 and yr 2006 = \$1,868,631.

32. The applicant states that the facility will be able to support its own cash needs through its accounts receivables and, if additional working capital is needed, it will have access to an additional \$25 million line of credit through its parent company, Avalon Health Care Inc. to fund any short term needs.

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

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

34. The applicant states that "Given that the facility already functions at a 98% capacity, we see very little impact on other skilled nursing facilities which would reduce their occupancy or admission levels."

35. The applicant states that "The facility is already meeting a major need for long term health care services in the Honolulu community as demonstrated by the average daily census and occupancy levels. We do not see this role changing significantly in the future."

36. The applicant states that there are no planned changes in the facility size or bed capacity.

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

F. REGARDING THE AVAILABILTY OF RESOURCES

38. The applicant states that the facility currently has 22.86 FTE RNs, 13 FTE LPNs and 93.87 FTE CNAs for resident care needs and that the facility operates with only a 1% turnover rate for this staff. The applicant states that it will maintain current retention programs in order to retain staff and minimize turnover.

39. The applicant states that the facility will be managed by Avalon Health Care Management of Hawaii, Inc. "...which will bring in tools from Heritage Management. Inc. individualized to meet the local needs of the Hawaiian community. Heritage Management's corporate office employs a Vice President of Operations (COO), Director of Clinical Services, Quality Assurance Specialist and a Director of Nutrition Services."

40. The applicant states that the fair market value of the Proposal is \$33.8 million, with 100% of the financing coming from Credit Suisse First Boston through a sale leaseback arrangement.

41. The applicant states that the facility will be able to support its own cash needs through its accounts receivables and, if additional working capital is needed, it will have access to an additional \$25 million line of credit through its parent company, Avalon Health Care Inc. to fund any short term needs.

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

### III

#### CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 03-31 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 Certificate of Need Review Panel, 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 Avalon Care Center – Hale Nani, LLC for the proposal described in Certificate Application No. 03-31. The maximum capital expenditure allowed under this approval is \$33,800,000.

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 of the Agency's Certificate of Need Program rules. 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.

DATED: December 2, 2003  
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY



---

David T. Sakamoto, M.D.  
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 December 2, 2003.

Mr. Robert W. Pommerville  
Chief Executive Officer  
Heritage Care Centers, Inc.  
255 East 400 South #200  
Salt Lake City, Utah 84111

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY



---

David T. Sakamoto, M.D.  
Administrator