

# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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September 15, 2008

## CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	)	CERTIFICATE OF NEED
	)	APPLICATION
	)	NO. 08-16E
Hawaii Medical Center East, LLC	)	
	)	
Applicant	)	
	)	DECISION ON THE MERITS
	)	

## DECISION ON THE MERITS

The State Health Planning and Development Agency (the "Agency"), having taken into consideration all of the records pertaining to Certificate of Need Application No. 08-16E on file with the Agency, and after making a reasonable effort to consult with the chairs of the appropriate Agency councils and panels in accordance with HAR 11-186-99(c), the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law and order on Certificate of Need Application No. 08-16E.

I

## BACKGROUND

1. On September 2, 2008, Hawaii Medical Center East, LLC (the "applicant") filed with the Agency an emergency Certificate of Need application for the establishment of MRI and CT services at 2230 Liliha Street, Honolulu, Hawaii, at a capital cost of \$1,530,000. On September 5, 2008, September 9, 2008 and September 12, 2008, the applicant submitted additional information. On September 15, 2008, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #08-16E.
2. 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).

3. This application was reviewed in accordance with Section 11-186-15, HAR:
4. 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."

5. 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

### EMERGENCY SITUATION

6. The applicant states that "MRI and CT imaging services are essential for the health and safety of the patients now imaged at HMCE – inpatients, emergency patients and outpatients. Without these services, the health and safety – indeed the very lives -- of these patients will be severely endangered. In addition to endangerment to individual patients at HCME, there would be a 'state of affairs involving an actual substantial injury to public health or where there is a clear and present danger of such an injury occurring.' (Section 11-186-99(b), Hawaii Administrative Rules)."

7. The applicant states that "Without CT and MRI services on site, the emergency department would be unable to accept many emergency cases. Ambulances would have to be diverted to other facilities. Although this might be tolerable in the short term, extended diversion would create serious problems for other hospitals, which are already frequently overburdened, with a consequent danger to the system and public health."

8. The applicant states that "Inpatients occasionally have emergency situations, such as a stroke, which require immediate imaging. Without on-site services, these patients would have to be transported to other facilities. Again, this might be acceptable for a short period, but on a longer-term basis it would overburden the system and endanger public health."

9. The applicant states that "If the existing equipment is removed on or about September 13<sup>th</sup>, processing an administrative CON application could potentially delay the establishment of new services until late October or even November, since the administrative procedure requires public notice, permits the convening of public meetings and provides for waiting periods and a reconsideration process before a decision becomes final. Again, such an extensive delay in establishing the new services would overburden the existing system and endanger the health of the public as well as the many individuals affected."

10. The Agency is of the opinion that, given this state of affairs, there is a clear and present danger of substantial injury occurring to public health.

11. The Agency finds that an emergency situation exists pursuant to 11-186-99(b), HAR.

#### CERTIFICATE OF NEED CRITERIA

12. The applicant states that "The proposal is consistent with the goals and objectives of the H2P2, in particular:

- 'Achieve equitable and effective access at reasonable cost for all of Hawai`i's residents to health services that are responsive to the holistic needs of community's members.'
- 'Early detecting and diagnosing of treatable diseases.'
- 'Reducing morbidity and pain through timely and appropriate treatment.'"

13. The applicant states that "The proposal is consistent with the capacity thresholds in the H2P2.

CT. The H2P2 threshold for CT states 'For a new unit/service, the minimum average annual utilization for all other providers in the service area is 3,500 HECTs or 3,000 CT procedures, and the utilization of the new unit/service is projected to meet the minimum utilization rate by the third year of operation.' According to the 2005 SHPDA utilization report (the last year for which data are available), there were 17 CT scanners on O`ahu. All of them were providing more than 3,000 procedures per year; except for Koolau Radiology, a provider limited to outpatients, which was at 2,500 procedures. HMCE is an acute inpatient facility, and CT imaging is a standard and necessary technology for such facilities. HCME is projecting 8,103 procedures by the third year of operation

MRI. The H2P2 threshold for MRI states 'For a new unit/service the minimum average annual utilization for all other providers in the service area is 1500 procedures, and the utilization of the new unit/service is projected to meet the minimum utilization rate by the third year of operation.' According to the 2005

SHPDA utilization report, there were 13 scanners on O`ahu, each of them operating in excess of 1,500 procedures. HMCE is projecting 8,541 by the third year of operation."

14. The applicant states that "HMCE is an acute care hospital serving emergency patients, inpatients and outpatients. MRI and CT imaging services are basic diagnostic tools for any acute care hospital to meet the needs of its patients. They are necessary for accurate diagnosis, which provides for appropriate treatment and successful outcomes. In some cases, these services are life-saving."

15. The applicant states that "The proposed services will be accessible to any person needing an MRI or CT procedure. HMCE provides service to all patients, including low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly."

16. The applicant states that "HMCE has a history of providing quality service. It is Medicare certified and JCAHO accredited. All the necessary staff are in place, and are experienced with the CT and MRI imaging modalities. They are well-qualified and credentialed, with the necessary licensures and certifications. Quality assurance policies and procedures are already in place, and will continue to be followed."

17. The applicant states that its services will be accessible to all patients who need it and that services will be provided without discrimination based on race, age, ethnicity, income, religion, gender or any other category.

18. The applicant states that the capital cost of the application is \$1,530,000, which is the capital value of the equipment being acquired. The equipment will be leased through Med One Capital Funding LLC.

19. The applicant projects that that the revenues generated by the equipment are sufficient to cover expenses.

20. The applicant states that "This application relates well to the existing health care system. It will allow the continuation of existing services at an existing site."

21. The applicant states that "The necessary staff are already employed and will be continued under HMCE."

22. The applicant states that the capital cost is available through cash (\$300,000) and lease expenses through Med One Capital Funding LLC.

23. The Agency finds that the applicant has proven by a preponderance of evidence that its proposal meets the criteria established in Sections 11-186-15 and 11-186-99 HAR.

III

**CONCLUSIONS OF LAW**

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 08-16E on file with the Agency 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 its proposal meets the criteria established in Sections 11-186-15 and 11-186-99, HAR.

Accordingly, the Agency hereby determines that, pursuant to Section 11-186-99, HAR and Section 323D-43(b), Hawaii Revised Statutes (HRS):

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

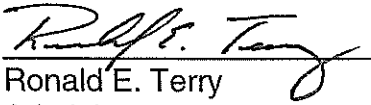
**ORDER**

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 Hawaii Medical Center East, LLC for the proposal described in Cert. #08-16E. The maximum capital expenditure allowed under this approval is \$1, 530,000.

As provided under Section 11-186-99(e) HAR, this is the final decision of the Agency.

DATED: September 15, 2008  
Honolulu, Hawaii

  
Ronald E. Terry  
Administrator

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached Decision on the Merits 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 15, 2008.

Danelo R. Canete, M.D.  
President and CEO  
Hawaii Medical Center East, LLC  
2230 Liliha Street  
Honolulu, Hawaii 96817

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY



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Ronald E. Terry  
Administrator