

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

December 3, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF))	CERTIFICATE OF NEED APPLICATION NO. 10-12
Avalon Health Realty-Kaneohe, LLC	ü	
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.10-12 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. 10-12.

BACKGROUND

- 1. This is an application for a Certificate of Need ("Cert") for the establishment of a 150 bed skilled nursing facility/intermediate care facility (SNF/ICF) at TMK: 4-5-23, Parcel 2 (also known as 45-691 Keaahala Road, Kaneohe, Hawaii), at a capital cost of \$26,270,340.
- 2. The applicant, Avalon Health Realty-Kaneohe, 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 September 3, 2010, the applicant filed with the Agency a Certificate of Need application for the establishment of a 150 bed skilled nursing/intermediate care facility (SNF/ICF) at TMK: 4-5-23, Parcel 2 (also known as 45-691 Keaahala Road, Kaneohe, Hawaii), at a capital cost of \$26,270,340. (the "Proposal"). On October 11, 2010 and October 18, 2010, the applicant submitted additional information. On October 22, 2010, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #10-12.
- 5. The period for Agency review of the application commenced on November 4, 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 November 10, 2010. The Committee voted 4 to 0 in favor of recommending approval of the application.
- 7. The application was reviewed by the Certificate of Need Review Panel at a public meeting held November 15, 2009. The Panel voted 6 to 0 in favor of recommending approval of the application.
- 8. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on November 30, 2010. The Council voted 7 to 2 in favor of recommending approval of the application.
- 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."

11

FINDINGS OF FACT

A. <u>REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH</u> SERVICES AND FACILITIES PLAN

Chapter 2 - Long Term Care Bed Thresholds

- 12. The applicant states that the proposed facility has three distinct program target populations: the specialty psychiatric population, the medically complex/sub-acute care population and the general skilled nursing facility/rehabilitative population.
- 13. The applicant states that "Oahu is running 19 beds/1000 65+ census based on 2009 census figures from the Claritas Site Reports, as compared to 23 beds/1000 65+ census for the overall state and 45 beds/1000 based on national figures."
- 14. The applicant states that "Hawaii, based on licensed beds and 2009 estimated census data from Claritas Site Reports, totals 23 beds per 1000 65+ years population. From this estimated shortage, there is a total state need of 6,185 SNF beds with a projected need of 6,321 beds by 2014. This indicates a shortfall in SNF/ICF beds of up to 3,211 beds..."

Chapter 3 – Statewide Health Coordinating Council Priorities

15. The applicant states that the addition of the proposed facility will promote and support the long-term viability of the State of Hawaii's health care delivery system by: ensuring the integrity of the continuum of care by filling the existing regional need for capacity and access to the targeted programs (mental illness, long term care and medically complex care), preventing acute psychiatric hospital stays through emergency room admissions by transitional admission to the long term care setting, becoming a resource to the community through the development of a teaching nursing home model and providing a training site for an interdisciplinary health care workforce to learn new skills in treating these challenging but growing populations, and serving the medically complex care population with high clinical needs such as bariatric care, heavy wound care, cardiac and respiratory care services.

- 16. The applicant states that the overall facility would expand the health care workforce by hiring between 150-170 employees and states that Avalon will create a newly developed team of interdisciplinary psychiatric staff members to provide the most effective continuity of care for the specialty psychiatric population.
- 17. The applicant states that the new facility will enhance access to quality health care for psychiatric and medically complex patients within the framework of the current reimbursement programs.
- 18. The applicant states that the proposed facility will fill an existing gap in the continuum of care for patients who no longer need acute care psychiatric services especially patients on wait-list status at the Hawaii State Hospital and states that the proposed facility will fill an existing gap in the continuum of care for patients who no longer need acute care for medically complex conditions.

Chapter 3 – Subarea Health Planning Council Priorities

- 19. The applicant states that "The addition of the proposed facility... supports Honolulu County's priority of increasing the availability of skilled nursing facility services."
- 20. The applicant states that "This program will provide an opportunity to support training programs in health care including RN, LPN and CNA training programs as well as rehabilitation therapy and social work."
- 21. The applicant states that "By making specialty services available at this SNF through behavioral health and medically complex care, patients can be moved from a more costly hospital setting to a less costly SNF setting... This facility will increase the availability of SNF/ICF beds, behavioral health and medically complex care beds for the timely transfer of patients from the local acute care hospital setting."
- 22. The Agency finds that this criterion has been met.

B. REGARDING NEED AND ACCESSIBILITY CRITERIA

- 23. The applicant states that "This project will serve SNF/ICF residents of Oahu and the specialty need residents from the outer islands."
- 24. The applicant states that "Hawaii is facing a shortage of long term care beds for the elderly, the mentally ill and the medically complex care patients."

#10-12, Decision on the Merits December 3, 2010 Page 5

- 25. The applicant states that "Oahu is running 19 beds/1000 65+ census based on 2009 census figures from the Claritas Site Reports, as compared to 23 beds/1000 65+ census for the overall state and 45 beds/1000 based on national figures."
- 26. The applicant states that "Based on the 65+ population data on Oahu, this island has a total demand for 6,185 nursing home beds today and 6,321 beds projected to 2014 based on comparable national levels for nursing home beds. The total demand for beds for the state of Hawaii is 7,453 beds based on current census. Both Hawaii and Oahu are presently short on nursing home beds based on comparable national statistics from the American Health Care Association."
- 27. The applicant states that "With Avalon's historical expertise in the nursing home industry, we have further refined this analysis over the years, recognizing that a greater percentage of the 85+ frail elderly population utilize nursing home care than the 65 to 84 years age group. Based upon this more specific analysis, the entire state of Hawaii would require 6,222 beds and Oahu (Honolulu County) has an adjusted demand for 4,368 SNF beds. "
- 28. The applicant states that "Based on 2007 SHPDA reports, there were 2,179 SNF/ICF nursing home beds on Oahu (Honolulu County) and 3,467 SNF/ICF beds in Hawaii in freestanding facilities."
- 29. The applicant states that "Based on Avalon's own, more refined analysis and expertise, we anticipate that <u>Oahu would require 2,189 additional SNF beds and the total state of Hawaii would require 2,755 beds."</u>
- 30. The applicant states that "This need/demand analysis does not necessarily take into account the need for SNF specialty beds in the area of mental health or other unusual unmet needs. National statistics for these types of specialty beds do not exist as a separate category but are assumed to be embedded in the total SNF statistics. Given the high overall percentage occupancy levels which already exist on Oahu as well as in the state, the projected demand would integrate these specialty needs into the overall need/demand statistics."
- 31. The applicant states "The accessibility of the 150 beds at the proposed HSH site to all members of the community will be a high priority for the facility. To accommodate lower income residents, the facility will be licensed to accept State of Hawai'i Medicaid, Medicare and private pay residents. Veterans will also be welcome. As a skilled nursing facility, the primary residents will likely be elderly residents of Hawai'i. However, the facility will accept other residents in need of specialized care for which it is designed to provide."

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

C. REGARDING QUALITY AND LICENSURE CRITERIA

- 33. The applicant states that the facility will be licensed and operated consistent with standard setting organizations. This will include compliance with: licensure standards by the State Office of Quality Assurance, Medicare/Medicaid certification standards as evidenced by ongoing surveillance through the Avalon AQOR program using ABAQIS and actual results during the state certification survey process, Clinical Laboratory Improvement Act (CLIA waiver testing), compliance with OSHA for work safety and infection control.
- 34. The applicant states that "Avalon Health Care, Inc. (Avalon) has extensive experience in the implementation, operation, evaluation, and improvement of Quality Assurance programs for long term care residents. Avalon's Quality Assurance program is operational within each of our 38 skilled nursing facilities."
- 35. The applicant states that, according to *Nursing Home Compare through 2009*, Avalon Hawaii's three facilities average score for general deficiencies is 9.3 as compared to the State average score of 8.0 and the national average score of 8.0 over the past five years.
- 36. The Agency finds that the quality and licensure criteria have been met.

D. REGARDING THE COST AND FINANCIAL CRITERIA

- 37. The applicant states that "Avalon Holding, Inc. on behalf of Avalon Realty Kaneohe, L.L.C. has engaged Red Capital Group to facilitate HUD lending on this project along with Contemporary Healthcare Capital, L.L.C. to provide mezzanine lending for the balance of the project."
- 38. The applicant projects that the total revenue for Year 1 of operations will be \$3,529,773 and that the total expenses, including start up costs, for Year 1 will be \$3,952,304. The applicant projects that, for Year 3 of operations, total revenue is projected to be \$24,555,039 and total expenses are projected to be \$16,385,576.
- 39. The applicant projects that its proposal "...will provide an overall cost savings to the hospitals and free up acute care hospital beds for community needs."

#10-12, Decision on the Merits December 3, 2010 Page 7

- 40. The applicant states that "For psychiatric care, there are additional clinical costs associated with serving this population... However, if at least half of the psychiatric patients coming to the facility are from Hawaii State Hospital (HSH), there will be an anticipated \$230,000 annual savings per patient to the state....For every twenty (20) patients, in the facility from HSH, the annual savings to the state would total \$4.6 million."
- 41. The applicant states that "There will be additional clinical costs associated with medically complex care since nursing care will run at higher required levels. However, hospitals throughout the state have lost over \$35 million per year for Medicare patients and \$9.6 million per year for Medicaid patients in 2006 due to wait-listing and the inability to discharge to a nursing home facility. Some patients are being transferred to the mainland for services not available in Hawaii. In any event, the cost of care for medically complex care in the facility will be less than in an acute care hospital."
- 42. The Agency finds that the cost and financial criteria have been met.

E. <u>REGARDING THE RELATIONSHIP OF THE PROPOSAL TO THE EXISTING</u> HEALTH CARE SYSTEM OF THE AREA

- 43. The applicant states that "The addition of capacity for these three target groups (long term care, psychiatric and medically complex care) within the community will fill a gap in the continuum of care that currently exists between acute care systems and community based care."
- 44. The applicant states that the proposed facility will fill an existing gap in the continuum of care for patients who no longer need acute care psychiatric services especially patients on wait-list status at the Hawaii State Hospital and states that the proposed facility will fill an existing gap in the continuum of care for patients who no longer need acute care for medically complex conditions.
- 45. The applicant states that "This project will serve SNF/ICF residents of Oahu and the specialty need residents from the outer islands."
- 46. The applicant states that "Because of the high occupancy levels for other SNF/ICF providers, we do not anticipate any adverse impact on other facilities."
- 47. The applicant states that "Since there is currently no nursing home in the State of Hawaii that provides psychiatric care and medically complex care in the same facility, there are no other current options for this facility."
- 48. The Agency finds that these criteria have been met.

F. REGARDING THE AVAILABILTY OF RESOURCES

- 49. The applicant states that "Avalon Holding, Inc. on behalf of Avalon Realty Kaneohe, L.L.C. has engaged Red Capital Group to facilitate HUD lending on this project along with Contemporary Healthcare Capital, L.L.C. to provide mezzanine lending for the balance of the project."
- 50. The applicant states that "Because of our other two facilities in Honolulu, we already have a broad network of resources available to us for recruitment of both staff and management personnel."
- 51. The Agency finds that the applicant has met this criterion.

Ш

CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 10-12 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:

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 Health Realty-Kaneohe, LLC, for the proposal described in Certificate of Need application No. 10-12. The maximum capital expenditure allowed under this approval is \$26,270,340.

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: December 3, 2010 Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

Ronald E. Terry
Administrator