

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NEIL ABERCROMBIE GOVERNOR OF HAWAII

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May 3, 2012

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	 CERTIFICATE OF NEED/PART VII Chapter 323D, Hawaii Revised Statutes APPLICATION NO.11-18E
St. Francis Medical Center-West St. Francis Medical Center St. Francis Healthcare System of Hawai))) i)
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/Part VII, Chapter 323D, Hawaii Revised Statutes Application No. 11-18E on file with the Agency, the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law and order on Certificate of Need/Part VII, Chapter 323D, Hawaii Revised Statutes Application No. 11-18E. Where appropriate, Findings of Fact shall operate as Conclusions of Law, and Conclusions of Law shall operate as Findings of Fact.

FINDINGS OF FACT

On September 9, 2011, St. Francis Hospitals Hawaii filed with the Agency an application for a Certificate of Need and for the approval under Part VII of Chapter 323D, Hawaii Revised Statutes (HRS) of the acquisition of Hawaii Medical Center (HMC), HMC East/West and the acquisition of HMC's interest in joint ventures providing outpatient cardiac catheterization and outpatient endoscopy services at HMC East pursuant to HMC's bankruptcy plan of reorganization dated June 21, 2011, at a capital cost of \$14,750,000.

- 2. On April 9, 2012, the applicant filed with the Agency an amended application for a Certificate of Need and for the approval under Part VII of Chapter 323D, HRS of the acquisition of Hawaii Medical Center (HMC), HMC East/West and the acquisition of HMC's interest in joint ventures providing outpatient cardiac catheterization and outpatient endoscopy services at HMC East pursuant to a Bankruptcy Court settlement agreement dated March 2, 2012.
- 3. On April 13, 2012 and April 20, 2012, the applicant submitted additional information. On April 23, 2012, the application was determined to be complete. For administrative purposes, the Agency designated the application as Certificate of Need/Part VII, Chapter 323D, HRS Application No.11-18E.
- 4. 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).
- 5. This application was reviewed in accordance with Section 11-186-15, HAR and 323D-77, HRS.
- 6. 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."
- 7. 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."
- 8. The applicant states that "HMC has now closed down all its operations at Ewa and Liliha. The loss of these services constitutes a clear and present danger to the community, and it is important that as many of these services as possible be restored as soon as possible. We note in particular that the Ewa facility had the second-most utilized emergency room on Oahu, and its loss has put a strain on the entire emergency medical services system of the island."

- 9. The applicant states that "Even an administrative CON process would delay the provision of services by weeks, or even months, since the facilities could not apply for Medicare and Medicaid certification until they reopen, and they cannot reopen without a CON. In short, the CON, licensure and certification processes are sequential, not consecutive, and we need to shorten the delay as much as possible."
- 10. The applicant states that "This application is seeking approval to acquire the facilities and services previously provided by HMC and its subsidiaries until their recent shutdown. These were major and essential elements in Hawai'i's existing health care system and it is critical that they be restored as soon as possible."
- 11. The applicant states that "This proposal relates directly to two of the four goals in the HSFP. Namely:
 - "Focus on increasing cost-effective access to necessary health care services' and
 - 'Promote the financial viability of the health care delivery system."
- 12. The applicant states that "The need for these facilities/services has been established by the community's previous utilization. The closure has resulted in several problems. Notably, the other emergency rooms on the island have been crowded, with frequent occasions where one or more are on "divert" status, meaning that ambulances are directed to bypass them and go to some other hospital."
- 13. The applicant states that "St. Francis provides service to all patients, including low-income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly. St. Francis is known for its commitment to service to the elderly and disadvantaged."
- 14. The applicant states that "St. Francis has a long history of providing quality health services to the people of Hawai'i, with emphasis on serving the poor and the marginalized. This proposal to reacquire the HMC facilities and services will allow the continued provision of quality services."
- 15. The applicant states that "When reopened, the facilities will meet all licensure requirements for the State, and all certification requirements for Medicare and Medicaid. JCAHO accreditation will be sought."
- 16. The applicant states that "There are no capital costs in this acquisition. St. Francis is acquiring the facilities/services through a settlement agreement following the closing down of the HMC facilities."

11-18E, Decision on the Merits May 3, 2012 Page 4

- 17. The applicant projects that in the first year of operation (a ten month year), total revenue would be \$117,266,000 and total expenses would be \$115,796,000. In the third year of operation, these numbers would rise to \$151,152,000 and \$142,284,000 respectively.
- 18. The applicant states that "The existing health care system has been badly impacted by the closure of HMC. It is important to restore services as quickly as possible to minimize the negative impact of an extended closure on the existing health care system."
- 19. The applicant states that "As noted earlier, the closure of two emergency rooms, one of them being the second most heavily utilized one on the island, has put serious strains on the remaining emergency system. Further, other hospitals have experienced overcrowding."
- 20. The applicant states that "Upon reacquiring the assets, we will take steps to assure that the facilities and services are reopened as quickly as possible, including the recruiting of staff. Services would be opened incrementally and we anticipate that the revenues would be sufficient to meet the expenses as the services come on line. If there were any shortfalls they would be minor. These, as well as any start-up capital costs, could by covered by existing cash reserves held by SFHS."
- 21. The applicant states that "The necessary personnel should be available, since about 1000 employees were recently laid off when HMC closed."

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CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need/Part VII, Chapter 323D, HRS Application No. 11-18E 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, HAR, 11-186-99, HAR and 323D-77, HRS.

Accordingly, the Agency hereby determines that, pursuant to Section 11-186-99, HAR and Section 323D-43(b), 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.

11-18E, Decision on the Merits May 3, 2012 Page 5

<u>ORDER</u>

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 the proposed acquisition herein under Part VII of Chapter 323D, HRS and APPROVES and ISSUES a Certificate of Need to St. Francis Medical Center-West, St. Francis Medical Center, St. Francis Healthcare System of Hawaii for the proposal described in Certificate of Need/Part VII, Chapter 323D, HRS Application No.11-18E. The maximum capital expenditure allowed under this approval is \$14,750,000. As provided under Section 11-186-99(e) HAR, this is the final decision of the Agency.

DATED: May 3, 2012 Honolulu, Hawaii

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Administrator