

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE
GOVERNOR OF HAWAII

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

ROMALA SUE RADCLIFFE, B.A., M.A.
ADMINISTRATOR

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

August 3, 2015

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Steven Nottingham
General Manager Western Group
Liberty Dialysis – Hawaii, LLC
1400 East Southern Avenue, Suite 615
Tempe, Arizona 85282

Dear Mr. Nottingham:

The State Health Planning and Development Agency (the “Agency”) has evaluated Certificate of Need application #15-07A for administrative review from Liberty Dialysis – Hawaii, LLC (the “applicant”) for the establishment of a 2 station chronic renal dialysis facility at 500 Ala Moana Boulevard, Suite 7-302, Honolulu, HI, at a capital cost of \$303,850 (the “Proposal”).

1. Pursuant to Title 11, Chapter 186 of the Hawaii Administrative Rules (HAR), the Agency has determined that the Proposal is eligible for administrative review as it meets the criterion in Subsection 11-186-99.1(b) (5), HAR, i.e.: “An additional location of an existing service or facility.”
2. In written testimony received July 21, 2015, Jocelyn Saccamago, Regional Vice President for the Hawaii Region for Liberty Dialysis-Hawaii, LLC states “The application is consistent with the principles set forth in the Hawaii Health Services and Facilities Plan. The HSFP states that prior to the establishment of a new chronic renal dialysis service, the minimum annual utilization for each provider in the service area should be 600 treatments per unit, and the utilization of the new service should be projected to meet the minimum utilization rate by the third year of operation.”
3. In her written testimony received July 21, 2015, Ms. Saccamago states that “Utilization at every facility except DSI’s Koolau Dialysis Center exceeds the HSFP threshold.”
4. The applicant states that “The HSFP states that utilization thresholds may be modified to allow for suboptimum utilization if a proposal’s benefits clearly outweigh [sic] the costs to the community of duplicating or under-using services, facilities or technologies. The HSFP further states that benefits may include improved access for the service area combined with significant improvements in quality of care. Thresholds may also be modified to incorporate current and best clinical practices.”
5. The applicant states that “Best practice requires minimizing the distance that a dialysis patient must travel for treatment in order to reduce the incentive to miss treatment sessions. This is particular true for the visitor population which has an added incentive to skip dialysis when treatment requires lengthy travel through unfamiliar areas.”

6. In her written testimony received July 21, 2015, Ms. Saccamago states that "...the Koolau Dialysis Center is 17.1 miles (or 33 minutes by car if there is no traffic congestion) from Waikiki, where the tourists who are the target population for the proposed facility are likely to be located."
7. The applicant states that "...the Proposed Project is expected to meet the threshold level during its first year of operation."
8. In her written testimony received July 21, 2015, Ms. Saccamago states that "Because the facility is primarily intended for use of international travelers, Liberty will not seek Medicare certification for it. However, the new facility will provide the same high quality dialysis services to its patients as at all other Liberty facilities, in full compliance with all applicable federal and state regulations."
9. The applicant states that "LDH's (Liberty Dialysis – Hawaii) clinics are CMS certified and observe the standards set by both the CDC and CMS in their operations. LDH's quality improvement program was developed in accordance with CMS and the National Kidney Foundation's Disease Outcomes Quality Initiative ('KDOQI') guidelines. In keeping with the LDH Dialysis Quality Improvement Program, each facility monitors the quality of care in the following areas: anemia management, bone management, adequacy of dialysis, patient satisfaction, and technical management."
10. The applicant states that "All LDH nurses are licensed in Hawaii and all patient care technicians are nationally certified. All nurses and hemodialysis technicians must complete LDH's training program prior to being assigned patient care duties. All LDH patient care staff will participate in regular in-service training to maintain the highest quality of competency."
11. The applicant projects that for the first full year of operations, total operating revenue will be \$842,400 and net income will be \$280,304. The applicant projects that for the third full year of operations, total operating revenue will be \$1,123,200 and net income will be \$390,812.
12. The applicant states that "Although the facility will be available for use by Hawaii residents in the event of an emergency that creates unsatisfied demand for dialysis services, its primary target market is composed of visitors to Hawaii, who do not regularly seek care through the Hawaii health care system. Accordingly, it is not expected to have any significant impact on the existing health care system."
13. The applicant states that "There are no financial obstacles to this project. The Proposed Project will be paid for with cash reserves or through a committed working capital line, which Liberty has dedicated to this project."

14. The applicant states that “LDH expects to assign staffing got [sic] the Proposed Project from its current pool of employees. Liberty seeks new employees on an ongoing basis through local and national advertisements. LDH engages in extensive local recruitment and conducts in-house nurse and technician training programs to ensure that its personnel are qualified to provide high quality care to its dialysis patients. LDH has partnered with local educators to provide clinical training opportunities for new nurses and technicians. LDH has also expanded its in-house training efforts and has increased recruitment of local dialysis nurses and technicians in order to maintain a consistent supply of qualified personnel to provide patient care in its dialysis facilities.”
15. In her written testimony received July 21, 2015, Ms. Saccamago states that “In 2014, Liberty’s dialysis facilities in Hawaii performed 1388 dialysis treatments for more than 500 travelers to Hawaii. They must be worked into the schedules at existing dialysis facilities and sometimes must dialyze at night ot [sic] during the very early morning hours. Many are from foreign countries and must overcome a language barrier, as well as the transportation challenges that confront anyone new to a metropolitan area like Honolulu, in order to obtain needed dialysis care. Liberty has planned to tailor the services available at the Proposed Project to meet the unique needs of these visitors by, for example, providing translator services and transportation that will help them overcome these obstacles to care.”
16. The applicant states that “As needed, LDH will make the Proposed Project’s services available to all Oahu residents, including low-income individuals, racial and ethnic minorities, women, individuals with disabilities, other underserved groups, and the elderly.”
17. In her written testimony received July 21, 2015, Ms. Saccamago states that “Because the facility is primarily intended for use of international travelers, Liberty will not seek Medicare certification for it.”
18. In written testimony dated July 21, 2015, Jay Yalowitz, Executive Vice President General Counsel of DSI Renal, states that “Medicare and Medicaid beneficiaries comprise the majority of ESRD patients in Hawai’i, both local residents and visitors from the US Mainland. If Applicant does not intend to become Medicare certified or participate in the Medicaid program, in order to restrict services to the target population of foreign visitors to Hawai’i, then the statements that the 2-station clinic will be available ‘to all Oahu residents’ is untrue and the Application does not meet the CON requirement of accessibility.”

Conclusions

The Agency finds that the Proposal meets the certificate of need criteria in Hawaii Administrative Rules (HAR) 11-186-15(a) (3) - (12) inclusive. The criteria in HAR 11-186-15(a)(2) are not applicable to this proposal.

The Agency finds that the Proposal meets the need criterion in HAR 11-186-15(a)(1), namely, "The need that the population served or to be served has for the services proposed to be offered or expanded..."

The Agency finds that the applicant has not proven by a preponderance of the evidence that the Proposal meets accessibility criteria in HAR 11-186-15(a)(1), namely, "...the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups, and the elderly, are likely to have access to those services."

The Agency finds that the Proposal, if modified in accordance with the condition below, would meet all the criteria in HAR 11-186-15(a)(1).

Order and Conditional Certification

The State Health Planning and Development Agency hereby APPROVES and ISSUES a CONDITIONAL Certificate of Need to Liberty Dialysis – Hawaii, LLC, for the Proposal described in Certificate of Need application #15-07A. The condition is that on or before Noon, September 30, 2015, the applicant shall submit to the Agency, for Agency approval:

- A written plan which shall set forth how the applicant will ensure that its proposed facility will also be accessible to all residents of the area, in addition to the applicant's primary target group of international travelers per the Proposal. The written plan shall include, without limitation, provisions for obtaining Medicare certification for the proposed facility and policies for making its services accessible to residents of the area as required by HAR 11-186-15(a)(1).

This modification is required for the application to successfully meet the criteria for the issuance of a certificate of need as established in HAR 11-186-15(a).

As provided under Section 323D-46, HRS and Section 11-186-77 HAR, the Agency establishes Noon, August 31, 2015, as the date and time by which the applicant must certify, in writing, that it accepts this condition otherwise this application shall be deemed to be DENIED as provided under Section 11-186-77 HAR.


The Agency has determined that the Proposal is eligible for administrative review as it meets one or more of the criteria in HAR 11-186-99.1(b) and that there is no compelling public interest which will be served by requiring the application to go through the standard review process.

As required under Section 323D-43(b), HRS, the Agency determines that, if modified as specified in the above Order,

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

The maximum capital expenditure allowed under this approval is \$303,850.

Please be advised that pursuant to Section 323D-47, HRS, any person may, for good cause shown, request in writing a public hearing for reconsideration of the Agency's decision within ten working days from the date of this decision. Accordingly, if no person makes such a timely request for reconsideration, this decision shall become final immediately after the deadline for making such a request has expired.


Romala Sue Radcliffe
Administrator