

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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October 21, 2015

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 15-08
Hualalai Health, LLC)	
)	
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. 15-08 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 Hawaii County Subarea Health Planning Council, 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. 15-08. Where appropriate, Findings of Fact shall operate as Conclusions of Law, and Conclusions of Law shall operate as Findings of Fact. As many of the criteria for Certificate of Need are interrelated, each of the criteria and subheadings within the Findings of Fact shall be deemed to incorporate and include all other Findings of Fact to the extent relevant.

I

FINDINGS OF FACT

1. This is an application for a Certificate of Need ("Cert.") for the establishment of a 160 bed Skilled Nursing Facility at 75-323 Hualalai Road, Kailua-Kona, HI, at a capital cost of \$28,255,000.
2. The applicant, Hualalai Health, LLC, is a limited liability company.

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 May 14, 2015, the applicant filed with the Agency, a Certificate of Need application for the establishment of a 160 bed Skilled Nursing Facility at 75-323 Hualalai Road, Kailua-Kona, HI, at a capital cost of \$28,255,000 (the "Proposal"). On June 22, 2015, the applicant submitted revisions/additional information. On June 22, 2015, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #15-08.

5. The period for Agency review of the application commenced on August 18, 2015, the day notice was provided to the public pursuant to HAR 11-186-39.

6. The application was reviewed by the Hawaii County Subarea Health Planning Council at a public meeting on August 25, 2105. The Council unanimously recommended approval of the application.

7. The application was reviewed by the Certificate of Need Review Panel at a public meeting on September 17, 2015. The Panel voted 6 to 0, in favor of recommending conditional approval of the application. The condition was that the applicant submits the following additional information/modifications to its application:

- Documentation from the applicant's lenders regarding the financing for the project
- Documentation from the county water authority indicating that the water supply will be available for the project
- Documentation demonstrating the quality of care history for the proposed operator of the facility, Ontrac Management Services, including references from current or past facilities that have contracted with Ontrac
- Current financial statements for Hualalai Health, LLC
- Documentation from the county authority indicating that the project will be eligible for the general excise tax exemption

8. On September 23, 2015, the applicant submitted additional information/modifications to its application.

9. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on September 24, 2015. The Council voted 10 to 0, in favor of recommending conditional approval of the application. The condition was that the applicant submits the following additional information/modifications to its application:

- Supporting CPA schedules that reconcile to the Exhibit D-2 pro forma

10. On October 5, 2015, the applicant submitted additional information/modifications to its application.

11. This application was reviewed in accordance with Section 11-186-15, HAR.

12. 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.”

13. 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 **CERTIFICATE OF NEED CRITERIA**

A. REGARDING THE RELATION OF THE PROPOSAL TO THE STATE HEALTH SERVICES AND FACILITIES PLAN CRITERIA

14. The applicant states that “The number one SHPDA HSFP Statewide priority is to promote and support the long-term viability of the health care delivery system... Hualalai Health, LLC can support this priority by reducing demand on emergency care resources, and helping to decrease the inappropriate use of acute care beds.”

15. The applicant states that "It is our goal to provide sufficient skilled nursing resources so that Kona Community Hospital can use all of their beds for acute care, as they have indicated as their strategic preference."

16. The applicant states that "Having sufficient skilled nursing beds means that patients can be released from the hospital within the Medicare defined timeframe for an acute care setting. It will also decrease the number of patients who return for the same diagnosis, due to inadequate support during recovery. Both mean a reduction in state and federal subsidies for Hawaii Island hospitals."

17. The applicant states that "The plan specifies the need to ensure capacity and access to a continuum of long-term care... This 160-bed long-term care and skilled nursing facility is part of a proposed continuum of care community with an associated assisted living facility that provides care to those who need limited care, and provides an easy transition into skilled nursing and long-term care should the need arise. The skilled nursing beds fill the identified long-term care and post-hospitalization gap in the continuum of care."

18. The applicant states that "The statewide plan emphasizes the importance of developing and maintaining a health care workforce. It is the intention of Hualalai Health, LLC and Ontrac Management to recruit, train and retain health care workers to support the needs of the 160 beds of skilled nursing care... At present, Ontrac is anticipating that the new Hualalai Health, LLC community will be a training site for certified nursing assistants, thus increasing the island's health care workforce available to other providers as well."

19. The applicant states that "The State Plan also identifies a general facilities shortage on Hawaii Island, and calls out the need to 'Increase the number of and improve the access to and the quality of health care facilities'... By introducing more skilled nursing beds in West Hawaii Kona Community Hospital will be able to transition beds currently licensed as skilled nursing and swing beds to much needed acute care beds."

20. The applicant states that "The 2009 HSFP identified long-term care as a priority at both the state and county levels. The plan identifies Hawaii Island's need to 'Expand the capacity of and improve the access to long-term care facilities and home and community-based services'... The 160 long-term care beds proposed by Hualalai Health, LLC will partially fill the gap identified by SHPDA."

21. The applicant states that "The target population for this project is any resident of West Hawaii age 65+. Currently, there are over 13,000 residents 65+ in West Hawaii."

22. The applicant states that "Currently the national average for skilled nursing beds per thousand persons 65+ is 36 beds. The statewide average is 14 beds. While the County average is 36 beds, the West Hawaii average is 10 beds, making accessibility far below state and national standards. Because of the distance, the high number of beds in Hilo does not alleviate demand in Kona. By providing more beds in the area where the need is greatest, accessibility is immediately improved for all seniors regardless of income level, gender or race."

23. The applicant states that "As of March of 2013, the national occupancy rate for certified beds stood at 86.0% according to CMS OSCAR data compiled by the American Health Care Association... The occupancy rate for skilled nursing in West Hawaii is 97%."

24. The Agency finds that the Proposal meets the relationship to the state health services and facilities plan criteria.

B. REGARDING THE NEED AND ACCESSIBILITY CRITERIA

25. The applicant states that "Hualalai Health, LLC will be located in the Kona District on Hawaii Island. The Primary Market Area (PMA) is concluded to be most of the west half of the island consisting of the following zip codes; 96777, 96772, 96755, 96750, 96743, 96740, 96738, 96725, 96719, and 96704."

26. The applicant states that "There are two major population centers on the island; Kailua Kona on the west and Hilo on the east. Both Hilo and Kona populations primarily live along the coast with the ocean as physical barrier on one side and the mountains on the other... From the site to Hilo, on the new Highway, is said to take about 2 hours which makes it unlikely to attract residents from the [sic] east side of the island. The road infrastructure allows the subject to draw residents from the north and south regions. The drive time to the facility from the northern most Kona population is 1.5 hours, as is the southern most."

27. The applicant states that "Currently the national average for skilled nursing beds per thousand persons 65+ is 36 beds. The statewide average is 14 beds. While the County average is 36 beds, the West Hawaii average is 10 beds, making accessibility far below state and national standards. Because of the distance, the high number of beds in Hilo does not alleviate demand in Kona. By providing more beds in the area where the need is greatest, accessibility is immediately improved for all seniors regardless of income level, gender or race."

28. The applicant states that “As of March of 2013, the national occupancy rate for certified beds stood at 86.0% according to CMS OSCAR data compiled by the American Health Care Association... The occupancy rate for skilled nursing in West Hawaii is 97%.”

29. The applicant states that “If you take the national average of 36 beds per 1000 people 65+ with an average occupancy rate of 80% and compare it to West Hawaii's 10 beds per thousand people 65+ with an average of 97% occupancy, the need becomes undisputable... the deficit in beds for 2014 was 429 beds and 453 beds in 2015. With the proposed beds completed by the end of 2016 the deficit will be 317 beds. If the project is not completed, the deficit for 2016 will be 477 beds.”

30. The applicant states that “Hualalai Health, LLC will be accessible to all members of the community. The primary target audience is residents 65+ who qualify for Medicaid. This facility will address issues of the underserved, because of age and income, but in doing so will improve access for racial and ethnic minorities, women and people with disabilities. The skilled nursing facility is 70% Medicaid and it is our objective to provide for a wide range of incomes and the complete ethnicity of the population. Because it is a fair housing project, it will meet all federal standards of accessibility.”

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

C. REGARDING QUALITY AND LICENSURE CRITERIA

32. The applicant states that “The project will enhance the quality of nursing home and sub-acute care services through its programs, including geriatric and psychologists physician specialists, a dedicated gero-psychology unit, nurse practitioner, tele-medicine, and additional programs developed to meet current and future needs in collaboration with existing health care providers and facilities.”

33. The applicant states that “The project will develop and implement a Quality Assurance program to ensure that quality care reaches a targeted and acceptable level. The QA together with a Performance Improvement plan will continuously analyze the performance and develop systematic efforts to improve it.”

34. The applicant states that "Policies and procedures will include, but not be limited to the following:

- Infection Control & Prevention
- Staff Training & Development
- Nursing Standard Policy & Procedures
- Minimum Staff training requirements
- Continuing Education requirements
- Quality Assurance and Performance Improvement"

35. The applicant states that "Staffing levels will be flexible and account for changes; including intensity of patient's needs, the number of admissions, discharges and transfers during a shift, level of experience of nursing staff, layout of the unit, and availability of resources (ancillary staff, technology etc.) Minimum staffing level based on NHRA (OBRA of 1987) requirements will be exceeded."

36. The applicant states that "Technically knowledgeable and proficient staff within a nourishing environment that seeks to improve quality through performance improvement will positively impact the quality of care and service provided. To accomplish this, all staff, both clinical and non-clinical, shall be evaluated and determined eligible for hire based on the position's requirements. All staff hired will undergo an initial general orientation covering matters such as infection control, disaster preparedness, resident rights and abuse definition and reporting, customer service, and a basic review and understanding of physical and mental changes that occur with age that impact the staff interactions with residents together with suggested approaches and interventions. Annually, these and other topics will be covered for all staff as a mandatory review. Job specific orientation shall be conducted."

37. The applicant states that the following licenses, certificates, and additional accreditations are being sought for the proposal:

- a. Hawaii State licensure
- b. Medicare certification
- c. Medicaid certification
- d. COLA
- e. CARF accreditation or JCAHO accreditation maybe sought

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

39. The applicant states that "The overall community cost for health care delivery will go down with the availability of additional skilled nursing and long-term care beds. This facility will house people in the community that are already using community resources. This will represent a reallocation of resources. Much of the reallocation will be in the delivery of emergency and acute care services...This will also relieve financial and demand burden on primary care physicians. Elderly patients often require more time per visit than insurance providers will allow. By providing a higher acuity of care in a skilled nursing environment, the time needed by the physicians decreases."

40. The applicant states that "We have determined this is the most cost effective way to provide services to the community. We are providing assisted living, which is a less costly alternative, but it only takes the patient to a certain level of care. After that, skilled nursing is the most cost effective care delivery system available."

41. The applicant states that "Piper Jaffray & Co. and Golden Pacific Ventures LLC are providing joint funding of \$28,255,000 for the project. This is being done with a twenty-five (25) year amortization rate and a five (5) year initial term with annual extensions available. Project values at completion per the appraisal work completed for the project confirm the completed facility will qualify for a lower interest rate, longer amortization HUD guaranteed loan. The HUD loan will be used to take out the initial Piper/Golden Pacific Ventures loan at the end of five (5) years."

42. The applicant projects that net income from operations will be \$1,270,928 for Year 1 of the Proposal and \$7,465,438 for Year 3 of the Proposal.

43. The applicant projects that the excess (deficit) funds from operations will be (\$813,220) for Year 1 of the Proposal and \$5,381,290 for Year 3 of the Proposal.

44. The applicant states that "Feasibility was determined by establishing the market need, which is confirmed by the IRA Market Report... Once the market need was established, the economic feasibility (income and expense) was determined by the Proforma prepared by Youngblood & Associates, which is summarized in Exhibit D-2."

45. In a memorandum dated October 8, 2015, Nora Nomura, Chair, of the Statewide Health Coordinating Council, forwarded the Council's recommendation for conditional approval of this application. The recommendation states:

The Council recommends **conditional approval** of this application by a vote of 10 to 0. The condition is that the applicant submits the following additional information/modifications to its application:

- Supporting CPA schedules that reconcile to the Exhibit D-2 pro forma.

46. The said memorandum dated October 8, 2015, further states:

The Council offers these comments regarding the certificate of need criteria...

Cost and Finances:

If the application is modified as set forth above, the proposal will meet the Cost and Finances criteria.

47. The Agency finds that, if the application is modified in accordance with the condition identified on Page 11 of this Decision on the Merits, the cost and financial criteria will be met.

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

48. The applicant states that "The project is designed to fill a gap in service that is creating a drain on the health delivery system in West Hawaii. By providing services for 160 residents in the skilled nursing facility, we can reduce the demand on an already overburdened system. It will reduce calls to emergency responders and visits to the emergency room. It will enable the hospital to transition most or all of the 18 skilled nursing/swing beds into much needed acute care beds. It will reduce the burden on primary care physicians in the community, enabling them to better serve the rest of their patients."

49. The applicant states that "We have determined this is the most cost effective way to provide services to the community. We are providing assisted living, which is a less costly alternative, but it only takes the patient to a certain level of care. After that, skilled nursing is the most cost effective care delivery system available."

50. The applicant states "Hualalai Health, LLC will work closely with home health, Hospice, acute care, primary care physicians, assisted living, adult family homes and other skilled nursing facilities. We have committed space for use by the West Hawaii Hospice Program, to be accessible to them as soon as operations begin."

51. The Agency finds that the relationship of the proposal to the existing healthcare system of the area criteria have been met.

F. REGARDING THE AVAILABILITY OF RESOURCES CRITERIA

52. The applicant states that "Piper Jaffray & Co. and Golden Pacific Ventures LLC are providing joint funding of \$28,255,000 for the project. This is being done with a twenty-five (25) year amortization rate and a five (5) year initial term with annual extensions available. Project values at completion per the appraisal work completed for the project confirm the completed facility will qualify for a lower interest rate, longer amortization HUD guaranteed loan. The HUD loan will be used to take out the initial Piper/Golden Pacific Ventures loan at the end of five (5) years."

53. The applicant states that "Hualalai Health, LLC will bring a number of new resources to the community. Understanding that the access to licensed clinical staff is limited on the island, we will recruit from both on island and off-island. We intend to introduce additional individuals to the workforce in the Kona area. The plan currently is to add 35 units of workforce housing to assist with this recruitment program."

54. The applicant states that "Through the network established by Ontrac Management and its parent organization, Covenant Retirement Communities, a recruitment effort will be undertaken to secure qualified staff members to meet the skilled care needs. The recruitment effort will include traditional methods of advertising and placement and will also include recruitment from within the management organization, thus securing quality staff members who have proven care standards. Ontrac Management is identifying key staff members for the licensed nursing home administrator, director of nursing and the therapy director to establish a leadership team. It is expected that those key positions will be hired prior to facility opening."

55. The Agency finds that the availability of resources criteria have been met.

III

CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need Application No.15-08 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 Hawaii County Subarea Health Planning Council, 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:

1. The Proposal meets the certificate of need criteria in HAR 11-186-15(a) (1), (3), (4) and (6) - (12), inclusive. The criteria in HAR 11-186-15(a)(2) are not applicable to this proposal.
2. The applicant has failed to show by a preponderance of the evidence that its Proposal, as it is currently written, meets the certificate of need criterion in HAR 11-186-15(a) (5).
3. The applicant's Proposal, if it were modified as specified in the Order below, would meet the criteria for the issuance of a certificate of need.

Conditional Certification

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 CONDITIONAL Certificate of Need to Hualalai Health, LLC, for the Proposal described in Certificate of Need application No. 15-08, as modified herein.

The condition is that, on or before November 30, 2015, the applicant shall submit to the Agency, for Agency approval:

- Supporting CPA schedules that reconcile to the Exhibit D-2 pro forma.

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

As provided under Section 323D-46, HRS and Section 11-186-77 HAR, the Agency establishes Noon, December 15, 2015 as the date by which the applicant shall certify, in writing, that the required modifications to the application have been made.

As required under Section 323D-43(b), Hawaii Revised Statutes, the Agency has determined that, if modified as specified in the above Order:

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 light of the benefits it will provide and its impact on health care costs.

The maximum capital expenditure allowed under this conditional approval is \$28,255,000.

WRITTEN NOTICE

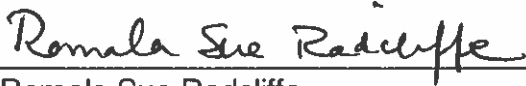
Please read carefully the written notice below. It contains material that may affect the Decision on the Merits. The written notice is required by Section 11-186-70 of the Agency's Certificate of Need Program rules.

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 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: October 21, 2015
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY


Romala Sue Radcliffe
Administrator