



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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October 10, 2017

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 17-02
Malama Ola Health Services 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. 17-02 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. 17-02. 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 Medicare certified hospice agency at 500 Ala Moana Blvd., Suite 7-400. Honolulu, HI, at a capital cost of \$169,383.
2. The applicant, Malama Ola Health Services 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 4, 2017, the applicant filed with the Agency, a Certificate of Need application for the establishment of a Medicare certified hospice agency at 500 Ala Moana Blvd., Suite 7-400. Honolulu, HI, at a capital cost of \$169,383 (the "Proposal"). On June 5, 2017, the applicant submitted revisions/additional information. On June 9, 2017, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #17-02.

5. The period for Agency review of the application commenced on June 29, 2017, the day notice was provided to the public pursuant to HAR 11-186-39.

6. The application was reviewed by the Oahuwide Certificate of Need Review Committee at a public meeting on July 7, 2017. The Committee voted 5 to 0, in favor of recommending disapproval of the application.

7. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on July 27, 2017. The Panel voted 12 to 2 with one abstention, in favor of recommending conditional approval of the application. The condition was that the applicant submits the following additional information/modifications to its application:

- A letter from First Hawaiian Bank indicating that a line of credit will be available for the project.
- Detailed cash flow projections for the first three years of operations.

8. On August 31, 2017, the applicant submitted to the Agency additional information/modifications to its application.

9. The application was reviewed by the Certificate of Need Review Panel at a public meeting on September 8, 2017. The Committee voted 8 to 0, in favor of recommending approval of the application.

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

11. 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.”

12. 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

13. The applicant states that “We will strive for equitable access to health care services for Oahu residents with life-limiting illness and budget to provide up to 15% of charitable care services. We will provide these charitable services island-wide to ensure that low income persons, racial and ethnic minorities, women, people with disabilities and other underserved groups, including the elderly, have access to our service.”

14. The applicant states that “We will encourage and support health education, promotion, and prevention initiatives (such as Advanced Care Planning) at community events. We will contribute to the efforts of Kokua Mau (Hawaii’s Hospice and Palliative Care Organization) and other agencies who provide and/or support medical care for the seriously ill. At the very start of operations, we will dedicate one full time employee to community education efforts.”

15. The applicant states that “We will identify and address workforce shortages in the health care industry with particular emphasis on senior care services through our partnerships with academic training centers.”

16. The applicant states that “We will help control escalating costs in the senior care industry and other needed services by reducing the needs for institutionalized care and acute hospitalizations.”

17. The applicant states that “We will improve and increase access to home and community based geriatric services to keep older adults out of institutions. We will reduce unwanted, unnecessary acute and critical care

admissions, thereby freeing up those precious resources for those who need those services.”

18. The applicant states that “We will increase community engagement by raising dialog about end-of-life care to include advanced care planning in the community (e.g. at churches, neighborhood boards, businesses and schools).”

19. The applicant states that “We will work with Mountain-Pacific Quality Health (Hawaii’s CMS Quality Improvement Organization) by joining the Windward Community Partners to actively collaborate on solving issues unique to the Windward health care providers.”

20. 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

21. The applicant states that “Malama Ola’s proposal will target the following populations:

- **Medicare Beneficiaries with Terminal Disease**
Malama Ola will provide Hospice Care to all medically-eligible Medicare Beneficiaries...
- **Oahu Residents with Terminal Disease covered by Medicaid or Private Insurance**
Malama Ola will follow Medicare guidelines to provide Hospice Care to medically-eligible patients who have a payer source other than Medicare...
- **Oahu Residents with Terminal Disease and No Insurance Coverage**
Malama Ola will follow Medicare guidelines to provide charitable Hospice Care to individuals without insurance. Malama Ola will provide these charitable services island-wide to ensure that low income persons, racial and ethnic minorities, women, people with disabilities and other underserved groups, including the elderly, who do not have medical insurance can access our services.
- **HMSA Members Residing on Oahu who are Eligible for Supportive Care Services**
Malama Ola will provide Supportive Care services to HMSA Members as defined by HMSA’s supportive care benefit...”

22. The applicant states that "Malama Ola's target population includes all residents of Oahu faced with terminal disease. As such, we will provide care to low income persons, racial and ethnic minorities, women, people with disabilities and other underserved groups, including the elderly. We will also provide charitable Hospice Care services to those with no health insurance."

23. The applicant states that "It is clear that the greatest need and demand for Hospice Care in Honolulu County comes from our senior population. As reported by the National Hospice and Palliative Care Organization, approximately 84% of Hospice patients are 65 years of age or older and 41.1% are older than 85."

24. The applicant states that "The elderly population of Hawaii as a proportion of total population exceeds and will continue to exceed the national average."

25. The applicant states that "Our aging population on Oahu has a clear need for community-based Hospice Care. The number of Medicare Beneficiaries in Honolulu County has consistently grown by 2-3% each year since 2008, which is the last year a new Hospice agency was approved by SHPDA via the CON process."

26. The applicant states that "On January 1, 2017, Hawaii's largest private insurer, HMSA, formalized a major palliative care benefit called Supportive Care. HMSA's Supportive Care benefit is truly ground breaking and more encompassing than any palliative care benefit offered on the Mainland."

27. The applicant states that "Under this new benefit, eligible HMSA Members may receive traditional, curative medical care such as chemotherapy while also receiving home-based visits from Hospice professionals geared towards symptom control, psychosocial and spiritual support. Foremost, the goal is to alleviate or at least minimize physical and mental suffering. A secondary benefit is the reduction of medically unnecessary emergency department visits and acute care hospitalizations. HMSA mandates that Supportive Care is delivered by Medicare-certified Hospice agencies."

28. The applicant states that "The demand for Supportive Care services during its multi-year pilot phase reached over 100 patients per year. Now that Supportive Care is a defined HMSA benefit, the demand on Oahu could reach 500 or even 1,000 patients per year."

29. In written testimony dated June 29, 2017, Laurel Coleman, M.D. states "As the Medical Director of Supportive Care for HMSA, I am very aware of the growing need for hospice and palliative care in Hawaii. HMSA's Supportive Care benefit is a home based palliative care program that adds an extra layer of support for

people dealing with serious illness. Our eligible members may continue their usual/curative care with the addition of home visits by a skilled, multi-disciplinary team of clinicians that focus on symptom management, care coordination, and discussion of advance care preferences. Only Medicare certified hospice agencies are authorized to deliver the services in the Supportive Care Program.”

30. In her written testimony dated June 29, 2017, Dr. Coleman further states “When one considers the greater demand on the existing hospice agencies as they care for a growing number of HMSA's members who are electing Supportive Care, then the need for additional hospice capacity is even more compelling. We enrolled approximately 300 members in Supportive Care in 2016, and hope to grow the program to more than 500 members per year by 2018.”

31. The applicant states that “The demand during Supportive Care's pilot phase created a strain on the limited number of Medicare-certified Hospice providers on the island of Oahu, and the upcoming need will not likely be met by these four providers.”

32. In written testimony dated September 2, 2017, Kristina Perez states “For two years I worked [at Islands Hospice] as a registered nurse case manager... Approximately one year ago, the hospice program became overwhelmed by our HMSA supportive care patients.”

33. The applicant states “As the person who directly supervised all intake staff and activity at Islands Hospice, I directed Hospice patient referrals (and HMSA Supportive Care patient referrals) to other Hospice agencies when our clinical staff was stretched too thin. While some patients could be admitted to the other Hospice agencies, I unfortunately know of several patients who expired without the benefit of a Hospice care team in place. Sadly, this also meant that their surviving family members did not receive subsequent bereavement care provided by specialized Hospice counselors.”

34. The applicant states that “The influx of patients eligible for home-based Supportive Care services will very likely overwhelm the capacity of the limited number of Hospice providers on our island.”

35. The Agency finds that the anticipated growth in demand for HMSA's supportive care services will likely impair the current Hospice providers' ability to meet the need for Hospice services on Oahu.

36. The Agency finds that an additional Hospice provider is necessary to ensure that the need for Hospice services will be met.

37. The Agency finds that there is a need for the Proposal.
38. The Agency finds that the need and accessibility criteria have been met.

C. REGARDING QUALITY AND LICENSURE CRITERIA

39. The applicant states that "Malama Ola will follow the National Hospice and Palliative Care Organization's (NHPCO) 10 Components of Quality Care in the following ways:

- **Patient and Family Centered Care**
Malama Ola's care and services will be responsive to the needs and exceed the expectations of those we serve.
- **Ethical Behavior and Consumer Rights**
Malama Ola will uphold high standards of ethical conduct and advocate for the rights of patients and their family caregivers.
- **Clinical Excellence and Safety**
Malama Ola will ensure clinical excellence and promote safety through standards of practice.
- **Inclusion and Access**
Malama Ola will promote inclusiveness in our island community by ensuring that all people - regardless of race, ethnicity, color, religion, gender, disability, sexual orientation, age or other characteristics - have access to our programs and services.
- **Organizational Excellence**
Malama Ola will build a culture of quality and accountability within our organization that values collaboration and communication and ensures ethical business practices.
- **Workforce Excellence**
Malama Ola will foster a collaborative, interdisciplinary environment that promotes inclusion, individual accountability and workforce excellence through professional development, training, and support to all staff and volunteers.
- **Standards**
Malama Ola will adopt the NHPCO Standards of Practice for Hospice Programs and the National Consensus Project's Clinical Practice Guidelines for Quality Palliative Care as the foundation for our organization.

- **Compliance with Laws and Regulations**
Malama Ola will ensure compliance with all applicable laws, regulations, and professional standards of practice, and implement systems and processes that prevent fraud and abuse.
- **Stewardship and Accountability**
Malama Ola will develop a qualified and diverse governance structure and senior leadership who share the responsibilities of fiscal and managerial oversight.
- **Performance Measurement**
Malama Ola will collect, analyze, and actively use performance measurement data to foster quality assessment and performance improvement in all areas of care and services."

40. The applicant states that "All clinical positions will be held by individuals with a Hawaii license to practice in their respective professions. While Malama Ola would benefit from recruiting professionals with prior experience in Hospice and Supportive Care, we understand the limited number of such professionals in Hawaii. Therefore, Malama Ola will recruit and hire compassionate, dedicated health care professionals who wish to receive training and certification in Hospice and Palliative Care. Because there are shortages in professionals with experience in home-based Hospice and Supportive Care in Hawaii, Malama Ola will develop and offer extensive training to new hires to ensure the highest quality delivery of Hospice and Supportive Care."

41. The applicant states that "In order to provide Hospice and Supportive Care on Oahu, Malama Ola will become Medicare certified. Malama Ola will also seek accreditation through the Community Health Accreditation Partner (CHAP), although this is not required."

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

43. The applicant states that "Malama Ola's proposed service will increase the quality of health care while decreasing overall health costs on the island of Oahu."

44. The applicant states "As cited in Attachment N, studies have shown the following:

- Medicare saves on average \$4102 per Hospice patient in the last month of life;
- Medicare saves \$1.52 for every \$1 invested in the Hospice benefit;

- Medicaid saves approximately \$282 million per year because of the Hospice benefit, which is approximately \$7000 per Medicaid beneficiary.”
45. The applicant projects the Earnings Before Taxes for Year 1 of the proposed project will be \$-257,676, \$105,636 for Year 2 of the proposed project and \$718,885 for Year 3 of the proposed project.
46. The applicant states that “On July 27, 2017, the Statewide Health Coordinating Council (SHCC) recommended conditional approval of Certificate of Need (CON) Application #17-02, Malama Ola Health Services LLC: Establishment of Medicare-Certified Hospice Agency at 500 Ala Moana Blvd., Suite 7-400, Honolulu, Hawaii 96813.”
47. The applicant states that “In order to satisfy the Cost and Financial criteria and, thereby, recommended full, unrestricted approval of CON #17-02, the SHCC requested that the applicant provide the following to the Administrator:
- A. Detailed cash flow statement for the first three years of operation and
 - B. First Hawaiian Bank line of credit letter.”
48. The applicant states that “As seen in the the [sic] detailed cash flow statement [submitted to the Agency on August 31, 2017], Malama Ola's initial capital commitment of \$500,000 is more than sufficient to fund the initial projected losses of the project. Cash and equivalents drop to just below \$90,000 in year two. However, at the end of year three, cash and equivalents rebound to just over \$407,000. As previously shown in the projections, Malama Ola expects to be profitable by the second year of operation.”
49. The applicant states that “In summary, Malama Ola has met the SHCC's request to produce a detailed cash flow statement for the first three years of operation. This cash flow statement demonstrates financial sustainability even with higher projected costs and lower projected profit margins than industry standards in years one and two of operation.”
50. In a letter dated August 1, 2017 [submitted to Agency on August 31, 2017], Jeffrey N.M. Higashi, First Hawaiian Bank Senior Vice President & Area Manager, Pearlridge Branch, states “After evaluating Malama Ola's business projections, which include detailed balance sheets and cash flow statements, and after reviewing collateral arrangements, I am extremely confident that we would be able to provide a line of credit, in the amount of \$2.0 million or more, to support Malama Ola.”

51. The applicant states "...the initial capital of \$500,000 is adequate to fund this project. However, the proposed First Hawaiian Bank line of credit for \$2 million should certainly lay to rest any doubts of Malama Ola's short or long-term financial feasibility in carrying out the proposed project. In summary, Malama Ola has met the SHCC's request to produce a letter from First Hawaiian Bank outlining the proposed line of credit."

52. The Agency finds that the cost and financial criteria have been met.

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

53. The applicant states that "In Hawaii, history has shown us that the prudent addition of Medicare-Certified Hospice Agencies results in increased promotion, availability, access and utilization of end-of-life care. The addition of Malama Ola's services will fill the current gap in our health care delivery pattern."

54. The applicant states that "The addition of Malama Ola's services will certainly improve access to Hospice and Supportive Care in the community. However, Malama Ola will also increase access to other levels of health care. Many individuals who are eligible for Hospice or Supportive Care currently access local emergency departments, hospitals and intensive care units when they could be receiving timely and appropriate medical care in their private homes. By reducing the burden on our island's acute health care system while concurrently increasing access to community-based programs, Malama Ola will improve accessibility to health care for everyone in the community."

55. The applicant states that "Malama Ola's proposed service will increase the quality of health care while decreasing overall health costs on the island of Oahu."

56. The applicant states "As cited in Attachment N, studies have shown the following:

- Medicare saves on average \$4102 per Hospice patient in the last month of life;
- Medicare saves \$1.52 for every \$1 invested in the Hospice benefit;
- Medicaid saves approximately \$282 million per year because of the Hospice benefit, which is approximately \$7000 per Medicaid beneficiary."

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

F. REGARDING THE AVAILABILITY OF RESOURCES CRITERIA

58. The applicant states that “Malama Ola has reserved \$500,000 to fund this proposal. The initial capital commitment provided by Dr. Duick is more than sufficient to fund the initial projected losses of nearly \$300,000 in the first year. Malama Ola expects to be profitable by the second year of operation.”

59. The applicant states “...the initial capital of \$500,000 is adequate to fund this project. However, the proposed First Hawaiian Bank line of credit for \$2 million should certainly lay to rest any doubts of Malama Ola's short or long-term financial feasibility in carrying out the proposed project.”

60. The applicant states that “Because there are shortages of professionals with experience in home-based Hospice and Supportive Care in Hawaii, Malama Ola will develop and offer extensive training to new hires to ensure the highest quality delivery of Hospice and Supportive Care. As such, Malama Ola will recruit and hire compassionate, dedicated health care professionals who wish to receive training and certification in Hospice and Palliative Care.”

61. The applicant states that “We will expand and retain the health care workforce through increased exposure and training in the fields of Hospice and Supportive Care. This expansion and retention of the health care workforce will enable access to the appropriate level of care in a timely manner. We will actively participate in education and training in the fields of physician, nursing, nursing aid, social work and spiritual care. We will partner with the education providers of Oahu to offer preceptorships and other learning opportunities in these areas.”

62. The applicant states that “Malama Ola has the financial resources and the means to recruit, train and retain the required staff to implement the proposal set forth in this CON application.”

63. 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. 17-02 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), HRS:

- (1) There is a public need for this service; 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.

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 Malama Ola Health Services LLC for the Proposal described in Certificate of Need application No. 17-02. The maximum capital expenditure allowed under this approval is \$169,383.

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 10, 2017
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Romala Sue Radcliffe
Administrator