

STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

DAVID Y. IGE
GOVERNOR OF HAWAII
BRUCE S. ANDERSON, Ph.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

November 21, 2018

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 18-08
Islands Skilled Nursing and Rehabilitation))	
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. 18-08 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 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. 18-08. 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 42 bed Skilled Nursing Facility/Intermediate Care Facility at 1205 Alexander Street, Honolulu, HI, at a capital cost of \$2,175,000.
2. The applicant, Islands Skilled Nursing and Rehabilitation 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 June 25, 2018, the applicant filed with the Agency, a Certificate of Need application for the establishment of a 42 bed Skilled Nursing Facility/Intermediate Care Facility at 1205 Alexander Street, Honolulu, HI, at a capital cost of \$2,175,000. (the "Proposal"). On July 25, 2018 and August 15, 2018, the applicant submitted revisions/additional information. On August 28, 2018, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #18-08.

5. The period for Agency review of the application commenced on September 13, 2018, 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 September 20, 2018. The Committee voted 5 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:

- A restatement of the financial statements to incorporate the management fees for the proposal and to label Year 3 projections
- A template of the quality assurance plan for the proposal

7. On September 25, 2018, the applicant submitted to the Agency additional information/modifications to its application.

8. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on September 27, 2018. 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:

- Revised financial statements for the first three years of the project showing more detail on the source of finances and reflecting the delay in Medicare reimbursement

9. On October 5, 2018 and October 17, 2018, the applicant submitted to the Agency additional information/modifications to its application.

10. The application was reviewed by the Certificate of Need Review Panel at a public meeting on October 18, 2018. The Committee voted 6 to 0, in favor of recommending approval of the 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 “Islands Skilled Nursing & Rehabilitation’s approval would address broadly an expanded list of priorities both Statewide and Honolulu County have set forth. Among the specific priorities include the following:

Statewide Health Coordinating Council (SHCC):

- Promote and support the long-term viability of the health care delivery system
- Expand and retain the health care workforce to enable access to the appropriate level of care in a timely manner
- Ensure all projects are appropriate for the regional and statewide continuum of care
- Ensure capacity and access to a continuum of long-term care services

Honolulu (HONSAC) Priorities:

- Increase the availability of nursing home, skilled nursing, and assisted living facility services
- Control escalating costs in the senior care industry and other needed services. For example, reduce the need for institutionalized care
- Improve and increase access of services for uninsured and underinsured
- Improve hospital bed availability through timely transfers to sub-acute levels of care [sic]
- Identify and address workforce shortages in the health care industry with particular emphasis on senior care services"

15. The applicant states that "The target population will *primarily* consist of the 65 and older population ("Senior" or "Seniors") living in Honolulu County... nearly 90% of all nursing home residents in the State of Hawaii ("Hawaii") are 65 years of age and older."

16. The applicant states that "...the national average occupancy rate (utilization) for Medicare certified nursing facilities is 77%, which leaves an unused bed capacity of 23% to accommodate the rapidly aging Senior population. In comparison, the State of Hawaii has an unused capacity of Medicare certified beds of only 16% to serve a Senior population that has grown at nearly *twice* the rate as the U.S. Senior population. The State of Hawaii ranks 13th *lowest* in the Nation, among all 50 states and District of Columbia, in terms of unused bed capacity, with only 16% of total beds available to absorb a rapidly aging Senior population. Honolulu County has an even lower availability of unused beds, with only 12% of the total beds available to accommodate the growth in the Senior population needing Medicare certified beds. Narrowing the focus even further to the geographic area where the applicant's facility is located (the City of Honolulu), the availability of unused beds is even lower, with an unused capacity of only 10% to accommodate a population growing at 30-50% over the next 10-15 years."

17. The applicant states that "In 2016, nearly 18% of all residents in the State of Hawaii were 65 years of age and older, compared to just 15% for the United States overall. In 2016, the State of Hawaii ranked 6th highest in the nation in terms of concentration of Seniors among all 50 states and the District of Columbia. In 2016, Seniors comprised nearly 17% of the overall population in Honolulu County. If Honolulu County were a state, it would rank 13th highest in the nation among all 50 states and the District of Columbia. In the City of Honolulu, where the proposed applicant's facility is located, the concentration of Seniors is even higher than the State of Hawaii and Honolulu County, with 20% of the population 65 years of age and older."

18. The applicant states that "The State of Hawaii ranks 47th among all 50 states and District of Columbia in nursing home beds per 1000 seniors... with 18 beds per 1,000 Seniors, the State of Hawaii has approximately half as few beds per Senior as the Nation as a whole. Honolulu County has even fewer beds per capita, with only 14 beds per 1,000 Senior. If Honolulu County were a standalone state, it would rank 49th among all 50 states and District of Columbia in number of nursing home beds per capita."

19. The applicant states that "The national average of 34 skilled nursing beds per 1,000 seniors is 147% higher than the 14 skilled nursing beds per 1,000 seniors in the Honolulu County service area. Adding back beds will help improve the availability of skilled nursing beds to service the local residents and greatly help reduce costs through the opening of acute hospital beds that are used for long-term care due to limited skilled nursing bed supply."

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 "The target population will *primarily* consist of the 65 and older population ("Senior" or "Seniors") living in Honolulu County... nearly 90% of all nursing home residents in the State of Hawaii ("Hawaii") are 65 years of age and older."

22. The applicant states that "...the national average occupancy rate (utilization) for Medicare certified nursing facilities is 77%, which leaves an unused bed capacity of 23% to accommodate the rapidly aging Senior population. In comparison, the State of Hawaii has an unused capacity of Medicare certified beds of only 16% to serve a Senior population that has grown at nearly *twice* the rate as the U.S. Senior population. The State of Hawaii ranks 13th *lowest* in the Nation, among all 50 states and District of Columbia, in terms of unused bed capacity, with only 16% of total beds available to absorb a rapidly aging Senior population. Honolulu County has an even lower availability of unused beds, with only 12% of the total beds available to accommodate the growth in the Senior population needing Medicare certified beds. Narrowing the focus even further to the geographic area where the applicant's facility is located (the City of Honolulu), the availability of unused beds is even lower, with an unused capacity of only 10% to accommodate a population growing at 30-50% over the next 10-15 years."

23. The applicant states that "In 2016, nearly 18% of all residents in the State of Hawaii were 65 years of age and older, compared to just 15% for the United States overall. In 2016, the State of Hawaii ranked 6th highest in the nation in terms of concentration of Seniors among all 50 states and the District of Columbia. In 2016, Seniors comprised nearly 17% of the overall population in Honolulu County. If Honolulu County were a state, it would rank 13th highest in the nation among all 50 states and the District of Columbia. In the City of Honolulu, where the proposed applicant's facility is located, the concentration of Seniors is even higher than the State of Hawaii and Honolulu County, with 20% of the population 65 years of age and older."

24. The applicant states that "The State of Hawaii ranks 47th among all 50 states and District of Columbia in nursing home beds per 1000 seniors... with 18 beds per 1,000 Seniors, the State of Hawaii has approximately half as few beds per Senior as the Nation as a whole. Honolulu County has even fewer beds per capita, with only 14 beds per 1,000 Senior. If Honolulu County were a standalone state, it would rank 49th among all 50 states and District of Columbia in number of nursing home beds per capita."

25. The applicant states that "The national average of 34 skilled nursing beds per 1,000 seniors is 147% higher than the 14 skilled nursing beds per 1,000 seniors in the Honolulu County service area. Adding back beds will help improve the availability of skilled nursing beds to service the local residents and greatly help reduce costs through the opening of acute hospital beds that are used for long-term care due to limited skilled nursing bed supply."

26. The applicant states that "In terms of accessibility of long-term care, Islands Nursing will be focused most closely on the more vulnerable segments of Honolulu County's population: the elderly, disabled, and low income. As articulated, nursing home services are utilized primarily by those over the age of 65 years old. This population has a greater tendency to be low income, in declining health, and have other limitations associated with their life limiting illnesses. It is a high priority for Islands Nursing to be accepting of anyone who is in need of skilled nursing care. Islands Nursing has a policy of providing nursing home care to anyone in need of care without regard to gender, sexual orientation, color, national origin, race, age, disability, or place of residence. This policy will ensure that Islands Nursing services reach women, racial and ethnic minorities, and the most vulnerable segments of Oahu's population, the indigent."

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

C. REGARDING QUALITY AND LICENSURE CRITERIA

28. The applicant states that "The proposed 42 bed Skilled Nursing Facility will improve the quality of care for the target group primarily comprised of the senior population attempting to find an appropriate care setting as they discharge from the Hospital."

29. The applicant states that "This facility will be licensed by the state of Hawaii and would comply with rules and regulation set forth by the State of Hawaii and Federal Guidelines."

30. The applicant states that "The policies and procedures will be centered around the Five-Star Quality Rating System set forth by Medicare, designed to facilitate the highest level of care."

31. The applicant states that "All new staff will be subject to pre-hire background checks and be subject to a zero-tolerance drug and alcohol policy. All staff must be licensed as applicable, and will go through a standard orientation process designed to train and prepare all staff to provide the highest level of care to the patients."

32. The applicant states that "Islands Nursing employees will receive at the least the minimum required of continuing education hours required to satisfy the Medicare Conditions of Participation for Skilled Nursing & Long-Term Care."

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

D. REGARDING THE COST AND FINANCIAL CRITERIA

34. The applicant states that "This proposal eases the burden of waitlisted patients, providing an appropriate venue of care allowing patients to move from the high-cost setting of the hospital to the better venue of care in this proposal."

35. The applicant states "Per Becker's Hospital Review report, the average daily cost of a hospital stay is \$2,285 per day. Islands Skilled Nursing & Rehabilitation projects daily revenue to be roughly \$500-550 per day, which is roughly 78% cheaper. This proposal meets the criteria for cost and finances and immensely important to controlling costs across the healthcare system."

36. The applicant states "Islands Skilled Nursing & Rehabilitation believes this proposal will be financially profitable by Month 7 and will require an investment of \$654,736 for year one operating losses and equipment. It is expected all billed

revenue will be held for the first three months while waiting for the Medicare number to activate, creating a short-term total cash need of approximately \$1.1M.”

37. The applicant projects revenue of \$5,209,279 and expenses of \$5,447,289 for Year 1 of the proposed project and revenue of \$7,616,772 and expenses of \$6,840,777 for Year 3 of the proposed project.

38. The application was reviewed by the Statewide Health Coordinating Council at a public meeting on September 27, 2018. 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:

- Revised financial statements for the first three years of the project showing more detail on the source of finances and reflecting the delay in Medicare reimbursement

39. On October 5, 2018 and October 17, 2018, the applicant submitted to the Agency additional information/modifications to its application, including a Three-Year Projection of Revenue & Expense, Detailed Monthly Financial Summary, Statement of Cash Flows, and First Hawaiian Bank letter dated October 15, 2018 signed by Karen K. Ray.

40. In a letter dated October 16, 2018 [submitted to Agency on October 17, 2018], Chris Lackner, Chief Financial Officer, Pacific Healthcare Ventures, states “I am providing this letter in regard to the Certificate of Need Application for Islands Skilled Nursing and Rehabilitation, LLC to demonstrate the project does have the necessary operating cash available to fund the startup costs associated with the project. Per the Year 1 Detailed Monthly Financial Summary submitted with the application this project will require a maximum cash investment in Year 1 of \$1,232,361. The cash need will peak in Month 3 of operations as the project will have to fund all expenses from cash while awaiting the ability to bill Medicare and receive revenues. It is anticipated by the end of year one operations the project will only have required \$654,736 after backed billing is collected. The attached letter provided by First Hawaiian Bank demonstrates proof of funds for this project. As of today, the operating account for this project maintains a balance of \$1,501,100 to fund year 1 expenses, which is well above what is required. These funds were provided from Pacific Healthcare Ventures, LLC, a Member of Islands Skilled Nursing and Rehabilitation, LLC.”

41. 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

42. The applicant states that "The proposal to reestablish this 42-bed Medicare certified skilled nursing facility should have no adverse effect on other health care services in the community. The facility was a successful and active part of the health care community less than 2 years ago. Returning skilled nursing beds to the health system will be only a small step towards the HSFP capacity threshold goal of reaching the national utilization rate."

43. The applicant states that "The national average of 34 skilled nursing beds per 1,000 seniors is 147% higher than the 14 skilled nursing beds per 1,000 seniors in the Honolulu County service area. Adding back beds will help improve the availability of skilled nursing beds to service the local residents and greatly help reduce costs through the opening of acute hospital beds that are used for long-term care due to limited skilled nursing bed supply."

44. 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

45. The applicant states "Islands Skilled Nursing and Rehabilitation meets the criteria for availability of resources. Steve Nawahine demonstrated through his success opening Kalakaua Gardens in Honolulu that he has the ability to recruit, train, and attract the appropriate healthcare personnel needed to staff the proposed project."

46. The applicant states "Islands Skilled Nursing & Rehabilitation believes this proposal will be financially profitable by Month 7 and will require an investment of \$654,736 for year one operating losses and equipment. It is expected all billed revenue will be held for the first three months while waiting for the Medicare number to activate, creating a short-term total cash need of approximately \$1.1M."

47. In a letter dated October 16, 2018 [submitted to Agency on October 17, 2018], Chris Lackner, Chief Financial Officer, Pacific Healthcare Ventures, states "I am providing this letter in regard to the Certificate of Need Application for Islands Skilled Nursing and Rehabilitation, LLC to demonstrate the project does have the necessary operating cash available to fund the startup costs associated with the project. Per the Year 1 Detailed Monthly Financial Summary submitted with the application this project will require a maximum cash investment in Year 1

of \$1,232,361. The cash need will peak in Month 3 of operations as the project will have to fund all expenses from cash while awaiting the ability to bill Medicare and receive revenues. It is anticipated by the end of year one operations the project will only have required \$654,736 after backed billing is collected. The attached letter provided by First Hawaiian Bank demonstrates proof of funds for this project. As of today, the operating account for this project maintains a balance of \$1,501,100 to fund year 1 expenses, which is well above what is required. These funds were provided from Pacific Healthcare Ventures, LLC, a Member of Islands Skilled Nursing and Rehabilitation, LLC.”

48. 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. 18-08 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 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 Islands Skilled Nursing and Rehabilitation LLC for the Proposal described in Certificate of Need application No. 18-08. The maximum capital expenditure allowed under this approval is \$2,175,000.

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: November 21, 2018
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY



Romala Sue Radcliffe
Administrator