



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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February 21, 2020

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Steven M. Pirri
President
USRC Hilo, LLC
5851 Legacy Circle, Suite 900
Plano, Texas 75024

Dear Mr. Pirri:

The State Health Planning and Development Agency (the "Agency") has evaluated Certificate of Need application #19-18A from USRC Hilo, LLC (the "applicant"), for the establishment of chronic renal dialysis services at 111 E. Puainako Street, Suite No. 655, Hilo, HI, at a capital cost of \$15,406,824 (the "Proposal").

1. Pursuant to Title 11, Chapter 186 of the Hawaii Administrative Rules (HAR), the Agency has determined that this proposal is eligible for administrative review as it meets the criterion in Subsection 11-186-99.1(b) (5), i.e.: "An additional location of an existing service or facility."
2. The applicant states that "USRC Hilo, LLC ("USRC-H") seeks approval to establish an additional location for its dialysis services, located in the Hilo community at 111 E. Puainako Street, Suite No. 655, Hilo, HI 96720 (the "Additional Location"). The Additional Location will offer a full range of dialysis services and modalities, including 36 hemodialysis stations and a home dialysis program."
3. The applicant states that "USRC is a leading dialysis provider in the United States. USRC is the third largest for profit dialysis provider and owns and operates over 300 dialysis facilities in 33 states and the U.S. Territory of Guam. USRC also provides dialysis services to over 24,000 individuals with End Stage Renal Disease."
4. The applicant states that "USRC's standards of patient care are established through medical protocol guidelines developed and monitored by USRC's Medical Advisory Board. These protocols are established using the best practices across our network of affiliated nephrologists. USRC is committed to quality care, benefitting patients' quality of life and longevity which results in higher survival rates and reduced hospital stays."
5. The applicant states that "USRC measures clinical outcomes using industry standards developed by the National Kidney Foundation and the ESRD Network."

6. The applicant states that "USRC provides training for all members of its clinical care team, and nurses and patient care technicians must be licensed or certified, as applicable. USRC maintains a robust education department which offers continual educational and training opportunities for employees. USRC maintains patient/staff ratios consistent with those in the dialysis industry in general."
7. The applicant states that "USRC provides quality dialysis services to its patients and is in full compliance with all applicable federal and state regulations at all of its dialysis centers in Hawaii. All USRC Hawaii dialysis facilities are CMS certified, and observe the standards set by both the CDC and CMS in their operations. USRC's quality improvement program was developed in accordance with CMS and the National Kidney Foundation's Disease Outcomes Quality Initiative guidelines. All USRC nurses are licensed in Hawaii and all patient care technicians are nationally certified as required by CMS."
8. The applicant states that "USRC will initially fund the Additional Location with cash on hand. The net working capital is required to cover the initial expenses during the beginning month of operations. USRC will then lend necessary amounts to USRC-H for its costs and expenses. USRC-H will agree to repay the principal together with interest and loan charges on the aggregate unpaid principal balance of the loan and assume the remaining obligations under USRC-H's lease for the clinic."
9. The applicant projects Net Revenue and Total Facility Expenses of: \$3,251,677 and \$2,860,688 respectively, for Year 1 of operations and \$7,804,408 and \$5,905,095 respectively, for Year 3 of operations.
10. In written testimony dated November 25, 2019, J. George Hetherington states "Our firm represents Liberty Dialysis-Hawaii LLC ("LDH"). On May 7, 2019, the State Health Planning and Development Agency ("SHPDA") approved LDH's Certificate of Need ("CON") application #19-06A to establish a 24-station dialysis facility in Hilo, Hawaii (the "Liberty Hilo Center")."
11. In his testimony dated November 25, 2019, Mr. Hetherington states "...the introduction of a third dialysis center at this time would tremendously burden Hilo's already overextended health care resources. The Health Resources and Services Administration (an agency of the U.S. Department of Health and Human Services) has designated the entire County of Hawaii as a Health Professional Shortage Area."
12. In his testimony dated November 25, 2019, Mr. Hetherington states "LDH's biggest concern with respect to a third dialysis center in such close proximity to the planned Liberty Hilo Center is the detrimental impact it is certain to have on the quality of service/care delivered to Hilo's dialysis patients. LDH does not question USRC's practices at its other dialysis clinic locations, but notes that the dialysis services

in Hilo necessitate a delicate balance by providers. Health care services can only be provided at a high standard if there is adequate support in place to maintain that standard. The reality is that Hilo's health care system is not at a level to ensure the availability of this support. This has required LDH to carefully manage and appropriately train personnel based in Hilo in order to provide high quality care that meets the needs of all Hilo dialysis patients."

13. In his testimony dated November 25, 2019, Mr. Hetherington further states "...the availability of resources (or rather, lack thereof) in Hilo, is a major impediment to USRC. Many entities, organizations, and even the state itself, have tried to recruit health care workers to Hawaii Island without success. Therefore, it is unlikely that USRC would reach any other result based on the ordinary recruiting plans described in the Application. Instead, USRC's proposed clinic would further dilute Hilo's health care personnel resources and directly impact the quality of health care services for the entire community."

Conclusions and Order

The Agency finds that the Proposal meets the certificate of need criteria in HAR 11-186-15(a) (5) - (8), inclusive. The criteria in HAR 11-186-15(a)(2) are not applicable to this Proposal.

However, the Agency finds that the applicant has not proven by a preponderance of the evidence that its Proposal meets the criteria in HAR 11-186-15(a)(10) and (12). Having taken into consideration the records pertaining to the criteria in HAR 11-186-15(a)(10) and (12), including application #19-18A on file with the Agency, all of the oral and written testimony, exhibits and related filings submitted by the applicant and other affected persons, the Agency finds that the Proposal would dilute the service area's health care personnel resources and have a negative impact on the existing health care system of the area.

Accordingly, the State Health Planning and Development Agency hereby **DISAPPROVES** and **DENIES** a Certificate of Need to USRC Hilo, LLC for the Proposal described in Certificate of Need application #19-18A.

As the Proposal fails to meet the criteria in HAR 11-186-15(a) (10) and (12), the Agency makes no findings as to the application's relationship to the remaining criteria [HAR 11-186-15(a) (1), (3), (4), (9), and (11)].

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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.



Serafin Colmenares, Jr.
Acting Administrator