



STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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October 15, 2021

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF)	CERTIFICATE OF NEED
)	APPLICATION
)	NO. 21-19E
AirMD, LLC)	
)	
Applicant)	
)	DECISION ON THE MERITS
_____)	

DECISION ON THE MERITS

The State Health Planning and Development Agency (the "Agency"), having taken into consideration all of the records pertaining to Certificate of Need Application No. 21-19E on file with the Agency, the Agency hereby makes its Decision on the Merits, including findings of fact, conclusions of law and order on Certificate of Need Application No. 21-19E. Where appropriate, Findings of Fact shall operate as Conclusions of Law, and Conclusions of Law shall operate as Findings of Fact.

I

FINDINGS OF FACT

1. On September 1, 2021 AirMD, LLC (the "applicant") filed with the Agency an emergency Certificate of Need application for the expansion of surface ambulance services, at a capital cost of \$50,000. On September 15, 2021 and September 28, 2021, the applicant submitted additional information. On October 6, 2021, the application was determined to be complete. For administrative purposes, the Agency designated the application as Certificate of Need application No. 21-19E.
2. 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).

3. Section 11-186-99(b), HAR provides:

(b) For purposes of this section, an emergency situation is a state of affairs involving an actual substantial injury to public health or where there is a clear and present danger of such an injury occurring.

4. Burden of proof. Section 11-186-42, HAR, provides:

“The applicant for a certificate of need 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.”

5. In its application, the applicant claims that “An Emergency Situation exists per HAR Sec. 11-186-99 due to the impact of the demand for facility to facility (interfacility) transports required as a result of the COVID-19 pandemic...”

6. Pursuant to Section 11-186-55, HAR, the Agency obtained technical assistance in the review of the application from Alvin Bronstein MD, FACEP, Branch Chief, Emergency Medical Services & Injury Prevention System Branch, Hawaii State Department of Health.

7. As part of his technical assistance, Dr. Bronstein provided data showing the number of monthly interfacility ambulance transfers from January 2019 through August 2021 (the “Monthly Interfacility Data”). Using the calendar year 2019 as a baseline, for both 2020 and 2021, the data showed that there were 89 out of 100 monthly county and state-wide comparisons that showed a decrease in the number of interfacility ambulance transfers in each month with 15 of the 89 comparisons being a decrease of 30% or more. Only 11 out of the 100 monthly comparisons showed an increase in the number of interfacility ambulance transfers with just 6 of the 11 monthly increases being greater than a 5% increase.

8. The Monthly Interfacility Data for the State overall total showed that the number of monthly interfacility ambulance transfers has decreased in each month (January 2020 to August 2021, inclusive) compared to the 2019 baseline counterpart except in July of 2021, which increased just 2.6% over July of 2019. The August 2021 decrease was 14% compared to the August 2019 baseline.

9. The Agency finds that the overall demand for interfacility ambulance transfers has not increased as a result of the COVID-19 pandemic.

II

CONCLUSIONS OF LAW

Having taken into consideration all of the records pertaining to Certificate of Need Application No. 21-19E on file with the Agency and based upon the findings of fact contained herein, the Agency concludes as follows:

The applicant has not met the requisite burden of proof and has not shown by a preponderance of the evidence that its proposal meets the criteria established in Section 11-186-99, HAR.

Accordingly, the Agency hereby determines and concludes that, pursuant to Section 11-186-99, HAR, an emergency situation does not exist regarding interfacility ambulance transfers.

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 DENIES a Certificate of Need to AirMD, LLC for the proposal described in Certificate of Need application No. 21-19E. As provided under Section 11-186-99(e), HAR, this is the final decision of the Agency.

Pursuant to Section 11-186-99(f), HAR, the agency's denial of the certificate of need is without prejudice to the applicant's right to file a non-emergency application for a certificate of need for the same proposal, on the form prescribed and furnished by the agency.

DATED: October 15, 2021
Honolulu, Hawaii



Serafin Colmenares, Jr.
Administrator