



# STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

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February 4, 2022

## CERTIFIED MAIL, RETURN RECEIPT REQUESTED

IN THE MATTER OF	)	CERTIFICATE OF NEED
	)	APPLICATION
	)	NO. 20-21
Office of Veterans Services, State of	)	
Hawaii Department of Defense	)	
	)	
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. 20-21 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 and the Certificate of Need Review Panel, 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. 20-21. 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 120 bed Skilled Nursing Facility/Intermediate Care Facility Veterans Home at TMK: 9-1-016:035, Kapolei, HI, at capital cost of \$27,459,938.
2. The applicant, Office of Veterans Services, State of Hawaii Department of Defense, is a public State Agency.

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 November 27, 2020, the applicant filed with the Agency, a Certificate of Need application for the establishment of a 120 bed Skilled Nursing Facility/Intermediate Care Facility Veterans Home at TMK: 9-1-016:035, Kapolei, HI, at capital cost of \$27,459,938 (the "Proposal"). On December 18, 2020 the Agency determined the application to be incomplete. On August 24, 2021, October 14, 2021 and November 15, 2021, the applicant submitted revisions/additional information. On December 6, 2021, the application was determined to be complete. For administrative purposes, the Agency designated the application as Cert. #20-21.

5. The period for Agency review of the application commenced on January 7, 2022, 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 January 13, 2022. The Committee voted 4 to 0, in favor of recommending approval of the application.

7. The application was reviewed by the Certificate of Need Review Panel at a public meeting on January 20, 2022. The Committee voted 7 to 0, in favor of recommending approval of the application.

8. The Statewide Health Coordinating Council review of the application was waived pursuant to Section 323D-44.6 HRS.

9. This application was reviewed in accordance with Section 11-186-15 (a), HAR.

10. 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."

11. 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**

12. The applicant states<sup>1</sup> that "The proposed 120 bed skilled nursing facility (SNF)/intermediate care facility (ICF) with adult day care at the Hawaii State Veteran Home, O'ahu has two distinct program target populations. The first is to serve the veteran population - long term stay who have been honorably discharged and meet other established criteria with priority directed to but not limited to 70% and above service connection (plus spouses and gold star parents depending upon resources, availability, and other established criteria. The second is to serve the veteran population - short term stay / rehabilitative who have been honorably discharged and meet other established criteria with priority directed to but not limited to 70% and above service connection."

13. The applicant states that "A 2014 feasibility study for a second state veterans home long-term care facility for Hawaii in concert with State and Territory State Veterans Homes bed-need authorizations published by the Office of Construction and Facility Management, State Veterans Homes, Department of Veterans Affairs has identified that Hawaii has an overall unmet bed need of 268 SNF/ICF State Veterans Home beds. With 95 beds being utilized in the [sic] Hilo, this leaves the state with a shortfall of 173 State Veterans Home beds to serve this population throughout the islands."

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<sup>1</sup> For clarity, when the Agency quotes statements from the applicant in this section, it does so because the Agency finds such testimony to be persuasive and because the Agency has incorporated the referenced testimony as a finding of fact.

14. The applicant states that "The addition of the proposed facility at the Daniel K. Akaka State Veterans Home site will promote and support the long-term viability of the State of Hawaii's health care delivery system by:

- Ensuring the integrity of the continuum of care by filling the existing regional need for capacity and access to the targeted programs (veteran long-term care).
- Providing a state-wide resource for veteran long term / rehabilitative care based on the state's Legislative Report to the 24th and 25th Legislature "Requesting the Healthcare Association of Hawaii to Examine the Problem of Patients in Acute Care Hospitals Waitlisted for Long Term Care and to Propose Solutions."
- Providing a cost savings to the state with placement of veteran patients, either from hospitals or community facilities, into a long-term care setting at a lower cost while simultaneously freeing up hospital beds
- Preventing acute hospital stays through emergency room admissions by transitional admission to the long-term care setting
- Becoming a resource to the community through the development of a teaching nursing home model and providing a training site for an interdisciplinary health care workforce to learn new skills in treating these challenging but growing populations.
- Increasing the number of beds on Oahu with current demand for additional SNF beds."

15. The applicant states that "The addition of the proposed facility at the Daniel K. Akaka Veterans Home supports Honolulu County's priority of increasing the availability of skilled nursing facility services, particularly among the veteran population."

16. 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

17. The applicant states that "Per the 2014 Feasibility Study, the estimated population in 2020 is about 116,000 veterans statewide with about 74% of the veteran population residing in the City and County of Honolulu and about 35% of

the veteran population over age 65. Based on the VA's projection, the maximum State Veterans Home bed allowance for Hawaii is 268 and with 95 beds being utilized in the Hilo facility, this leaves the State with a shortfall of 173 beds."

18. The applicant states that "There are currently two facilities in the State of Hawaii that provide services to the veteran population in a dedicated inpatient setting. However, both facilities are reaching their capacity limit. Therefore, adding beds for veterans at contract rates will not be in conflict with the veteran community obtaining funding for another state-owned veterans nursing home either on Oahu or on one of the neighbor islands."

19. The applicant states that "This facility will provide support to the currently underserved veteran population of patients who can be cared for in this type of setting. The goal is to stabilize their care needs and discharge them into the community after a period of transitional time. Other patients will remain in the facility for longer periods of time."

20. The applicant states that "This facility will not discriminate against any resident, family member or employee based on disability. The facility is also protected by Equal Employer Opportunity laws and will welcome all residents, regardless of background, sexual orientation, sexual identity, race, religion, color or gender."

21. The applicant states that "The facility will also make available for residents and employees resources to assist with disabilities including hearing impaired and visually impaired resources. For residents, clinical resources will also be available based on their disabilities and differing clinical needs. For employees, reasonable accommodation will be made to meet the intent of the Americans with Disabilities Act (ADA). The facility will be constructed in compliance with ADA requirements."

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

### C. REGARDING QUALITY AND LICENSURE CRITERIA

23. The applicant states that "The facility shall be licensed and operated consistent with standard setting organizations. This will include being in compliance with:

- Licensure standards by the State Office of Quality Assurance
- Medicare / Medicaid certification standards as evidenced by ongoing surveillance through the QOR program using ABAQIS and actual results during the state certification survey process

- Clinical Laboratory Improvement Act (CLIA waiver testing)
- Compliance with OSHA for work safety and infection control
- HIPAA protocols in conformance with the privacy and security rules
- Licensure Standards Required by Department of Veterans Affairs Certification Process”

24. The applicant states that “The Operator will have extensive experience in the implementation, operation, evaluation and improvement of Quality Assurance programs for long term care residents. The VA's Quality Assurance program is operational within each of their skilled nursing facilities.”

25. The applicant states that “The Daniel K. Akaka State Veterans Home facility will be staffed at a minimum average of 3.3 Hours Per Patient Period (HPPD) and employ anywhere from 150-200 employees once fully staffed.”

26. The applicant states that “CNAs and LPNs are recruited and hired by a Director of Nursing Service. The CNAs and LPNs, together with the RNs, are responsible for the provision of care and assist with the development of focused assessments and care plans.”

27. The applicant states that “All staff hired to the unit will receive special certification training in medically complex care through a program approved by the state.”

28. The applicant states that “The facility will maintain a training program for all staff and contract staff utilized by the facility. A standardized orientation program has been established to cover all key areas. Each staff person assigned receives on-the-job training to learn the skills and procedures specific to their job.”

29. The applicant states that “Each employee is provided an Employee Handbook which is reviewed for employee procedures and a Code of Conduct.”

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

#### D. REGARDING THE COST AND FINANCIAL CRITERIA

31. The applicant states that “The VA will pay a per diem for eligible Veterans along with payments from private insurance, Medicare / Medicaid and self-pay where appropriate, which will ensure facility becomes financially self-sufficient. This will provide an overall cost savings to the hospitals and free up acute care hospital beds for community needs. Medicare will also pay its appropriate reimbursement rate at no additional cost to the state.”

32. The applicant states that "The design, construction, and equipment for the proposed new SNF/ICF facility on Oahu are being funded by the Federal VA and the State legislature. A memorandum of agreement has been executed between VA & DOD to share cost and to construct the HSVH to meet all the Federal requirements in accordance with the VA SHCGP grant. Operational costs will be provided through VA funded Service Connection per diem, Medicare/Medicaid offset plus self-pay where appropriate. The facility is intended to be a self-supporting project through these funding sources."

33. The applicant projects total revenue of \$3,367,015.31 and total expenses of \$4,144,799.49 for Year 1 of the proposed project and total revenue of \$19,632,083.64 and total expenses of \$12,936,101.89 for Year 3 of the proposed project.

34. 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**

35. The applicant states that "The addition of capacity within the community will fill a gap in the continuum of care that currently exists. Due to the shortage of capacity patients must often wait for discharge from hospital systems even when they no longer have the acuity level to justify treatment, increase healthcare costs and delay the appropriate level of treatment for the patient."

36. The applicant states that "...the availability of health care will be improved with increased capacity and access to the target groups. By providing Veteran eligible in-takes into this facility, other similar senior care facilities who have Veterans may be able to realize increase opportunities for their respective home census in support of community requirements at large."

37. 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**

38. The applicant states that "The design, construction, and equipment for the proposed new SNF/ICF facility on Oahu are being funded by the Federal VA and the State legislature. A memorandum of agreement has been executed between VA & DOD to share cost and to construct the HSVH to meet all the Federal

requirements in accordance with the VA SHCGP grant. Operational costs will be provided through VA funded Service Connection per diem, Medicare/Medicaid offset plus self-pay where appropriate.”

39. The applicant states “This finance projection includes appropriate reserve contingency funds, adequate funds to allow for the fill-up of the building and to achieve positive cash flow. Any balance funding required for accounts receivables funding will be obtained through a general line of credit at the time of operations.”

40. The applicant states “Our plan to staff DKA State Veterans Home revolves around an experience-based set of financial projections anticipating a staffing ramp-up in the first actual year of operations with staff hiring actions for 70 full-time and 12 pool positions in that first year. Initial hire start dates will begin in August 2023 sized to accommodate first patients starting in October 2023 along with CMS certification surveys in October 2023 followed by a VA certification survey upon cresting with first 20 patients in January 2024. As patient census continues to increase into the second actual year of operations, additional staff will be hired to meet patient demand up to full staffing compliment of 156 full-time and pool positions necessary to care for an estimated patient census between 90% and 95% in this 120-bed facility. To facilitate our staffing plan implementation, a RFP solicitation for a facility management contractor will be initiated in early 2022 with anticipated contact award late in 2022. RFP requirements will dictate a contact award to a contractor experienced in the operation of State Veterans Homes thus already schooled in the healthcare personnel hiring practices necessary to bring on the right talent needed to professionally and efficiently operate DKA State Veterans Home in compliance with all applicable regulatory requirements.”

41. 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. 20-21 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 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 (a), 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 Office of Veterans Services, State of Hawaii Department of Defense for the Proposal described in Certificate of Need application No. 20-21. The maximum capital expenditure allowed under this approval is \$27,459,938.

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: February 4, 2022  
Honolulu, Hawaii

HAWAII STATE HEALTH PLANNING  
AND DEVELOPMENT AGENCY

  
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Darryl D. Shutter  
Acting Administrator