

MINUTES
STATE HEALTH FACILITIES COUNCIL
JUNE 19, 2007
LUCAS STATE OFFICE BUILDING
5TH FLOOR CONFERENCE ROOMS 517-518
DES MOINES, IA

I. 8:30 AM ROLL CALL,

MEMBERS PRESENT: Sid Scott, Vice-Chairperson, , Chuck Follett, Karen Hope, and Suki Cell.

STAFF PRESENT: Barb Nervig; Heather Adams, Counsel for the State.

II. ORIENTATION OF COUNCIL MEMBERS

Marc Elcock arrived at 8:50 AM.

III. 9:30 AM PROJECT REVIEW

1. Iowa Plastic Surgery Center, LC, Davenport, Scott County: Convert office-based surgery facility to Medicare-certified ambulatory surgery center – No cost.

Staff report by Barb Nervig. The applicant was represented by Sharon Moore. The applicant made a presentation and answered questions posed by the Council.

Trinity Terrace Park, represented by Doug Gross of Brown, Winick; Genesis Health System, represented by Michele Dane; and Mississippi Medical Plaza, represented by Dr. John B. Dooley, appeared as affected parties in opposition to the proposal.

A motion by Hope, seconded by Follett, to DENY a Certificate of Need carried 5-0.

2. Mercy Medical Center—Sioux City, Sioux City, Woodbury County: Acquire electrophysiology lab -- \$3,000,000.

Staff report by Barb Nervig. The applicant was represented by Sharon Blanche, Jaren Johnson and Edward Zajac, M.D. The applicant made a presentation and answered questions posed by the Council.

A motion by Follett, seconded by Hope, to Grant a Certificate of Need carried 5-0.

3. Mercy Medical Center—Des Moines, Des Moines, Polk County: Establish satellite radiation therapy service with new equipment -- \$7,242,800.

Staff report by Barb Nervig. The applicant was represented by Joe LeValley, Lynne Kinseth, and Dick Deming, M.D. The applicant made a presentation and answered questions posed by the Council.

Iowa Methodist Medical Center, represented by Doug Gross of Brown, Winick; J. Phil Harrop, executive director of Stoddard Cancer Center and William McGinnis, M.D. of Radiation Oncology, P.C., appeared as an affected parties in opposition to the proposal.

A motion by Follett, seconded by Hope, to Grant a Certificate of Need carried 4-1. Cell voted no.

IV. EXTENSION OF PREVIOUSLY APPROVED PROJECT:

1. ManorCare Health Services—Bettendorf, Bettendorf, Scott County: Build 120-bed nursing facility -- \$12,347,764.

Staff recommended a one year extension. A motion by Follett, seconded by Hope to Grant a one-year extension carried 5-0.

2. Marshalltown Medical and Surgical Center, Marshalltown, Marshall County: Establish cardiac catheterization services as joint venture with Mercy—Des Moines and Iowa Heart -- \$1,725,000.

Staff recommended a four-month extension. A motion by Hope, seconded by Follett to Grant a four-month extension carried 5-0.

V. REQUESTS FOR DETERMINATIONS OF NON-REVIEWABILITY AND THE DEPARTMENT'S RESPONSES

1. MedCath Partners, LLC: Construction of angiography suite in a physician's office - \$750,000.

This item was deferred to a future meeting to allow the Department additional time to review recently submitted information pertinent to this matter.

2. Heartland Plastic Surgery, P.C., Des Moines, Polk County: Construction of operating room for office based surgery.

Staff report by Barb Nervig. A motion by Follett, seconded by Elcock to support the Department's determination carried 5-0.

3. Story County Medical Center, Nevada, Story County: Construct a replacement hospital in Nevada, Story County with no new health services or additional bed capacity - \$13,000,000.

Staff report by Barb Nervig. A motion by Follett, seconded by Elcock to support the Department's determination carried 5-0.

4. Jefferson County Hospital, Fairfield, Jefferson County: Construct a replacement hospital in Fairfield, Jefferson County with no new health service or additional bed capacity - \$35,000,000.

Staff report by Barb Nervig. A motion by Follett, seconded by Hope to support the Department's determination carried 5-0.

VI. ELECTION OF VICE-CHAIRPERSON

This item was deferred to a future meeting, awaiting the appointment of a chairperson by the Governor.

VII. APPROVE MINUTES OF PREVIOUS MEETINGS (APRIL 17, 2007)

A motion by Scott, seconded by Follett, to approve the minutes of the April 17, 2007 meeting as written passed by voice vote.

The meeting was adjourned at 3:20 PM.

The Council will hold an electronic meeting on Friday, June 29, 2007 to consider the request for rehearing filed by Regency Hospital of Council Bluffs.

The next regularly scheduled meeting of the Council is Tuesday, September 19, 2007.

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
IOWA PLASTIC SURGERY CENTER, LC)
)
DAVENPORT, IOWA)

DECISION

This matter came before the State Health Facilities Council for hearing on Tuesday, June 19, 2007.

The application proposes the conversion of an office-based surgery facility to a Medicare certified ambulatory surgery center at no capital cost.

Iowa Plastic Surgery Center, LC applied through the Iowa Department of Public Health for a Certificate of Need.

The record includes the application prepared by the project sponsor and written analysis prepared by Iowa Department of Public Health staff and all the testimony and exhibits presented at the hearing. Barb Nervig of the Iowa Department of Public Health summarized the project in relation to review criteria. Sharon Moore was present representing the applicant. The applicant made a presentation and answered questions.

Trinity Terrace Park, represented by Doug Gross of Brown Winick; Genesis Health System, represented by Michele Dane; and Mississippi Medical Plaza, represented by Dr. John B. Dooley, appeared as affected parties in opposition to the proposal.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 5-0 to DENY a Certificate of Need. As a basis for their decision the Council, considering all the criteria set forth pursuant to Iowa Code Section 135.64 (1 and 2) (2007) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. After receiving a determination of non reviewability in 2003 the applicant added 6,000 square feet to an existing 16,000 square feet commercial office building in Davenport for a new office and operating room. The project was completed in February 2005. The operating room, with a major room, a minor room, a prep clean room, a dirty room, 2 recovery beds, a nursing station, clean storage and hallway takes up about 1,700 square feet. It has Joint Commission full accreditation and meets Medicare construction requirements.
2. About 200 cosmetic cases per year are performed in this office-based operating suite at Iowa Plastic Surgery. The applicant would like to do some reconstructive cases, about 20 per year,

at this location. To obtain insurance coverage for these cases, Medicare certification as an ambulatory surgery center is needed.

3. The applicant states that the majority of the cases that they would be able to perform under this proposal are now falling through the cracks and are not being done. The uncertainty of insurance coverage and the cost to the patient are the prime reasons patients choose not to proceed.
4. The applicant estimates performing 20 to 30 insurance cases a year at their facility. Currently approximately 10 to 15 of these cases are being performed at Mississippi Valley Surgery Center and Trinity Terrace Park. These cases are being performed off-site from Iowa Plastic Surgery because of insurance and payment issues. The other half are not being done anywhere due to the reason cited above. The applicant projects performing about 10 Medicare cases per year and 20 other cases per year at the Iowa Plastic Surgery site.
5. The applicant states they have treated uninsured patients in the facility and have not been paid. The applicant feels they offer a benefit for patients with limited means, as they are able to offer them a cash price package for reconstructive surgery.
6. The applicant projects that with the proposed project about 2% of their patients would be Medicare reimbursed. Currently, the facility is not certified for Medicare.
7. The applicant states that about 50% of their patients are from outside the Quad Cities area, including Burlington, Iowa City, Ottumwa, Waterloo and east into Illinois. The ability to offer the surgery on site with insurance coverage would be a convenience for patients.
8. The applicant states that they are the low cost provider for certain services, citing their total package fee for carpal tunnel as \$2,000 compared to \$5,000 if the procedure is performed at a hospital.
9. There are no capital costs involved in the proposed project as the operating suite already exists.
10. There is no significant impact on the costs or charges for providing the services. However, as a Medicare certified facility, the possibility would exist for some insurance coverage of some of the procedures to be performed.
11. The applicant has been performing cosmetic surgery in an operating room located within his office for the last two years.
12. The applicant has been performing a few procedures, 10 to 15 total, at Mississippi Valley Surgery Center and Trinity Terrace Park a year.
13. The applicant has admitting privileges at all area hospitals and has a transfer arrangement with Trinity, the closest hospital.

14. The necessary personnel are already in place and there are no additional build costs or equipment costs to proceed with the proposed certification.
15. The build-in costs for the interior of the office, the spa and including the operating room were \$708,000 and the costs for equipment were another \$100,000. These costs are now being depreciated annually.
16. In 2003, the applicant obtained a determination of non-reviewability under the CON statute to build an accredited operating room in his office. At that time he did not plan to obtain Medicare certification. The applicant was in solo practice and the proposed operating room was to be for the use of his practice only. There was not an organized medical staff. The procedures to be performed are most commonly performed in a private physician's office. The only factor that has changed with this application is that the applicant now desires to seek Medicare certification as an ambulatory surgery center.
17. One letter of opposition, jointly signed by Trinity and Mississippi Valley, was submitted. The primary concern stated in this letter is the potential for Iowa Plastic Surgery to expand services as an ambulatory surgery center. Mississippi Valley expanded their facility a couple of years ago by moving the endoscopy suites to a nearby location while continuing to operate both locations as one facility.
18. Affected parties appearing at the hearing stated there is excess capacity at existing facilities with approximately 23 outpatient operating rooms within two miles from the applicant's facility. Affected parties also voiced concerns that the applicant's projected numbers of cases would not allow the applicant to receive an adequate financial return and would force the applicant to expand capacity to remain financially viable.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considers the eighteen criteria listed in Iowa Code § 135.64(1)(a)-(r). In addition, the legislature has provided that the Council may grant a certificate of need only if it finds the following four factors exist:

- a. Less costly, more efficient or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable;
- b. Any existing facilities providing institutional health services similar to those proposed are being used in an appropriate and efficient manner;
- c. In the case of new construction, alternatives including but not limited to modernization or sharing arrangements have been considered and have been implemented to the maximum extent practicable;
- d. Patients will experience serious problems in obtaining care of the type which will be furnished by the proposed new institutional health service or changed institutional health service, in the absence of that proposed new service.

1. The Council concludes that less costly, more efficient or more appropriate alternatives to the proposed health service are available. The Council concludes that utilizing the excess capacity at existing facilities is a more appropriate alternative to the proposed project. Iowa Code Sections 135.64(1) and 135.64(2)a.

2. The Council concludes that existing facilities providing health services similar to those proposed will be impacted by this project. The Council concludes that existing facilities would lose about 5-10 cases per year from the applicant. The Council concludes that there is currently excess and underutilized capacity for outpatient surgery in the immediate area. In addition, the Council concludes that if the facility were granted a certificate of need the potential for expansion of capacity in the future by the applicant could further negatively impact existing facilities. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project does not involve new construction. Iowa Code Sections 135.64(1) and 135.4(2)c.

4. The Council concludes that patients will not experience problems in obtaining care of the type which will be furnished by the proposed changed health service, in the absence of that proposed service. The Council concludes that the limited number of additional cases that the applicant estimates would be performed at the proposed facility can easily be handled at existing facilities. Iowa Code Sections 135.64(1) and 135.64(2)d.

The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2007), led the Council to find that a Certificate of Need should be denied.

The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2007).

Dated this _____ day of August 2007

Sidney W. Scott, Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: State Health Facilities Council
Iowa Department of Inspections and Appeals:
Health Facilities Division

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
MERCY MEDICAL CENTER—SIOUX CITY)
)
SIOUX CITY, IOWA)

DECISION

This matter came before the State Health Facilities Council for hearing on Tuesday, June 19, 2007.

The application proposes the acquisition of an electrophysiology lab at an estimated cost of \$3,000,000.

Mercy Medical Center—Sioux City applied through the Iowa Department of Public Health for a Certificate of Need.

The record includes the application prepared by the project sponsor and written analysis prepared by Iowa Department of Public Health staff and all the testimony and exhibits presented at the hearing. Barb Nervig of the Iowa Department of Public Health summarized the project in relation to review criteria. Sharon Blanche, Jaren Johnson and Edward Zajac, M.D. were present representing the applicant. The applicant made a presentation and answered questions.

No affected parties appeared at the hearing.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 5-0 to grant a Certificate of Need. As a basis for their decision the Council, considering all the criteria set forth pursuant to Iowa Code Section 135.64 (1 and 2) (2007) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Mercy’s initial application requested approval for an electrophysiology lab and a 64-slice CT scanner. Following submission of the application, the applicant notified the Department of its intent to acquire the 64-slice CT scanner as a replacement for an existing CT scanner, rendering that portion of the application non-reviewable. The applicant came before the Council seeking approval of the electrophysiology (EP) lab at a cost of \$3 million.
2. In 2003, Mercy consolidated cardiovascular services into a new facility on its main campus, which is also occupied by the one local cardiologist group, Cardiovascular Associates (CVA). The facility is now referred to as the Mercy Heart Center.
3. Mercy and CVA have recruited 4 new cardiologists to Sioux City over the past 2 years. To remain regionally competitive and keep critical cardiac services in Iowa, the applicant feels they must be able to deliver a comprehensive array of cardiac services.

4. Mercy Hospital receives 90% of its admissions from a tri-state region comprised of 14 counties.
5. Currently, there are no EP labs located in Mercy's service area and therefore patients needing services provided by an EP lab are referred to Omaha or Sioux Falls providers by the Sioux City cardiologists.
6. The applicant states that patients and physicians are requesting the ability to bring this cardiac technology closer to home. Currently, patients and their families are required to travel 75-90 miles out of state and incur at least one overnight stay to access electrophysiology capabilities.
7. During the past several years, CVA physicians have referred over 1,000 patients to Omaha for EP services. The acquisition of the proposed equipment would make the service more convenient and accessible to the region's patients and families.
8. Mercy has an established regional network of providers in physician clinics and Critical Access Hospitals, stretching out in a 75-mile radius from Sioux City. Through these affiliations, the applicant strives to bring access to healthcare into the rural communities and provides a link between local physicians and Mercy's tertiary service lines.
9. The alternative to acquiring this equipment to enable the applicant to provide the service locally is to continue to refer patients in need of these services to out-of-state facilities 75-90 miles away.
10. CVA is the only cardiology practice in Sioux City and the physicians are supportive of the equipment purchases. CVA provides services to both Mercy and St. Luke's Regional Medical Center and will continue to refer patients to the most appropriate facility for the care they need.
11. The applicant is projecting 302 inpatients and 584 outpatients in the first year of operation. This is based on the assumption that Mercy Heart Center will provide 85% of the EP outpatient services and 90% of the inpatient EP services needed in the 14-county service area.
12. In addition to an electrophysiologist, the EP program will require 2 RNs and 2 specially-trained EP technicians. The applicant plans to provide training to 2 existing catheterization lab nurses and one existing catheterization lab tech and believe the additional tech can be found in the local market, and then trained on EP services.
13. Mercy and CVA are currently in discussions with 4 qualified EP physician candidates, one of whom has personal ties to the area. This physician is prepared to visit Mercy Heart Center upon notification of state approval of this project.
14. The applicant indicates cash on hand will provide the funds for the purchase of the equipment. The equipment is estimated to cost between \$2,554,300 and \$2,698,900.
15. The financial analysis indicates that although the majority of those receiving EP services will be outpatients, the inpatient revenues will keep the service profitable. Patients will be able to avoid the cost of traveling out-of-state and overnight stays to receive the services.

16. The applicant states that total facility renovation required to install the EP lab is estimated to be \$120,000 for 1,000 square feet.
17. Facility renovations of \$100,000 include lead-lining the walls, updating the HVAC system, installing a drop ceiling and lighting, constructing a control room, and installing a double door for patient access to the area. The additional expenses of \$20,000 are for moving existing equipment stored in this area to a new location.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considers the eighteen criteria listed in Iowa Code § 135.64(1)(a)-(r). In addition, the legislature has provided that the Council may grant a certificate of need only if it finds the following four factors exist:

- a. Less costly, more efficient or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable;
- b. Any existing facilities providing institutional health services similar to those proposed are being used in an appropriate and efficient manner;
- c. In the case of new construction, alternatives including but not limited to modernization or sharing arrangements have been considered and have been implemented to the maximum extent practicable;
- d. Patients will experience serious problems in obtaining care of the type which will be furnished by the proposed new institutional health service or changed institutional health service, in the absence of that proposed new service.

1. The Council concludes that less costly, more efficient or more appropriate alternatives to the proposed health service are not available and the development of such alternatives is not practicable. The Council concludes that to continue to refer patients to out-of-state facilities that are 75-90 miles away, the alternative to providing this service locally, is not more efficient or appropriate than the proposed project. Iowa Code Sections 135.64(1) and 135.64(2)a.

2. The Council concludes that existing facilities providing health services similar to those proposed will continue to be used in an appropriate and efficient manner and will not be impacted by this project. The Council concludes that the existing out-of-state facilities that are currently serving the Iowa patients that the applicant proposes to serve will continue to be used in an appropriate manner due to their size and affiliations and therefore will not be adversely impacted by the loss of about 800 patients that the applicant projects to serve. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project involves the renovation of an existing facility to accommodate the equipment. Renovation costs are estimated to be \$120,000. Iowa Code Sections 135.64(1) and 135.4(2)c.

4. The Council concludes that patients will experience problems in obtaining care of the type which will be furnished by the proposed changed health service, in the absence of that proposed

service. The Council concludes that Iowa patients in the applicant's service area are currently experiencing problems related to travel and overnight stays that are often necessary when seeking this service at distant facilities. Iowa Code Sections 135.64(1) and 135.64(2)d.

The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2007), led the Council to find that a Certificate of Need should be awarded.

The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2007).

It is required in accordance with Iowa Administrative Code 641- 202.12 that a progress report shall be submitted to the Iowa Department of Public Health six (6) months after approval. This report shall fully identify the project in descriptive terms. The report shall also reflect an amended project schedule if necessary.

The Certificate of Need is valid for a twelve (12) month period from the date of these findings. This is subject to the meeting of all requirements of the Iowa Department of Public Health. Requests for extension of a Certificate of Need must be filed in writing to the Iowa Department of Public Health from the applicant no later than forty-five (45) days prior to the expiration of the Certificate. These requests shall fully identify the project and indicate the current status of the project in descriptive terms.

No changes that vary from or alter the terms of the approved application including a change in the approved dollar cost shall be made unless requested in writing to the department and approved. Failure to notify and receive permission of the department to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 135.73 (641 Iowa Administrative Code 202.14).

Dated this _____ day of August 2007

Sidney W. Scott, Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: State Health Facilities Council
Iowa Department of Inspections and Appeals:
Health Facilities Division

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
MERCY MEDICAL CENTER—DES MOINES)
)
DES MOINES, IOWA)

DECISION

This matter came before the State Health Facilities Council for hearing on Tuesday, June 19, 2007.

The application proposes the establishment of a satellite radiation therapy service with a new linear accelerator at an estimated cost of \$7,242,800.

Mercy Medical Center—Des Moines applied through the Iowa Department of Public Health for a Certificate of Need.

The record includes the application prepared by the project sponsor and written analysis prepared by Iowa Department of Public Health staff and all the testimony and exhibits presented at the hearing. Barb Nervig of the Iowa Department of Public Health summarized the project in relation to review criteria. Joe LaValley, Lynne Kinseth, and Dick Deming, M.D. were present representing the applicant. The applicant made a presentation and answered questions.

Iowa Methodist Medical Center, represented by Doug Gross of Brown Winick; J. Phil Harrop, executive director of Stoddard Cancer Center; and William McGinnis, M.D. of Radiation Oncology, P.C., appeared as affected parties in opposition to the proposal.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-1 to grant a Certificate of Need. As a basis for their decision the Council, considering all the criteria set forth pursuant to Iowa Code Section 135.64 (1 and 2) (2007) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Mercy proposes to expand its existing radiation therapy services through the development of a satellite location in Clive at a location a few blocks from the Mercy Capitol replacement hospital site. This satellite of the Mercy Therapeutic Radiology Associates radiation therapy center on Mercy’s central campus will include a radiation therapy service with supporting outpatient imaging services and a patient/family resource center.
2. The project includes the purchase of a Varian Clinac 21 EX linear accelerator, a General Electric positron emission tomography/computed tomography DSTE unit and a Philips AcQsim computed tomography simulator.

3. The applicant currently provides radiation therapy on three linear accelerators and one cyberknife, all located at Mercy's existing facility.
4. Two of the three existing accelerators were acquired within the last 2-3 years and are capable of providing Intensity Modulated Radiation Therapy (IMRT). One of these two was a replacement for an older outmoded accelerator, while the other was an expansion of the service for which a CON was issued in 2004.
5. The applicant states that IMRT has become the standard in radiation therapy in the past several years and this treatment process takes up to 45 minutes compared to approximately 15 minutes for traditional radiation therapy treatments.
6. Mercy Medical Center, through its Mercy Network of Health Services, has affiliation arrangements with 12 rural hospitals located within a 100 mile radius of Des Moines. A number of those facilities submitted letters of support for this project. In addition, the project received letters of support from several Des Moines area physicians, clinics and patients.
7. The applicant states they have seen over a 53% increase in treatment volumes between the year 2000 and 2006.
8. Over the past three years, Mercy has seen an increase of 337 in number of patients treated. In that same time period, (2004-2006) there was an increase of 125 in the estimated new cancer cases in the applicant's primary service area. (Source: State Health Registry of Iowa).
9. In 2006, Mercy's three accelerators treated 1,246 patients or 415 per accelerator. They project about 300 patients per year will be served on the proposed accelerator. If the total number of patients served by Mercy would remain static, each of the four accelerators would be serving about 300 patients annually.
10. Each of the applicant's three linear accelerators average 36 patients per day, while the cyberknife, which the applicant uses exclusively for stereotactic radiosurgery, treats 130-150 patients per year. National standards cited by Mercy indicate that one linear accelerator should average 25 – 30 patients per day.
11. The applicant cites capacity constraints, population, and location constraints as the three primary drivers of need for the proposed project. Specifically, the existing linear accelerators are over-utilized, requiring staff to expand hours and forcing patients to obtain the service at inconvenient times. The applicant states they have expanded hours of normal operation beyond 7 and 8 PM as a result of growth in volume and the trend toward IMRT which takes about 30 minutes longer per treatment. The applicant feels it is impractical to expand clinic hours beyond the current schedule as it would increase stress on machines, staff and patients.
12. With respect to population, the population in the nine county service area grew by over 6 % between 2000 and 2006 and is projected to grow an additional 5 % between 2006 and 2011. The population over age 65 is projected to grow by 14 % in the next 4 years.
13. Finally, Mercy's existing physical site is full and cannot be expanded further. The applicant

states the expansion of the central campus location to meet growing demand is impossible due to site and facility constraints and the cost to relocate and expand the entire department to a different location on the central campus would be \$12-15 million. The option to relocate the entire department to a new satellite location was rejected because it is cost and time prohibitive. The proposed west service and facility are designed to assure coordination with the existing central campus.

14. The proposed west cancer center will improve accessibility of radiation therapy and oncology imaging services for all patients as it will reduce existing capacity constraints at Mercy's central campus thus improving overall scheduling flexibility.
15. Stoddard Iowa Methodist Medical Center (IMMC) has a CON application on file in which they are proposing to replace one of their three linear accelerators, a Varian 2100 C, with a new Varian Trilogy in order to treat patients with more complex extra cranial, lung and head and neck cancers thus eliminating the need to transfer these patients to Iowa City. Stoddard IMMC states in their application that they served 1,186 cancer patients in 2005 and an annualized figure for 2006 is 1,129.
16. Of these patients, 558 (47%) received radiation therapy at Stoddard IMMC in 2005 and 460 (41%) in 2006. Stoddard IMMC's application states they anticipate serving an increased number of radiation patients due to their ability to treat more complex cancer patients with the new linear accelerator.
17. In a letter submitted in opposition to Mercy's proposal, Stoddard IMMC states that for a number of reasons their existing linear accelerators are currently underutilized, operating at only 56% of capacity in 2006.
18. Stoddard IMMC anticipates that an additional accelerator in the service area (at Mercy) could result in a 20% decrease in the number of patients treated at Stoddard. Stoddard states there is currently excess radiation therapy capacity in central Iowa. Stoddard's three linear accelerators can treat approximately 100 patients per day and currently are treating an average of only 56 patients daily.
19. Stoddard IMMC stated at hearing that the utilization of the existing capacity has changed from the almost 50/50 split between Mercy and Stoddard from 2001-2004 to what it is today. They attribute the change to a disagreement between physicians in the community in 2005 that resulted in an adjustment of referral patterns. However, Stoddard feels these patterns are reverting back as they have experienced a 50% increase in referrals from those physicians in 2007 to date. Stoddard indicated that they have experienced an increase in demand during 2007 and that they anticipate those numbers will continue to grow. Stoddard projects a continued increase in utilization.
20. The applicant states there are no current plans to expand radiation therapy services beyond the proposed project; however, the proposed project will be located in a building that is being designed for appropriate future expansion, should volumes require such expansion.
21. The applicant states that the linear accelerator will be acquired through Varian Medical Systems at a cost of \$2.44 million and has a useful life of 15 years. The PET/CT will be

acquired through GE Healthcare at a cost of \$2.15 million and has a useful life of 7 years. The CT simulator will be acquired through Philips Medical Systems at a cost of \$1.0 million and has a useful life of 7 years. The balance of the total project cost, \$1,652,800, includes tenant improvements to the site and purchase of furniture and fixtures and other medical equipment and supplies. The applicant states the capital funds for the project are available from cash on hand.

22. The applicant states that the charge structure for services delivered by Mercy’s West cancer center will be the same as the current charge structure. No increase in charges will result from this project. The applicant projects that the service will be profitable in the first year of operation. Commonly used charges for radiation therapy patients:

Treatment plan – intermediate	\$ 277
Simulation – complex	\$ 806
Dosimetry calculation	\$ 206
Continuing physics	\$ 383
Treatment management	\$ 475
Consultation	\$ 223
IMRT delivery	\$1,323
Complex treatment 11-19 MeV	\$ 330
Intracav application – complex	\$1,485
Average PET/CT imaging charge	\$3,650

23. Currently five radiation oncology physicians serve patients through Mercy Therapeutic Radiology Associates, and an additional physician will join the practice this summer. The applicant estimates the need to recruit and hire an additional 11.5 FTEs to staff the proposed west cancer center. This includes 3 radiation therapy technologists, 1 dosimetrist and 1 physicist. The applicant states they have established excellent working relationships with radiation therapy technology schools and programs, including the University of Iowa.

24. In a letter of opposition, Dr. McGinnis of Radiation Oncology, P.C. questions the ease in staffing the proposed facility if physicians must divide their time between the downtown and WDM campuses.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considers the eighteen criteria listed in Iowa Code § 135.64(1)(a)-(r). In addition, the legislature has provided that the Council may grant a certificate of need only if it finds the following four factors exist:

- a. Less costly, more efficient or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable;
- b. Any existing facilities providing institutional health services similar to those proposed are being used in an appropriate and efficient manner;
- c. In the case of new construction, alternatives including but not limited to modernization or sharing arrangements have been considered and have been

implemented to the maximum extent practicable;

- d. Patients will experience serious problems in obtaining care of the type which will be furnished by the proposed new institutional health service or changed institutional health service, in the absence of that proposed new service.

1. The Council concludes that less costly, more efficient or more appropriate alternatives to the proposed health service are not available and the development of such alternatives is not practicable. The Council concludes that the applicant has explored and implemented alternatives to the proposal in an attempt to accommodate increased patient volumes. These alternatives include expanded operating hours of the current service, physical expansion of the service at the current location and moving the entire service to the proposed site. The Council concludes that it is impractical to extend operating hours further, the existing location does not have space to expand physically, and moving the entire service away from the central campus is not efficient or appropriate. In addition, the Council concludes that other providers of this service are not more efficient or more appropriate alternatives to the project due to the increasing utilization currently experienced by Stoddard IMMC coupled with the projected increased need for these services in this area. Iowa Code Sections 135.64(1) and 135.64(2)a.

2. The Council concludes that existing facilities providing health services similar to those proposed will continue to be used in an appropriate and efficient manner and will not be impacted by this project. While Stoddard IMMC indicates that their facility is presently not fully utilized, they also testified that referral patterns are reverting back to prior rates, which will result in continued increases in utilization of their center. The Council concludes that Stoddard's projected increase in utilization, together with the increase in population and the increase in the prevalence of cancer in the service area, will result in Stoddard's continued appropriate and efficient use. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project involves the construction of a new building by a third party. The building will be built to the applicant's specifications and then leased to the applicant. For the reasons cited above, the Council concludes that alternatives including but not limited to modernization or sharing arrangements have been considered and have been implemented to the maximum extent practicable. Iowa Code Sections 135.64(1) and 135.4(2)c.

4. The Council concludes that patients will experience problems in obtaining care of the type which will be furnished by the proposed changed health service, in the absence of that proposed service. The Council concludes that the applicant is currently treating more patients per machine than the national standards recommend and that the applicant is experiencing problems with scheduling and delays. The Council concludes that the number of patients needing radiation oncology will increase with the aging of the population, the population growth in this service area, and the increased prevalence of cancer. The testimony of both the applicant and Stoddard IMMC support the conclusion that the utilization for this service is increasing at both facilities and that patients will experience serious problems in obtaining this service in the absence of this project. Iowa Code Sections 135.64(1) and 135.64(2)d.

The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2007), led the Council to find that a Certificate of Need should be awarded.

The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2007).

It is required in accordance with Iowa Administrative Code 641- 202.12 that a progress report shall be submitted to the Iowa Department of Public Health six (6) months after approval. This report shall fully identify the project in descriptive terms. The report shall also reflect an amended project schedule if necessary.

The Certificate of Need is valid for a twelve (12) month period from the date of these findings. This is subject to the meeting of all requirements of the Iowa Department of Public Health. Requests for extension of a Certificate of Need must be filed in writing to the Iowa Department of Public Health from the applicant no later than forty-five (45) days prior to the expiration of the Certificate. These requests shall fully identify the project and indicate the current status of the project in descriptive terms.

No changes that vary from or alter the terms of the approved application including a change in the approved dollar cost shall be made unless requested in writing to the department and approved. Failure to notify and receive permission of the department to change the project as originally approved may result in the imposition of sanctions provided in Iowa Code section 135.73 (641 Iowa Administrative Code 202.14).

Dated this _____ day of August 2007

Sidney W. Scott, Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: State Health Facilities Council
Iowa Department of Inspections and Appeals:
Health Facilities Division

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)
)
MANORCARE HEALTH SERVICES—BETTENDORF)
)
BETTENDORF, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, June 19, 2007.

The project, the construction of a 120-bed nursing facility, was originally approved on June 20, 2006 at an estimated cost of \$12,347,764.

The Council, after reading the extension request and hearing comments by staff, voted 5-0 to Grant an Extension of Certificate of Need per Iowa Administrative Code 641—202.13. The decision is based upon the finding that adequate progress is being made.

The extension is valid for one year from the date of these findings.

Dated this _____ day of August 2007

Sidney W. Scott, Vice-Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: Health Facilities Council
Department of Inspections & Appeals, Health Facilities Division

**IOWA DEPARTMENT OF PUBLIC HEALTH
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)
MARSHALLTOWN MEDICAL AND SURGICAL CENTER))
MARSHALLTOWN, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, June 19, 2007.

The project, the establishment of cardiac catheterization services as a joint venture with Mercy—Des Moines and Iowa Heart, was originally approved on June 20, 2006 at an estimated cost of \$1,725,000.

The Council, after reading the extension request and hearing comments by staff, voted 5-0 to Grant an Extension of Certificate of Need per Iowa Administrative Code 641—202.13. The decision is based upon the finding that adequate progress is being made.

The extension is valid for four months from the date of these findings.

Dated this _____ day of August 2007

Sidney W. Scott, Vice-Chairperson
State Health Facilities Council
Iowa Department of Public Health

cc: Health Facilities Council
Department of Inspections & Appeals, Health Facilities Division