

**MINUTES
STATE HEALTH FACILITIES COUNCIL
JUNE 17, 2008
LUCAS STATE OFFICE BUILDING
321 EAST 12TH STREET
FIFTH FLOOR, ROOM 517-518
DES MOINES, IA**

I. 9:00 AM ROLL CALL,

MEMBERS PRESENT: Sid Scott, Chairperson, Chuck Follett, Suki Cell and Karen Hope (by phone).

MEMBER ABSENT: Marc Elcock

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

II. PROJECT REVIEW

1. Emmetsburg Care Center, Emmetsburg, Palo Alto County: Add 5 Nursing Facility Beds by Converting Private Rooms to Semi-Private Rooms – No Cost.

Staff report by Barb Nervig. The applicant was represented by Lisa Loring, administrator. The applicant made a presentation and answered questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Cell, seconded by Follett, to Grant a Certificate of Need carried 4-0.

It was agreed to delay review of the second item on the agenda until the fifth member of the Council arrives.

3. ManorCare Health Services—Bettendorf, Bettendorf, Scott County: Re-review of Project Approved June 20, 2006 to Build 120 Bed Nursing Facility at a cost of \$12,347,764 - Cost over-run of \$1,395,085 (11.3%)..

Staff report by Barb Nervig. The applicant was represented by David Darrell of the Baudino Law Group. The applicant made a presentation and answered questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Follett, seconded by Cell, to Modify a Certificate of Need carried 4-0.

III. EXTENSION OF PREVIOUSLY APPROVED PROJECTS:

1. ManorCare Health Services—Bettendorf, Bettendorf, Scott County: Build 120 Bed Nursing Facility - \$12,347,764. *Second extension request.*

Staff reviewed the progress on this project. A motion by Cell, seconded by Hope to Grant a 6-month extension carried 4-0.

2. Mercy Medical Center—Des Moines, Des Moines, Polk County: Establish Satellite Radiation Therapy Services with New Equipment - \$7,242,800

Staff reviewed the progress on this project. A motion by Follett, seconded by Cell to Grant a 9-month extension carried 4-0

3. Mercy Medical Center—Sioux City, Sioux City, Woodbury County: Acquire Electrophysiology Lab - \$3,200,000

Staff reviewed the progress on this project. A motion by Follett, seconded by Cell to Grant an extension until October 1, 2008 carried 4-0

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

1. Genesis Medical Center, Davenport, Scott County: Modernization of existing facility and replacement of linear accelerator.

Staff report by Barb Nervig. A motion by Follett, seconded by Cell to support the Department's determination carried 4-0.

2. Shenandoah Medical Center, Shenandoah, Page County: Replacement of linear accelerator.

Staff report by Barb Nervig. A motion by Follett, seconded by Hope to support the Department's determination carried 4-0.

Marc Elcock arrived at 10:25 AM.

II. PROJECT REVIEW

2. Wesley Retirement Services, Inc., d/b/a Park Centre Continuing Care Retirement Community, Newton, Jasper County: Convert 20 Residential Care Facility Beds to 18 Nursing Facility Beds- \$600,000

Staff report by Barb Nervig. The applicant was represented by Ed McIntosh of Dorsey & Whitney; Mark Teigland, Executive Director of Park Centre and Janet Johnson, Director of Nursing. The applicant made a presentation and answered questions posed by the Council.

Gena Franklin of Nelson Manor, Dan Schlup of Heritage Manor and Mary Greeley and Linda Weaver both representing Heritage Manor, Careage and Baxter appeared at the hearing as affected parties opposed to the project.

A motion by Cell, seconded by Follett to accept a revised letter from Nelson Manor into the record carried unanimously.

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

V. APPROVE MINUTES OF PREVIOUS MEETING (APRIL 15, 2008)

A motion by Elcock, seconded by Follett, to approve the minutes of the April 15, 2008 meeting as written passed by voice vote.

VI. LEGISLATIVE UPDATE AND FUTURE MEETINGS

Staff provided a brief update on legislation that passed last session and the impact on CON. A discussion of future meeting dates resulted in the rescheduling of the September 16, 2008 meeting to Tuesday, October 14, 2008 and adding two additional meetings; Thursday, January 29, 2009 and Thursday April 23, 2009.

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

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)

MERCY MEDICAL CENTER—DES MOINES)
DES MOINES, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, June 17, 2008.

The project, the establishment of satellite radiation therapy services with new equipment, was originally approved on June 19, 2007 at an estimated cost of \$7,242,800.

The Council, after reading the extension request and hearing comments by staff, voted 4-0 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 six months from the date of these findings.

Dated this _____ day of August 2008

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)
)
MANORCARE HEALTH SERVICES—BETTENDORF)
)
BETTENDORF, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, June 17, 2008.

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. A one year extension was granted on June 19, 2007. A request to modify this project by approving a cost increase was approved on June 17, 2008. The newly approved modified cost of the project is \$13,742,849.

The Council, after reading the extension request and hearing comments by staff, voted 4-0 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 six months from the date of these findings.

Dated this _____ day of August 2008

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

4. On April 29, 2008 the department received a “request to approve project cost increase” from ManorCare. In this request the applicant states that the increase in the total project cost to construct and equip the 120 bed ManorCare Health Services—Bettendorf facility is due to:
 - Increase in oil prices, affecting delivery expenses and transportation costs;
 - Increase in copper and steel costs;
 - Higher than expected labor costs in the Bettendorf market (90% union);
 - Unanticipated poor soil; and
 - Additional exterior construction costs required by the City of Davenport Planning Board.
5. The estimated total cost of the project is now \$13,742,849, an 11.3% increase in the original total project costs.

CONCLUSION

The Council concludes that the proposed change to the originally approved project represent an increase of approximately 11.3% in the cost of the combined project but does not substantially alter the nature and scope of the originally approved project.

Pursuant to 641 IAC 202.14, the Council therefore approves the request to modify the certificate of need originally granted June 20, 2006 to \$13,742,849 as the approved cost of the project.

The decision of the Council may be appealed pursuant to Iowa Code section 135.70(2005).

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 (Iowa Administrative Code [641]202.14).

Dated this _____ day of August 2008

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)
)
WESLEY RETIREMENT SERVICES, INC., D/B/A PARK)
CENTRE CONTINUING CARE RETIREMENT COMMUNITY)
)
NEWTON, IOWA)

DECISION

This matter came before the State Health Facilities Council for hearing on Tuesday, June 17, 2008.

The application proposes the conversion of 20 residential care beds to 18 nursing facility beds at an estimated cost of \$600,000.

Wesley Retirement Services, Inc., d/b/a/ Park Center Continuing Care Retirement Community (“Park Centre”) 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. Ed McIntosh of Dorsey & Whitney; Mark Teigland, Executive Director of Park Centre and Janet Johnson, Director of Nursing were present representing the applicant. The applicant made a presentation and answered questions.

Gena Franklin of Nelson Manor, Dan Schlup of Heritage Manor and Mary Greeley and Linda Weaver both representing Heritage Manor, Careage and Baxter appeared at the hearing as affected parties opposed to the project.

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. Park Centre has offered a variety of options for care to the elderly for 16 years in Newton. Levels of care offered include apartments and townhomes for persons age 55 and older, assisted living care, residential care and nursing facility care which includes a CCDI unit.
2. The applicant proposes the elimination of one of these levels of care, the 20 residential care beds, by converting the use of that space to accommodate 18 nursing facility beds, thus increasing the nursing beds from 48 to 66 beds. Eighteen of the current 48 NF beds are a CCDI unit and that number would remain the same under the proposal.

3. The applicant indicates that the proposed 18 beds would focus on Medicare rehabilitative care and have a “return to home” focus. The area would include a separate dining area to enable the short term stay residents to dine together (apart from the long term resident dining areas).
4. The applicant currently has 4 individuals on the waiting list for NF admissions and 5 pending for planned SNF placement through June 2008.
5. The application states that there are currently 16 RCF residents that are aging in place (average age is now 92 years) and that 8 of these residents would qualify for NF care (long-term).
6. The applicant states that the need for RCF beds has decreased due to the growth in Assisted Living; 114 assisted living units have been established in Jasper County since 2003.
7. The applicant states they have been routinely obtaining a waiver from DIA to admit an additional skilled resident. Park Centre has received approval for 197 waivers between January 2007 and May 2008.
8. The applicant states that the bed need calculation is a key factor in demonstrating the need for additional beds in Jasper County. The calculated bed need formula indicates a current overbuild in only two of the eight counties surrounding the facility. The eight-county region, as calculated by the bed need formula, is underbuilt by 855 beds. The total underbuild for Jasper County is 112 beds. See the following table for additional bed information.

**Nursing Facility Beds by County
Number Needed by CON Formula/Number Licensed/Difference**

County	Projected 2011 Population Age 65+	# of NF Beds needed per bed need formula	# of licensed NF Beds as of 06/04/08	# Beds w/CON, Not Built yet	Difference – Formula vs. Licensed & Approved*
Jasper	6,232	446	334		-112
Mahaska	3,346	241	155	69	-17
Marion	5,496	393	226		-167
Marshall	6,121	440	355**		-85
Polk	46,086	2770	2217		-553
Poweshiek	3,436	243	322		+79
Story	8,947	676	514		-162
Tama	3,253	230	313		+83
Totals	82,917	5439	4436	69	-855

*A positive (+) number means the county is overbuilt and a negative (-) indicates an underbuild

**Additional 702 beds at Veterans Home

9. Over the span of the last two and one half years the total number of beds in the eight-county area has increased by 27 beds, with only two of the eight counties showing any change in numbers. See the following table for additional detail.

Nursing Facility Beds by County
Difference in Number Between December 5, 2005 and June 4, 2008

County	# of NF Beds (facilities) as of 12/05/05	# of NF Beds (facilities) as of 06/04/08	Difference in # of NF Beds
Jasper	334 (6)	334 (6)	0
Mahaska	155 (2)	155 (2)	0
Marion	226 (3)	226 (3)	0
Marshall	358 (4)	355 (4)**	0
Polk	2173 (26)	2217 (26)	+44
Poweshiek	322 (5)	322 (5)	0
Story	514 (7)	514 (7)	0
Tama	330 (5)	313 (5)	-17
Totals	4412 (58)	4436 (58)	+27

**additional 702 beds at Veterans Home

10. Park Centre is a continuing care retirement community (CCRC) where, by contractual agreement, independent residents have preferential access to the nursing facility.
11. The application (submitted April 2008) states that 31 of the current 49 NF/SNF residents (this includes the waiver) came from Jasper County and 18 came from outside Jasper County. There is no indication of how many came from within the CCRC.
12. An exhibit submitted by the applicant for reference at hearing states that at the end of May 2008 there were 41 NF/SNF residents from Jasper County and eight from outside Jasper County. This is an increase of 10 residents from Jasper County in a short time period (one month between the two documents). The same exhibit indicates 24 new admissions in the last six months. This is a turnover in half of the current licensed NF/SNF beds.
13. The applicant began delivering services in 1992, offering multiple levels of care on one campus. Park Centre is located adjacent to Skiff medical Center in Newton and is connected by an underground walkway which also connects to the Newton Clinic.
14. There are eight letters of support for the proposal, two from local physicians, one from the CEO of Skiff Medical Center, two from Des Moines hospital social workers (discharge planners), two from other continuing care retirement communities (one in Grinnell, the other in Ames), and one from Newton Village (103 beds assisted living facility). Most of these letter writers spoke of the skilled and rehabilitative care provided by the applicant.
15. Seven area facilities submitted opposition to this proposal. All but one of the other facilities in Jasper County is included in that seven. These letters indicate there are 90 to 100 empty beds in Jasper County. One writer notes that since Park Centre opened, 2 facilities in the county have closed. This writer also states that the applicant caters to the private pay resident and admits from outside the CCRC.
16. The following table displays other levels of service available in the eight-county area.

County	RCF Beds (Facilities)	Home Health Agencies	Adult Day Services	Assisted Living Units (Facilities)	ALP/D
Jasper	20(1)*	2	28(1)	114(2)	0
Mahaska	53(2)	2	0	68(2)	0
Marion	153(4)	4	0	167(2)	0
Marshall	113(1)**	2	25(1)	44(1)	96(2)
Polk	201(5)	9	84(3)	1213(15)	343(6)
Poweshiek	84(2)	1	0	17(1)	52(2)
Story	24(3)	1	30(1)	389(6)	0
Tama	40(1)	1	0	-0-	0
TOTALS	688(19)	22	167(6)	2012(29)	491(10)

* Applicant

** Veterans Home

Data source: DIA web site

17. The applicant indicates that the proposal will result in the need for an additional 6.9 FTEs; 4.2 FTEs registered nurses and 2.7 FTEs certified nursing assistants. Park Centre recruitment initiatives include advertising campaigns, open houses and serving as a training site for nursing students.
18. The proposal involves the renovation of 10,195 square feet at a total cost of \$600,000. Approximately \$70,000 to \$79,000 of that figure is for the purchase of furnishings and equipment.
19. The applicant plans to borrow the \$600,000 needed for the project. According to a summary of the probable financial terms, an interest rate of 5.40% fixed for an entire 20-year term is possible. The applicant has existing debt with a face amount of \$7.9M with a payment period to 2033 and an interest rate of 4.4%.
20. According to the financial summary, the operating margin of the total facility would be \$44,198 in 2009, \$193,997 in 2010 and \$335,251 in 2011. The principal assumptions state the \$600,000 of remodeling would be completed by the end of 2008; Medicare skilled care census remains at an average of 4 within the existing licensed area; newly licensed beds would average 4 additional skilled care residents; census for RCF is projected to be 7 by time project is completed and one resident would transition to NF care at the rate of one per every 5 months.
21. The percentage of Medicaid recipients served in the last three years averaged 10%. All of the current beds and all of the proposed beds will be certified for Medicaid.

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 proposal to renovate existing space is less costly than new construction. The Council concludes that maintaining the services needed by the existing population on the same campus is more appropriate than moving individuals off campus. The approval of this project is the most appropriate alternative for patients who desire to remain a part of this continuing care retirement community. The Council further finds that there are not more appropriate alternatives for patients in need of the level of rehabilitation, physical therapy and CCDI care provided by the applicant. 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. The Council finds that the bed need formula indicates a need for additional beds in the area. The Council concludes that the proposal is designed to meet the current and future needs of the 182 individuals residing in the various levels of care at Park Centre and that other facilities will therefore not be adversely affected by the project. 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 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 finds that in a recent 8-month period, the applicant was unable to admit 35 individuals seeking short term skilled care and has consistently maintained a waiting list. The Council further finds the applicant has consistently exceeded their licensed capacity by obtaining waivers from the Department of Inspections and Appeals which enabled the applicant to provide care to an additional 19 residents over a 17 month period. The Council concludes that the applicant has demonstrated a need for additional short term skilled care. 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 (Iowa Administrative Code [641]202.14).

Dated this _____ day of August 2008

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

3. In 2007, the facility requested waivers three separate times to admit over the licensed bed capacity. Emmetsburg Care Center has a high volume of yearly admissions, averaging 150 per year. This indicates that a significant amount of short term care is provided.
4. The proposal is to add 5 additional licensed beds by making 5 private rooms semi-private rooms. The applicant feels this would resolve the need to request waivers.
5. The calculated bed need formula indicates a current overbuild in six of the eight counties surrounding the facility. The total overbuild for the eight county region is 275 beds. The total overbuild for Palo Alto County is 75 beds. See following table for additional bed information.

**Nursing Facility Beds by County
Number Needed by CON Formula/Number Licensed/Difference**

County	Projected 2011 Population Age 65+	# of NF Beds needed per bed need formula	# of licensed NF Beds as of 06/04/08	Difference – Formula vs. Licensed & Approved*
Palo Alto	1857	130	205	+75
Buena Vista	2857	198	318	+120
Clay	2918	207	209	+2
Dickinson	3764	263	227	-36
Emmet	1990	140	210	+70
Humboldt	2077	145	150	+5
Kossuth	3377	236	226	-10
Pocahontas	1823	126	175	+49
Totals	20663	1445	1720	+275

6. Over the span of the last two and one half years the total number of beds in the eight-county area has decreased by 80 beds, the majority of these due to the closing of a facility in Palo Alto County. See the following table for additional detail.

**Nursing Facility Beds by County
Difference in Number Between December 5, 2005 and June 4, 2008**

County	# of NF Beds (facilities) as of 12/05/05	# of NF Beds (facilities) as of 06/04/08	Difference in # of NF Beds
Palo Alto	255(5)	205(4)	-50
Buena Vista	318(5)	318(5)	0
Clay	222(2)	209(2)	-13
Dickinson	227(3)	227(3)	0
Emmet	220(3)	210(3)	-10
Humboldt	150(2)	150(2)	0
Kossuth	226(4)	226(4)	0
Pocahontas	182(4)	175(4)	-7
Totals	1800(28)	1720(27)	-80

7. The applicant provided historical occupancy data for their current nursing facility indicating yearly occupancy of 59 % in 2005 (60 beds), 87% in 2006 (52 beds) and 96% in 2007 (52 beds). Their data also indicates the percentage of residents receiving Medicaid: 52% in 2005, 51% in 2006 and 59% in 2007. The applicant projects rates of occupancy for the three years following the proposed expansion to 57 beds of 91% the first year, 94% the second and 96% the third year.
8. In the last three years the applicant has had approximately 150 admissions per year. The majority of the admissions to Emmetsburg Care Center in the last three years were from Palo Alto County (444 of 454).
9. Emmetsburg, population 3,900, is the largest community in Palo Alto County. Emmetsburg is located just north of the center of the county, on Highway 18. The applicant proposes the addition of 5 beds to the facility to eliminate the need to obtain waivers and to accommodate their waiting list.
10. Emmetsburg Care Center currently serves an elderly rural population. The percentage of Medicaid recipients served varies between 51-60%. All of the current beds and all of the proposed beds will be certified for Medicaid.
11. Emmetsburg Care Center is an existing facility with a well established relationship to the health care system of the area. The applicant states that they have transfer arrangements in place with the following hospitals: Palo Alto Community Hospital in Emmetsburg; Trinity Regional Medical Center in Fort Dodge; Spencer Municipal Hospital; and Avera Holy Family Health in Estherville.
12. There is no capital cost to the proposed addition of beds as private rooms will be converted to semi-private rooms. There is no need for funds for capital and operating needs. The charges for providing care will not be changed as a result of the proposal.
13. The applicant indicates that the addition of five beds could necessitate the hiring of three additional nurse aides (3FTEs) as their census increases to the max. The applicant states they are adequately staffed to meet the needs of their current resident population.
14. The following table displays other levels of service available in the eight-county area.

County	RCF Beds (Facilities)	Home Health Agencies	Adult Day Services	Assisted Living Units (Facilities)	ALP/D
Palo Alto	33(1)	1		74(3)	
Buena Vista	46(1)	2		141(2)	
Clay	15(1)	1	20(1)	62(2)	114(1)
Dickinson	38(1)	2		53(1)	124(1)
Emmet		2			
Humboldt		1		32(1)	
Kossuth		2		32(1)	
Pocahontas		2		60(1)	
TOTALS	132(4)	13	20(1)	454(11)	238(2)

15. There were no comments received from affected parties.

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 proposal is a more effective alternative to accommodate admissions than continuing to request waivers to admit over the licensed bed capacity. 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 applicant has made a significant comeback from three years ago when occupancies were low and beds were reduced. Although the area counties are overbuilt for nursing facility beds according to the bed need formula, the Council gives significant weight to the current high occupancy rate at Emmetsburg Care Center and the lack of objection from other facilities in the area. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project does not involve renovation or construction. 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 individuals are being placed on a waiting list for admission to Emmetsburg Care Center and that frequent waiver requests are being made to the Department of Inspections and Appeals to admit one above the licensed capacity. 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 (Iowa Administrative Code [641]202.14).

Dated this _____ day of August 2008

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)

MERCY MEDICAL CENTER—SIOUX CITY)

SIOUX CITY, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, June 17, 2008.

The project, the acquisition of an electrophysiology lab, was originally approved on June 19, 2007 at an estimated cost of \$3,200,000.

The Council, after reading the extension request and hearing comments by staff, voted 4-0 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 until October 1, 2008.

Dated this _____ day of August 2008

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