

**MINUTES**  
**STATE HEALTH FACILITIES COUNCIL**  
**August 4, 2015**  
**IOWA LABORATORY FACILITY, CONFERENCE CENTER, ROOM 208**  
**DMACC CAMPUS, ANKENY**

**9:00 AM: ROLL CALL**

**MEMBERS PRESENT:** Bob Lundin, Chairperson, Roberta Chambers, Connie Schmett, Amy Skinner, and Roger Thomas

**STAFF PRESENT:** Kala Shipley, Jim Goodrich and Heather Adams, Counsel for State

**I. REQUEST FOR DETERMINATION OF NON-REVIEWABILITY AND THE DEPARTMENT'S RESPONSE**

1. Pleasant Manor Care Center, Henry County: Replacement of a 50-bed nursing facility within the same county.

Staff report by Kala Shipley. A motion by Lundin, seconded by Skinner, to affirm the Department's determination, passed by voice vote.

2. Presbyterian Village d/b/a Grand Jivante, Hardin County: Replacement of a 70-bed nursing facility within the same county.

Due to the unprecedented response of community members and ongoing factual issues related to the Grand JiVante non-reviewability determination, the Council allowed the project sponsor twenty minutes to make an oral presentation to the Council, followed by an oral presentation from a representative or representatives of the community for a total of twenty minutes (40 minutes total, 20 minutes from each side).

Staff report by Kala Shipley. The project sponsor was represented by Gary Jones of The Jones Law Firm; and Julie Hinders and Korey DeBerg of Grand JiVante. The project sponsor made a presentation and answered questions.

Ken Watkins of Davis Brown Law Firm, representing Heritage Care Center and Carol Lambert of Heritage Care Center; and Doug Gross of Brown Winick Attorneys at Law and Reverend David Boogerd representing a group of concerned citizens in Ackley were present at the meeting in opposition to the proposal. The opposing parties made a presentation and answered questions.

A motion by Chambers to affirm the Department's recommendation, seconded by Skinner, did not carry 2-3. Schmett, Thomas and Lundin voted no.

**II. PROJECT REVIEW**

1. Cedar Health, Floyd County: Convert 13 residential care beds to 7 nursing facility beds-- \$47,580.

Staff report by Jim Goodrich. Ed McIntosh of Dorsey & Whitney; Mike Steinkruger, administrator and owner of Cedar Health; Brandi Miller, Social Worker at Cedar Health and Shirley McMurray Director of Nursing at Cedar Health were present representing the applicant. The applicant made a presentation and answered questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Schmett, seconded by Skinner, to accept written materials in support of oral testimony.

A motion by Schmett, seconded by Skinner, to grant a Certificate of Need carried 4-0.

2. Advanced Surgery Center of Central Iowa, LLC (a wholly owned subsidiary of ENT Clinic of Iowa, P.C.), Clive, Polk County: Establish an outpatient surgery facility -- \$176,891.

Fred Dorr of Wasker, Dorr, Wimmer & Marcouiller, P.C., Dr. Douglas R. Hoisington, Doug Strawn, and Rod Patterson were present representing the applicant. The applicant answered questions posed by the Council.

Affected parties appearing in opposition to the proposal were Jason Giles, Nyemaster Goode P.C., representing Lakeview Surgery Center; Rikki Knight, Lakeview Surgery Center; Kevin Hamers, Surgery Center of Des Moines, LTD; Rob McCarville, West Lakes Surgery Center, LLC; and Natalie Coubrough, West Lakes Surgery Center, LLC.

A motion by Thomas, seconded by Schmett, to grant a Certificate of Need carried 4-1. Lundin voted no.

### III. EXTENSIONS OF PREVIOUSLY APPROVED PROJECT:

1. Hawkeye Estates, LLC, d/b/a The Bridges at Ankeny, Ankeny, Polk County: Build 70-bed skilled nursing facility -- \$9,944,658.

A motion by Chambers, seconded by Skinner, to grant a twelve-month extension carried by voice vote.

### IV. APPROVE MINUTES OF PREVIOUS MEETING

A motion by Thomas, seconded by Chambers, to approve the minutes of the May 6, 2015 meeting minutes, passed unanimously by voice vote.

### V. HEALTH FACILITIES COUNCIL INTERIM VICE-CHAIRPERSON

A motion by Schmett, seconded by Skinner, to nominate Roberta Chambers as Vice-Chairperson, passed by voice vote.

### VI. IAC 641—203 PROPOSED REVISIONS

Motion by Chambers, seconded by Skinner, to accept the revisions to Iowa Administrative Code 641—203, passed unanimously by voice vote.

Motion by Chambers, seconded by Schmett, to adjourn the meeting, passed unanimously by voice vote.

The meeting was adjourned at 12:30 PM.

The date of the Council's next meeting is scheduled for October 28, 2015.

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

IN THE MATTER OF THE APPLICATION OF )  
 )  
ADVANCED SURGERY CENTER OF CENTRAL IOWA, LLC ) **DECISION**  
 )  
CLIVE, IOWA )

This matter came before the State Health Facilities Council for hearing on Tuesday, August 4, 2015.

The application proposes the establishment of an outpatient surgery center an estimated cost of \$176,891.

Advanced Surgery Center Of Central Iowa, LLC 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. Kala Shipley of the Iowa Department of Public Health summarized the project in relation to review criteria. Fred Dorr of Wasker, Dorr, Wimmer & Marcouiller, P.C., Dr. Douglas R. Hoisington, Doug Strawn, and Rod Patterson were present representing the applicant. The applicant answered questions posed by the Council.

Affected parties appearing in opposition to the proposal were Jason Giles, Nyemaster Goode P.C., representing Lakeview Surgery Center; Rikki Knight, Lakeview Surgery Center; Kevin Hamers, Surgery Center of Des Moines, LTD; Rob McCarville, West Lakes Surgery Center, LLC; and Natalie Coubrough, West Lakes Surgery Center, LLC.

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) (2015) made the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Advanced Surgery Center Of Central Iowa, a wholly owned subsidiary of the ENT Clinic of Iowa, is proposing the establishment of an ambulatory surgery center to provide ear, nose and throat (ENT) services including balloon sinuplasty.
2. The applicant states the proposed ambulatory surgery center will improve access to specific ENT procedures, reduce costs, and improved coordination of care. Under the applicant's

proposal, the same nursing staff would see and care for the patient pre and post operatively, enhancing continuity of care to the patient.

3. The proposed facility will have two doctors on staff: Dr. Douglas Hoisington and Dr. Maher Younes. The applicant states both physicians specialize in otolaryngology and Dr. Hoisington is a pioneer in the use of balloon sinuplasty.
4. The applicant states there are seven physicians performing balloon sinuplasty in Polk County as provided by the Balloon Sinuplasty website.
5. The applicant considers the geographic service area of the project to be the same as ENT Clinic's existing service area. The primary service area includes 20 counties in central Iowa and the secondary service area includes 11 additional counties in central Iowa.
6. The applicant anticipates the proposed project will contribute to meeting the needs of the medically underserved as the proposed facility will serve a significant portion of patients from rural communities. The applicant projects that about 10% of their patients would be Medicare reimbursed and 8% would be Medicaid recipients.
7. The applicant states the American Academy of Otolaryngology supports the use of the procedure in both the operating room and in a physician office and more than 85% of health insurance carriers allow access to the procedure in a physician office.
8. The applicant reports patients whose health insurance will not cover the procedure in a physician office must have the balloon sinuplasty procedure scheduled in a multi-specialty ambulatory surgery center or in a hospital outpatient surgery department. The applicant states over 60% of their patients who may be a candidate for receiving balloon sinuplasty have Wellmark health insurance and Wellmark is not a health insurance carrier that provides coverage for the procedure if performed in a physician office.
9. The applicant indicates they have made repeated requests to Wellmark to allow coverage for balloon sinuplasty performed in a physician office. The applicant reports the most recent response from Wellmark was received on February 5, 2015 stating balloon sinuplasty is still considered investigational when done as a stand-alone procedure outside of the operating room.
10. The applicant states they have considered multiple alternatives and determined the best alternative is to develop an ambulatory surgical center to allow greater scheduling flexibility for their patients including offering a Saturday scheduling option.
11. The applicant states the proposed facility will provide more flexibility for patients by scheduling procedures four days per week initially and scheduling appointments five to six days per week, as needed.
12. Three letters of support were received from ENT Clinic of Iowa patients and their family members. All three letters report the balloon sinuplasty procedure provided relief from sinus

problems for themselves or a family member. One letter of support comments on having to wait to get scheduled and wait during the day of the procedure at a free standing surgery clinic.

13. The applicant states the proposed ambulatory surgery center will improve coordination of care by allowing patients to receive several procedures at the same location. The applicant reports patients requiring several procedures must now receive them at separate times and locations which disrupts the continuum of care.
14. Three letters of opposition representing four ambulatory surgery centers were received: one from West Lakes Surgery Center, one from Lakeview Surgery Center, and one from Surgery Centers of Des Moines West and Surgery Centers of Des Moines East. These surgery centers also appeared at hearing and provided testimony in opposition to the proposal, stating that they have excess operating room capacity and that the proposed ambulatory surgery center would duplicate services.
15. Surgery Centers of Des Moines West who wrote and testified in opposition to the proposal state they are located less than one mile from the site of the proposed surgery center, have dedicated block time available to schedule procedures, and could add on urgent cases nearly any day.
16. Lakeview Surgery Center who wrote and testified in opposition to the proposal states they have existing equipment available to perform the ENT procedures proposed by the applicant.
17. The applicant does not currently perform the surgeries at issue at Lakeview Surgery Center, Surgery Centers of Des Moines West or Surgery Centers of Des Moines East.
18. None of the existing surgery centers offer Saturday surgeries.
19. The applicant stated at hearing that the proposed surgery center will not be used for any surgeries other than the proposed ENT procedures.
20. The proposed ambulatory surgery center will have two operating rooms, three pre-operative rooms, and three post-operative beds in a recovery room. The applicant projects 429 ENT procedures will be performed in the first year. By year three, 444 will be performed.
21. The space proposed for the ambulatory surgery center currently houses ENT Clinic of Iowa procedure rooms where in-office procedures not requiring general anesthesia are performed. The applicant proposes to construct and renovate approximately 1999 square feet. The budget information provided by the applicant indicates the first-year lease costs will be \$38,841.90 and the moveable equipment costs will be \$138,049.10 for a total project cost of \$176,891. The applicant projects a net income in year one of \$196,900, increasing to \$249,318 in year two and \$255,318 by year three.

22. The applicant anticipates charges for procedures in the proposed facility will be significantly less than it would in a hospital outpatient surgery department, and less or comparable to other freestanding outpatient surgical facilities.
23. The budget information provided by the applicant indicates the facility costs will be \$38,841.90 and the moveable equipment costs will be \$138,049.10 for a total project cost of \$176,891. The applicant states the total project cost will be funded with cash on hand.
24. The applicant anticipates a total of 10 FTEs for the proposed facility. These include 3 FTE administrative, 3 FTE RN, 2 FTE nursing assistant/aide, and 2 FTE physician.
25. Unity Point did not appear in opposition to the project or submit a letter of opposition to the project.
26. The applicant stated at hearing Mercy River Hills Surgery Center reports no opinion on this matter.
27. The applicant reported at hearing that Mercy Medical Center owns 50% of West Lakes Surgery Center. The applicant reported having met with Mercy Medical Center administration and was told the projected numbers for the proposed project didn't reach a level of concern and Mercy would not be opposing or supporting the proposed project. Mercy Medical Center did not appear in opposition to the project or submit a letter of opposition to the project.
28. The applicant stated at hearing that Mercy Medical Center and West Lakes Surgery Center will continue to receive the more complicated cases.
29. The applicant stated at hearing that Dr. Hoisington currently does not treat patients at Lakeview Surgery Center or Surgery Centers of Des Moines so the proposed facility would not impact their operating room capacity.

#### 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. The Council gave significant weight to the information contained in the application and testimony of the applicant regarding the time patients must wait to be scheduled for procedures and the efficiencies gained for patients under the proposal. The Council takes note that the applicant receives patient requests for earlier and weekend surgery times that are currently unable to be accommodated at existing providers. 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 are being used and will continue to be used in an appropriate and efficient manner and will not be impacted by this project. The Council takes note that the proposed project would not impact in any way the utilization at the three existing surgery centers where these surgeries are not currently provided. Additionally, the Council gave weight to the fact that neither Unity Point nor Mercy Medical Center opposed the project and thus concludes that these existing facilities providing outpatient surgery would not be negatively impacted by the project. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The applicant proposes to construct and renovate approximately 1999 square feet. The budget information provided by the applicant indicates the first-year lease costs will be \$38,841.90 and the moveable equipment costs will be \$138,049.10 for a total project cost of \$176,891. The applicant projects a net income in year one of \$196,900, increasing to \$249,318 in year two and \$255,318 by year three. The Council concludes that alternatives including modernization and sharing arrangements have been considered and implemented to the maximum extent practicable. Iowa Code Sections 135.64(1) and 135.4(2)c. 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 gave significant weight to the information in the application and testimony of the applicant that patients currently requiring more than one procedure must schedule procedures on separate days and in separate locations and that requested surgery times are often unavailable at existing providers. The Council concludes that the proposed project will improve access to morning and weekend surgery times and that the increased efficiencies and enhanced continuity of care would benefit all patients, including the elderly and children. 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) (2015), 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 (2015).

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 30<sup>th</sup> day of October 2015

  
Robert Lundin, 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 )  
 )  
MMS HEALTHCARE LLC d/b/a/ CEDAR HEALTH ) **DECISION**  
 )  
CHARLES CITY, IOWA )

This matter came before the State Health Facilities Council for hearing on Tuesday, August 4, 2015.

The application proposes the deletion of 13 RCF beds and the addition of 7skilled nursing facility beds at an estimated cost of \$47,580.

MMS Healthcare LLC d/b/a Cedar Health 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. James Goodrich of the Iowa Department of Public Health summarized the project in relation to review criteria. Ed McIntosh of Dorsey & Whitney; Mike Steinkruger, administrator and owner of Cedar Health; Brandi Miller, Social Worker at Cedar Health and Shirley McMurray Director of Nursing at Cedar Health 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) (2015) made the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Cedar Health has been serving Floyd County and surrounding areas under the current owner as of November 1, 2014.
2. Cedar Health currently has 50 licensed nursing facility beds in addition to 13 residential care beds. The applicant is proposing the deletion of the 13 RCF beds and replacing those beds with a specialized skilled unit consisting of 7 licensed nursing facility beds.
3. The applicant proposes to construct a specialized skilled unit which will include 7 private rooms. The rooms will be large and will be designed to present a home-like environment.

4. The applicant reports physical therapy and occupational therapy would work with residents so that they can become more independent and perform their activities of daily living with a goal of the residents returning home. The applicant, has experienced an increase in demand for skilled unit beds.
5. The applicant states the facility has a waiting list for SNF/NF beds. The applicant states the utilization of residential care beds has been in decline for the past twenty years.
6. The applicant's 50 beds are dually certified for Medicaid and Medicare. The average length of stay for residents has been 311 days. The average stay for a Medicare skilled stay has been 38 days.
7. The calculated bed need formula indicates a current underbuild in five of the eight counties surrounding the facility. The underbuild for Floyd County is 32 beds. Overall, the eight-county region, as calculated by the bed need formula, is underbuilt by 123 beds. See the following table for additional bed information.

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

<b>County</b>	<b>Projected 2019 Population Age 65+</b>	<b># of NF Beds needed per bed need formula</b>	<b># of licensed NF Beds as of July 2015</b>	<b>Difference – Formula vs. Licensed &amp; Approved*</b>
Floyd	3717	258	226	-32
Bremer	5129	285	260	-25
Butler	3393	236	273	+37
Cerro Gordo	9744	682	521	-161
Chickasaw	2772	193	144	-49
Franklin	2219	155	150	-5
Howard	1993	140	196	+56
Mitchell	2457	171	227	+56
<b>Totals</b>	<b>31,424</b>	<b>2120</b>	<b>1997</b>	<b>-123</b>

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

8. The bed numbers in the tables above and below represent the number of beds in free-standing nursing facilities. In addition to the beds in these tables, the eight-county area has 25 hospital-based NF beds in Franklin County and 22 hospital-based SNF/NF beds in Cerro Gordo County.
9. Over the span of the last three years the total number of beds in the eight-county area has increased by 10 beds. There has been no change in the number of NF beds in Floyd County in the last three years. See the following table for additional detail.

**Nursing Facility Beds by County  
Difference in Number between July 2012 and July 2015**

<b>County</b>	<b># of NF Beds (facilities) as of July 2012</b>	<b># of NF Beds (facilities) as of July 2015</b>	<b>Difference in # of NF Beds</b>
Floyd	226(4)	226(4)	0
Bremer	260(4)	260(4)	0
Butler	273(6)	273(6)	0
Cerro Gordo	511(5)	521(5)	+10
Chickasaw	144(2)	144(2)	0
Franklin	150(2)	150(2)	0
Howard	196(4)	196(4)	0
Mitchell	227(5)	227(5)	0
<b>Totals</b>	<b>1987(32)</b>	<b>1997(32)</b>	<b>+10</b>

10. The applicant indicates that the primary service area is Floyd County. The total number of admissions to Cedar Health for the past three years is 91(including year-to-date 2015); 90 (99%) of these were from Floyd County and one (1%) was from Chickasaw County.
11. The applicant states they have determined there are no less costly or more appropriate alternatives to the proposed project to assist in meeting the unmet bed need in Floyd County and expand specialized skilled unit. The applicant reports skilled beds are the preferred accommodation and the proposed project creates 7 skilled specialized beds.
12. The applicant states they have a transfer agreement from Floyd County Hospital that is a written process to facilitate the transfer of residents from the hospital to the facility. The applicant states that they receive referrals from other hospitals in the area.
13. There are three additional freestanding nursing facilities in Floyd County. Cedar Health reports an 88% occupancy with the three remaining nursing facilities in Floyd County reporting occupancies of 78% and higher. The overall average for Floyd County is 88%. The results of a recent phone survey of facilities in the eight-county area conducted by department staff are provided in the table below.

**Survey of Nursing Facilities Located in Floyd County  
& Counties Contiguous to Floyd County  
Conducted July 2015**

<b>Facility &amp; Phone by County</b>	<b>Licensed Beds</b>	<b>Empty Beds</b>	<b>Percent Occupied</b>
<b>FLOYD COUNTY</b>			
Cedar Health	50	6	88%
CHAUTAUQUA GUEST HOME #2	61	5	92%

CHAUTAUQUAU GUEST HOME #3	65	14	78%
NORA SPRINGS CARE CENTER	50	1	98%
<b>TOTALS</b>	<b>226</b>	<b>26</b>	<b>88%</b>
<b>BREMER COUNTY</b>			
DENVER SUNSET HOME	31	0	100%
HILLCREST HOME, INC.	71	18	75%
TRIPOLI NURSING & REHAB	32	5	84%
WOODLAN TERRACE	126	13	90%
<b>TOTALS</b>	<b>260</b>	<b>36</b>	<b>86%</b>
<b>BUTLER COUNTY</b>			
CLARKSVILLE SKILLED NURSING AND REHABILITATION CENTER	42	1	98%
DUMONT WELLNESS CENTER	38	11	71%
LIEBE CARE CENTER	39	14	64%
MAPLE MANOR VILLAGE	50	12	76%
REHABILITATION CENTER OF ALLISON	60	16	73%
SHELL ROCK SENIOR LIVING	44	10	77%
<b>TOTALS</b>	<b>273</b>	<b>64</b>	<b>77%</b>
<b>CERRO GORDO COUNTY</b>			
GOOD SHEPHERD HEALTH CENTER	210	12	94%
HERITAGE CARE & REHABILITATION CENTER	87	18	79%
IOOF HOME AND COMMUNITY THERAPY CENTER	88	8	91%
OAKWOOD CARE CENTER	90	28	69%
ROCKWELL COMMUNITY NURSING HOME 641-822-3203	46	13	72%
MERCY HEALTH SERVICES – IOWA CORP	22		Unable to Contact
<b>TOTALS</b>	<b>521</b>	<b>79</b>	<b>85%</b>

<b>CHICKASAW COUNTY</b>			
LINN HAVEN REHAB & HEALTHCARE	70	24	66%
NEW HAMPTON NURSING & REHAB CENTER	74	14	81%
<b>TOTALS</b>	<b>144</b>	<b>38</b>	<b>74%</b>
<b>FRANKLIN COUNTY</b>			
REHABILITATION CENTER OF HAMPTON	105	44	58%
SHEFFIELD CARE CENTER	45	12	73%
FRANKLIN GENERAL HOSPITAL LTC	25	20	20%
<b>TOTALS</b>	<b>175</b>	<b>76</b>	<b>57%</b>
<b>HOWARD COUNTY</b>			
COLONIAL MANOR OF ELMA	57	13	77%
CRESCO CARE CENTER	63	18	71%
EVANS MEMORIAL HOME	52	10	81%
PATTY ELWOOD CENTER	24	1	96%
<b>TOTALS</b>	<b>196</b>	<b>42</b>	<b>79%</b>
<b>MITCHELL COUNTY</b>			
FAITH LUTHERAN HOME	60	19	68%
GOOD SAMARITAN SOCIETY – SAINT ANSGAR	46	13	72%
OSAGE REHAB & HEALTH CARE CENTER	50	12	76%
RICEVILLE FAMILY CARE AND THERAPY CENTER	37	9	76%
STACYVILLE COMMUNITY NURSING HOME	34	4	88%
<b>Totals</b>	<b>227</b>	<b>57</b>	<b>75%</b>

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
Floyd	73(2)	1		130(4)	0
Bremer		1		60(1)	0
Butler		1		242(6)	0
Cerro Gordo		2	30(1)	445(6)	0
Chickasaw	15(1)	1		108(2)	52(1)
Franklin	4(1)	1		106(3)	0
Howard	49(1)	1	6(1)	58(2)	24(1)
Mitchell	33(2)	1		106(2)	0
<b>TOTALS</b>	<b>174(7)</b>	<b>9</b>	<b>36(2)</b>	<b>1255(26)</b>	<b>76(2)</b>

Data source: DIA web site

15. There were no letters of support received.
16. Six letters of opposition were received from other nursing facilities in the area, including Chautauqua Guest Homes Inc. #2, Chautauqua Guest Homes Inc. #3, and Nora Springs Care Center in Floyd County, and other nursing homes in the area including Heritage Care & Rehabilitation Center and IOOF Home and Community Therapy Center in Cerro Gordo County, and Colonial Manor of Elma in Howard County. Five of the six letters voiced occupancy concerns. Three of the six letters of opposition cited staffing concerns and four of the six letters of opposition stated an abundance of skilled beds in their area.
17. Heritage Care & Rehabilitation Center in Cerro Gordo, Chautauqua Guest Homes Inc. #2, Chautauqua Guest Homes Inc. #3, and Nora Springs Care Center in Floyd County, and Colonial Manor of Elma in Howard County submitted occupancy data for their respective facilities.
18. The applicant states that the sources of funds include \$47,850 (cash on hand) in renovation and new resident room furniture. There will be no new construction.
19. The applicant does not project an operating deficit.
20. The applicant states they do not anticipate having any difficulty recruiting additional staff. The applicant currently has sufficient staff for 58 beds which includes eight residential beds. If the project is approved, the applicant will have 57 beds with seven of those beds being dedicated to skilled patients which will require a limited amount of additional staff and additional therapy services for which they will contract with an outside agency.
21. The total facility costs are \$47,580 in renovation and new resident room furniture. There will be no new construction. The total cost includes new resident room furniture, doorways to be widened to 44 inches, handicapped accessible sinks and over the bed lights will be added to each room. The facility has a conventional 20 year note entered into on November 1, 2014 at C US Bank in Charles City, Iowa. Current amount of note is \$2,473,185 at an interest rate of 4.75%. That is a turn-key cost of \$6,797.

## 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 takes note the applicant has a waiting list for SNF/NF beds. The rooms will be large and will be designed to present a home-like environment. The Council concludes that the proposal is an appropriate option to accommodate admissions within the community who need skilled nursing care. 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 calculated bed need formula indicates a current underbuild in five of the eight counties surrounding the facility. The underbuild for Floyd County is 32 beds. Overall, the eight-county region, as calculated by the bed need formula, is underbuilt by 123 beds. The phone survey conducted by Department staff indicates a 88% occupancy at the Cedar Health facility with the three remaining nursing facilities in Floyd County reporting occupancies an overall average of 88 percent. The Council has previously concluded that occupancy rates of over 85% indicate appropriate and efficient utilization of existing nursing facilities. The Council concludes that Cedar Health, with the seven skilled nursing bed unit, will have little impact on the appropriate and efficient use of other nursing facilities. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project is the renovation of a seven-bed skilled nursing facility wing with a total of 2,189 square feet. The Council concludes that alternatives including modernization and sharing arrangements have been considered and implemented to the

maximum extent practicable. Iowa Code Sections 135.64(1) and 135.4(2)c. 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 health service, in the absence of that proposed service. The Council takes note the applicant states there is a waiting list (8-12 persons at any given time) for Skilled Nursing Facility services. The Council takes note that the high number of referrals and the number of individuals on the applicant's waiting list demonstrates that patients will experience problems in obtaining care absent the proposed service. 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) (2015), led the Council to find that a Certificate of Need should be awarded.

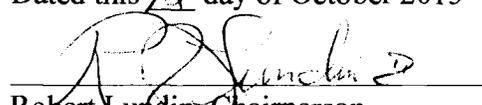
The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2015).

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 <sup>12</sup> day of October 2015

  
Robert Lundin, Chairperson  
State Health Facilities Council  
Iowa Department of Public Health

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

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

IN THE MATTER OF THE )  
CERTIFICATE OF NEED REVIEWABILITY )  
DETERMINATION FOR )  
)  
PRESBYTERIAN VILLAGE DBA GRAND ) DECISION  
JIVANTE )  
)  
ACKLEY, IOWA )

This matter came before the State Health Facilities Council on August 4, 2015, to consider the Department of Public Health's determination of non-reviewability. The project sponsor was represented by Gary Jones of The Jones Law Firm; and Julie Hinders and Korey DeBerg of Grand Jivante. The project sponsor made a presentation and answered questions.

Ken Watkins of Davis Brown Law Firm, representing Heritage Care Center and Carol Lambert of Heritage Care Center; and Doug Gross of Brown Winick Attorneys at Law and Reverend David Boogerd representing a group of concerned citizens in Ackley were present at the meeting in opposition to the proposal. The opposing parties made a presentation and answered questions.

**BACKGROUND**

The project sponsor submitted a letter dated March 24, 2015 requesting a reviewability determination regarding the proposed replacement of a 70-bed nursing facility in Ackley, Hardin County, with a facility to be constructed in Iowa Falls, Hardin County. The Department requested additional information on three separate occasions to clarify inconsistencies and discrepancies received directly from the project sponsor and contained in press releases, media reports and from the many persons in the community who oppose the proposed project. In a letter provided to the project sponsor dated June 29, 2015, the Department determined the project as described was not reviewable under Iowa Code section 135.63(2)(l).

**DECISION**

The construction of a new nursing facility generally requires receipt of a Certificate of Need from the State Health Facilities Council. Iowa Code §§ 135.63(1); 135.61(18)(a), 135.61(14)(b). However, the legislature has provided that the replacement of a nursing facility is exempt from Council review "if the replacement or modernization does not add

new health services or additional bed capacity for existing health services, notwithstanding any provision in this division to the contrary. With respect to a 'nursing facility,' *replacement* means establishing a new facility within the same county as the prior facility to be closed." Iowa Code § 135.63(2)(1).

Accordingly, Iowa Code section 135.63(2)(1) provides a replacement nursing facility must meet four criteria in order to be exempt from Council review. The replacement facility 1) must be located in the same county as the existing facility, 2) must not add additional beds from the number contained at the existing facility, 3) must not add new health services; and 4) the existing facility must close and no longer be used as a nursing facility.

In light of the many inconsistencies in the information presented by the project sponsor, the Council is unable to conclude that credible evidence exists to support a determination that the above four factors have been sufficiently satisfied. Specifically, the project sponsor did not present credible evidence to establish:

- 1) Whether the replacement facility will contain the same number of nursing facility beds as the existing facility.

The project sponsor has made a number of inconsistent and confusing statements about the number of nursing facility beds the replacement facility will offer, including:

- Letter, Ms. Hinders to IDPH, March 24, 2015: "Our current 70-bed licensure [will] remain intact at the replacement facility"
- Letter, Ms. Hinders to IDPH, April 20, 2015: We will offer "64 beds in the replacement facility"
- The project sponsor indicated in its presentation at the Council meeting that all 70 current beds will be transferred to Iowa Falls.

- 2) Whether the replacement facility will add new health services.

The project sponsor has not offered clear and consistent information about the services which will remain in Ackley and the services which will be offered in Iowa Falls. The project sponsor has repeatedly referred to this project as an "expansion of services" and has indicated residents in Iowa Falls will have access to "even MORE services" than they do in Ackley. (Iowa Falls Project Update, emphasis in original).

- 3) Whether the existing facility will close and no longer be used as a nursing facility.

The project sponsor has made a number of inconsistent and confusing statements about whether the existing facility will close and cease to be used as a nursing facility, including:

- Grand JiVante newsletter, April 2015: "There are also rumors out there that we are closing the Ackley location. Nothing could be further from the truth. We remain committed to providing quality housing and services for all of our residents and to continue serving this community as we have in the past for many, many years to come."
- Letter, Ms. Hinders to IDPH, April 20, 2015: "Despite all of the information and rumors floating around this issue, the board has not made any final decisions as to the use of the space that will be vacated by the nursing home portion of our services. ...I cannot stress enough that no final decisions have been made in this regard."
- Grand JiVante's Publication "Iowa Falls Project Update": "One option is applying for a new license with fewer beds for Ackley through the certificate of need process."
- Times Citizen, April 3 and 11, 2015: "Grand JiVante will apply for a new state license for a smaller long term care unit in Ackley."
- Letter, Mr. Jones to IDPH, April 24, 2015: "Grand JiVante has no intent to seek a Certificate of Need for additional nursing beds to be located in Ackley at any time in the future. ...Grand JiVante will continue to use much of the existing physical plant in Ackley for independent and assisting living as well as other existing services. No final decision has been made as to how that portion of the building that will be vacated by moving the licensed nursing bed from Ackley to Iowa Falls will be used, but it is not the intent of the organization to utilize the space for skilled nursing."
- Several public references by the project sponsor referring to this project as an "expansion" or "second location."

For these reasons, the Council, after reading the reviewability determination materials and hearing presentation by the project sponsor and opposing parties, voted 3-2 to not affirm the Department's determination of non-reviewability.

Dated this 14<sup>TH</sup> day of August 2015



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Robert Lundin, 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 )

HAWKEYE ESTATES, LLC )  
d/b/a THE BRIDGES AT ANKENY )  
ANKENY, IOWA )

**DECISION**

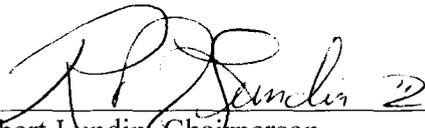
This matter came before the State Health Facilities Council for review on Tuesday, August 4, 2015. The applicant was represented by Doug Johnson.

The project, the construction of a 70-bed skilled nursing facility, was originally approved on July 21, 2014 at an estimated cost of \$9,944,658.

The Council, after reading the extension request and hearing comments by staff, voted 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 8<sup>TH</sup> day of February 2016

  
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Robert Lundin, Chairperson  
State Health Facilities Council  
Iowa Department of Public Health

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