



Kim Reynolds
GOVERNOR

Adam Gregg
LT. GOVERNOR

Kelly Garcia
DIRECTOR

**MINUTES
STATE HEALTH FACILITIES COUNCIL
Initiated in the Lucas State Office Building, Room 523
Meeting Conducted Via Zoom**

Tuesday, January 31, 2023

ELECTRONIC MEETING

This electronic meeting of the State Health Facilities Council was held in accordance with Iowa Code section 21.8 entitled “Electronic Meetings.” The Code states that a governmental body may conduct a meeting by electronic means only if circumstances are such that a meeting in person is impossible or impractical and access is provided to the public. An in-person meeting of the Council to handle this agenda was impractical due to the schedules of the Council members and the resources of the Department. The meeting was be initiated in room 523 of the Lucas State Office Building and was conducted via Zoom, which offered both video conferencing and conference call capabilities. Notices and agendas were posted in the Lucas State Office building and on the Department’s web site under the Certificate of Need Program as well as on the Department’s and Iowa.gov public calendars. The meeting was recorded.

9:00 AM Roll Call

MEMBERS PRESENT: Dr. Harold Miller, Chair; Kelly Blackford; Aaron DeJong; and Brenda Perrin

STAFF PRESENT: Becky Swift (present in the conference room)

OTHER STAFF PRESENT: Krissa Mason, Counsel for the State

OTHERS PRESENT: Robert Baudino, Baudino Law Group; Ryan Coane, Ivy at Davenport; Jayson Pullman, Hawarden Regional Healthcare; Doug Fulton, Brick Gentry, PC; Jean Sheldon and Dave Anders, On With Life; Teri Wahlig, MD, ChildServe; Alyssa Miller; Jeb Lee, Mike McKinney, and Dr. Doug Lake, McFarland Clinic; Jen Lindberg, Brown Winick Law; Melissa Durkin and Elizabeth Murphy, Hickory Recovery Network; Marguerite Ahmann, Fredrikson & Byron PA; Dr. Kevin Birusingh, Kathy Early, Mike Schindler, and Tom Hall, Surgery Centers of Iowa; Alissa Smith, Dorsey & Whitney, LLP; Rob McCarville and Kim Utterback, West Lakes Surgery Center; Whitney Peyton and Janie Kinsley, Surgery Center of Des Moines – West; and Dr. David Ball.

I. APPROVAL OF MINUTES OF THE PREVIOUS MEETING (October 27, 2022)

A motion by Perrin, seconded by DeJong, to approved the minutes of the October 27, 2022, meeting carried unanimously by voice vote.

II. PROJECT RE- REVIEW (Cost Over-run)

1. Steindler North Liberty Ambulatory Surgery Center - North Liberty, Johnson County

This project was reviewable as the establishment of an Ambulatory Surgery Center. The project was reviewed and approved by the Council on March 7, 2022, at a cost of \$19,184,900. Cost over-run of \$10,115,100 for a new project cost of \$29,300,000.

Staff report by Becky Swift. The applicant was represented by Robert Baudino, Baudino Law Group. The applicant made remarks and responded to questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Perrin, seconded by Blackford to approve the cost overrun carried by a vote of 4-0.

2. Accordius Health at St. Mary's dba Ivy at Davenport, Davenport, Scott County

This project was reviewable as the addition of 15 nursing facility beds. The project was reviewed and approved by the Council on February 9, 2022, at a cost of \$12,000. Cost over-run of \$48,000 for a new project cost of \$60,000.

Staff report by Becky Swift. The applicant was represented by Ryan Coane, Ivy at Davenport. The applicant made remarks.

No affected parties appeared at the hearing.

A motion by DeJong, seconded by Blackford to approve the cost overrun carried by a vote of 4-0.

III. EXTENSION OF PREVIOUSLY APPROVED PROJECTS

1. Steindler North Liberty Ambulatory Surgery Center – Establishment of an ambulatory surgery center
\$19,184,900. (*Approved 3/7/2022, First Extension Request*)

Staff report by Becky Swift. The applicant was represented by Robert Baudino, Baudino Law Group. The applicant made remarks.

No affected parties appeared at the hearing.

A motion by Perrin, seconded by Blackford to grant a 12-month extension carried by a vote of 4-0.

2. Accordius Health at St Mary dba Ivy at Davenport, Davenport, Scott County –
Addition of 15 nursing facility beds
\$12,000 (*Approved 2/9/2022, First Extension Request*)

Staff report by Becky Swift. The applicant was represented by Ryan Coane, Ivy at Davenport. The applicant made remarks and responded to questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Blackford, seconded by DeJong to grant a six (6) month extension carried by a vote of 4-0.

3. Hawarden Regional Healthcare, Hawarden, Sioux County – Acquisition of a fixed MRI
\$1,908,740 (*Approved 2/9/2022, First Extension Request*)

Staff report by Becky Swift. The applicant was represented by Jayson Pullman, Hawarden Regional Healthcare. The applicant made remarks and answered questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Perrin, seconded by DeJong to grant a 12-month extension carried by a vote of 4-0.

4. Heartland Plastic and Reconstructive Surgery – Des Moines, Polk County –
Establishment of an ambulatory surgery center
\$780,636 (*Approved 2/20/2020, Third Extension Request*)

Staff report by Becky Swift. The applicant was represented by Doug Fulton, Brick Gentry, PC. The applicant made remarks.

No affected parties appeared at the hearing.

A motion by Blackford, seconded by Perrin to grant a 12-month extension carried by a vote of 4-0.

IV. DETERMINATIONS OF NON-REVIEWABILITY AND THE DEPARTMENTS RESPONSE

The purpose of the Council's review under this portion of the agenda is to determine whether it affirms the Department's determination that a project is or is not subject to review under Iowa Code chapter 135. The Council will not hold a public hearing under this portion of the agenda.

1. UnityPoint Health - Cedar Rapids (St. Luke's), Cedar Rapids, Linn County – Establishment of an off-campus emergency department under the hospital license.

Staff report by Becky Swift.

A motion by Perrin, seconded by Blackford to affirm the Department's decision carried by a vote of 4-0.

2. Grace Breast Imaging and Medical Spa (GBIMS), Des Moines, Polk County - establishment of an independent medical clinic offering women's imaging, breast health care and medical spa treatments.

Staff report by Becky Swift. With permission from the Chair, Marguerite Ahmann, Fredrikson & Byron PA representing GBIMS, made a brief clarifying statement.

A motion by Perrin, seconded by DeJong to affirm the Department's decision carried by a vote of 4-0.

V. PROJECT REVIEW

1. On With Life, Polk City, Polk County – Relocation of a 32-bed nursing facility and the addition of eight beds for a total of 40 beds.
\$7,934,582

Staff report by Becky Swift. The applicant was represented by Jean Sheldon and Dave Anders, On With Life. The applicant shared a presentation, made remarks and responded to questions posed by the Council.

Teri Wahlig, MD, CEO ChildServe and Alyssa Miller, family member of an On With Life resident, appeared as affected parties in support. The affected parties made remarks.

There were no affected parties in opposition.

A motion by Perrin, seconded by DeJong to grant a Certificate of Need carried by a vote of 4-0.

2. McFarland Clinic, Ames, Story County – Replacement of a PET/CT scanner
\$2,738,212

Staff report by Becky Swift. The applicant was represented by Jeb Lee, Mike McKinney, and Dr. Doug Lake, McFarland Clinic. The applicant shared a presentation and made remarks.

No affected parties appeared at the hearing.

A motion by Perrin, seconded by DeJong, to grant a Certificate of Need carried by a vote of 4-0.

3. Hickory Behavioral Center at Grinnell, Grinnell, Poweshiek County – Establishment of a 60-bed psychiatric hospital
\$1,500,000

Staff report by Becky Swift. The applicant was represented by Jen Lindberg, Brown Winick Law; and Melissa Durkin and Elizabeth Murphy, Hickory Recovery Network. The applicant shared a presentation, made remarks and responded to questions posed by the Council.

No affected parties appeared at the hearing.

A motion by Blackford, seconded by DeJong to grant a Certificate of Need did not carry. Blackford and DeJong voted in favor of the motion. Perrin and Miller voted no.

4. Surgery Centers of Iowa, LLC, Des Moines, Polk County – Establishment of an ambulatory surgery center
\$6,489,790

Staff report by Becky Swift. The applicant was represented by Doug Fulton, Brick Gentry PC; and Dr. Kevin Birusingh, Kathy Early, Mike Schindler, and Tom Hall, Surgery Centers of Iowa. The applicant shared a presentation, made remarks and responded to questions posed by the Council.

There were no affected parties in support.

Affected party in opposition, Dr. David Ball made remarks.

Affected parties in opposition included Alissa Smith, Dorsey & Whitney, LLP; Rob McCarville and Kim Utterback, West Lakes Surgery Center. The parties in opposition made remarks and responded to questions posed by the Council.

Affected parties in opposition included Whitney Peyton and Janie Kinsley, Surgery Center of Des Moines – West. The affected parties in opposition shared a presentation, made remarks and responded to questions posed by the Council.

The applicant provided closing remarks and rebuttal.

A motion by DeJong, seconded by Miller to grant a Certificate of Need carried by a vote of 4-0.

There was a brief discussion about the tie vote in the application of Hickory Behavioral Center at Grinnell. Krissa Mason informed the Council that a tie vote meant no action was taken by the Council. Becky Swift will inform the applicant of this.

The Chair reminded Council member that the next meeting would be held May 17 and/or 18 depending upon whether there is a quorum.

Becky Swift thanked Dr. Hal Miller and Brenda Perrin, whose terms on the Council expire on April 30, 2023, for their dedicated service.

A motion by DeJong, seconded by Blackford, to adjourn carried unanimously by voice vote.

The meeting adjourned at 2:46 pm.

**IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)
HAWARDEN REGIONAL HEALTHCARE)
HAWARDEN, IOWA)

DECISION

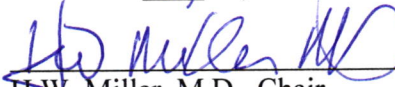
This matter came before the State Health Facilities Council on Tuesday, January 31, 2023. The applicant was represented by Jayson Pullman, Hawarden Regional Healthcare.

The project, the acquisition of a fixed MRI, was originally approved February 9, 2022, at an estimated cost of \$1,908,740; the new cost is \$50,000 lower at \$1,858,740. The original completion date for the project was July 15, 2022; the new completion date is August 31, 2023. Hawarden Regional Healthcare received \$1 million in USDA funds for which they'd applied and additional funding was granted by the city. The MRI and modular building contracts were signed in the fall of 2022. Work is currently being done on the modular building to house the MRI. Hawarden Regional Healthcare identified a more advanced, less costly MRI for purchase. This MRI has new technology which decreases the annual service contract costs for the system. The anticipated arrival of the MRI and modular unit is late August 2023. To date no funds have been spent on the project.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 4-0 to Grant an Extension of Certificate of Need per 641 Iowa Administrative Code 202.13. The decision is based upon a finding that progress has been made on the project.

The extension is valid for 12 months.

Dated this 24 day of March 2023



H.W. Miller, M.D., Chair
State Health Facilities Council
Iowa Department of Health and Human Services

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 _____)

HEARTLAND PLASTIC AND _____)
RECONSTRUCTIVE SURGERY, PC _____)

URBANDALE, IOWA _____)

DECISION

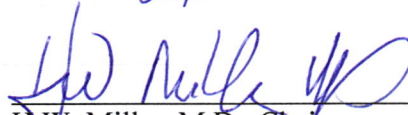
This matter came before the State Health Facilities Council for review on Tuesday, January 31, 2023. The applicant was represented by Doug Fulton, Brick Gentry Attorneys at Law.

The project, the establishment of an ambulatory surgery center (“ASC”), was originally approved February 20, 2020, at an estimated cost of \$780,636. The original completion date for the project was July 2020; the new completion date is July 2023. The build out of the building is complete. They received Fire Marshal approval on January 5, 2022, and City approval in December 2022. They are currently working with the Department of Inspections and Appeals on the Medicare ASC certification process. They have completed the rewrite their policy and procedures manual to meet ASC guidelines, and are working to make sure that they have insurance set up to accept claims. Noted during testimony was that the project is awaiting final paper work, and they do not expect the project to take a full year, but have asked for a 12-month extension out of an abundance of caution. To date a total of \$675,697 has been spent on the project.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 4-0 to Grant an Extension of Certificate of Need per 641 Iowa Administrative Code 202.13. The decision is based upon a finding that sufficient progress has been made in developing the project.

The extension is valid for 12 months.

Dated this 24 day of March 2023



H.W. Miller, M.D., Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL

IN THE MATTER OF A REQUEST BY)
)
ACCORDIUS HEALTH ST. MARY'S DBA)
IVY AT DAVENPORT)
)
DAVENPORT, IOWA)
)
TO MODIFY A CERTIFICATE OF NEED)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, January 31, 2023.

The request proposes the modification of an approved project to increase the cost of the proposal. February 9, 2022, the Council granted a Certificate of Need for the addition of 15 nursing facility beds at a cost of \$12,000. This request proposes an increase in cost of \$48,000 for a total project cost of \$60,000.

The record includes the request prepared by the project sponsor and all the testimony presented. The applicant was represented by Ryan Coane, Ivy at Davenport. The applicant made remarks and answered questions posed by the Council.

No affected parties appeared at the hearing.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-0 to grant a modification to the original Certificate of Need.

FINDING OF FACT

1. Ivy at Davenport was granted a Certificate of Need on February 9, 2022, for the addition of 15 nursing facility beds at a cost of \$12,000. This is a re-licensure of previously licensed beds at the facility.
2. In December 2022, the department received an extension request from the applicant that noted while the project was on track, it was not due to be completed until August 2023.
3. On January 31, 2023, the applicant was granted a six-month extension.

4. The applicant submitted a cost overrun of \$8,000 on December 27, 2022. On January 16, 2023, the applicant submitted another request to increase the overrun to \$48,000. The applicant reported causes of the cost overrun include some lack of knowledge about the bed re-licensure procedures; and architectural, FGI, and NFP reviews and waivers.
5. The estimated total cost of the project is now \$60,000. This is a 400% increase in the original cost of \$12,000.
6. The project scope has not changed since Certificate of Need approval. Noted is that the rooms are ready to be used, but approvals from the State Fire Marshal's office and architect are needed to complete the project. The project is delayed approximately six months due to this, obtaining the necessary waivers from the Department of Inspections and Appeals, and the impact of COVID on getting the approvals.
7. The project is expected to be completed in August 2023.

CONCLUSION

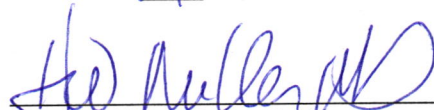
The Council concludes that the proposed change to the originally approved project represents an increase of approximately 400% in the cost of the project but does not alter the nature and scope of the originally approved project.

Pursuant to 641 Iowa Administrative Code 202.14, the Council therefore approves the request to modify the Certificate of Need originally granted February 9, 2022, to \$60,000 as the approved cost of the project. The Council notes that the requested cost overrun is very significant but that mitigating circumstances including the need for unexpected approvals and waivers, and that the nature and scope of the project have not changed since its original approval.

The decision of the Council may be appealed pursuant to Iowa Code section 135.70 (2022).

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 24 day of March 2023


H.W. Miller, M.D., Chairperson

State Health Facilities Council
Iowa Department of Health and Human Services

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 _____)
_____))
ACCORDIUS HEALTH AT ST. MARY'S DBA _____)
IVY AT DAVENPORT _____)
_____))
DAVENPORT, IOWA _____)

DECISION

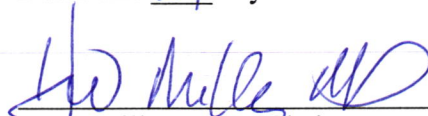
This matter came before the State Health Facilities Council for review on Tuesday, January 31, 2023. The applicant was represented by Ryan Coane, Ivy at Davenport.

The project, the addition of 15 nursing facility beds, was originally approved February 9, 2022, at an estimated cost of \$12,000; the new cost is \$60,000. The original completion date for the project was February 2023; the new completion date is August 2023. Ivy at Davenport still needs approval from the Fire Marshal's Office, however the applicant indicated in their extension request that the rooms are ready. They noted that as this is their first-time adding beds originally delicensed back into service, they were not completely aware of the processes and have met with some roadblocks. They were not aware of the architectural aspects required nor the waivers needed. They noted that their architect had COVID which delayed the project. The architect will be coming back to conduct the FGI survey after which the waivers will be sent. Noted during testimony was that Ivy at Davenport has been working with the Fire Marshal's Office and the Department of Inspections and Appeals. They hope to have the project completed in April or May, prior to the August completion date. To date a total of \$10,000 has been spent on the project.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 4-0 to Grant an Extension of Certificate of Need per 641 Iowa Administrative Code 202.13. The decision is based upon a finding that progress has been made on the project.

The extension is valid for six (6) months.

Dated this 24 day of March 2023



H.W. Miller, M.D., Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

**IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF A REQUEST BY)
)
STEINDLER NORTH LIBERTY AMBULATORY)
SURGERY CENTER)
)
NORTH LIBERTY, IOWA)
)
TO MODIFY A CERTIFICATE OF NEED)

DECISION

This matter came before the State Health Facilities Council for review on Tuesday, January 31, 2023.

The request proposes the modification of an approved project to increase the cost of the proposal. On March 7, 2022, the Council granted a Certificate of Need for the establishment of an ambulatory surgery center at a cost of \$19,184,900. This request proposes an increase in cost of \$10,115,100 for a total project cost of \$29,300,000.

The record includes the request prepared by the project sponsor and all the testimony presented. The applicant was represented Robert Baudino, Baudino Law Group. The applicant made a presentation and answered questions posed by the Council.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-0 to grant a modification to the original Certificate of Need.

FINDING OF FACT

1. Steindler North Liberty Ambulatory Surgery Center was granted a Certificate of Need on March 7, 2022, for the establishment of an ambulatory surgery center at a cost of \$19,184,900.
2. In December 2022 the department received an extension request from the applicant that noted while the project was on track, it was not due to be completed until November 2024.
3. On January 31, 2023, the applicant was granted a 12-month extension.
4. The applicant submitted a cost overrun on December 30, 2022. The applicant reported causes of the cost overrun include inflation, increased labor costs and shortages, and supply chain

issues. During testimony, the applicant also noted that contingencies were factored into the original costs, but that prices increase dramatically.

5. The estimated total cost of the project is now \$29,300,000, an approximate 34.5% increase in the total project costs.
6. Noted during testimony was that the building scope has not changed since Certificate of Need approval. Also noted was that the design for the overall project is complete and that construction remains on schedule.
7. During testimony it was noted that a construction guaranteed maximum price agreement was signed and approved. Also noted during testimony was that any additional overages would fall under the construction manager at-risk contract.
8. The applicant reports that they have received most of the approvals for the project and that its expected completion is November 2024.

CONCLUSION

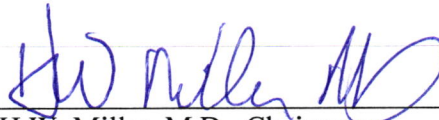
The Council concludes that the proposed change to the originally approved project represents an increase of approximately 34.5% in the cost of the project but does not substantially alter the nature and scope of the originally approved project.

Pursuant to 641 Iowa Administrative Code 202.14, the Council therefore approves the request to modify the Certificate of Need originally granted March 7, 2022, to \$29,300,000 as the approved cost of the project. The Council notes that the requested cost overrun is significant but that mitigating circumstances including inflation and supply chain issues exist, and that the nature and scope of the project have not changed since its original approval. The Council further notes that it relies on the existence of the maximum price agreement in approving a cost overrun of this magnitude.

The decision of the Council may be appealed pursuant to Iowa Code section 135.70 (2022).

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 24 day of March 2023



H.W. Miller, M.D., 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)
)
STEINDLER NORTH LIBERTY)
AMBULATORY SURGERY CENTER)
)
NORTH LIBERTY, IOWA)

DECISION

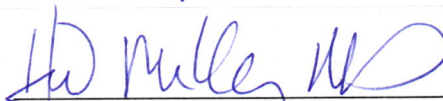
This matter came before the State Health Facilities Council for review on Tuesday, January 31, 2023. The applicant was represented by Robert Baudino, Baudino Law Group.

The project, the establishment of an ambulatory surgery center, was originally approved March 7, 2022, at an estimated cost of \$19,184,900; the new cost is \$29,300,000. The original completion date for the project was November 2023; the new completion date is November 2024. Steindler North Liberty Ambulatory Surgery Center (“SNLASC”) has retained the architect and engineering company as well as the construction manager at risk. SNLASC noted in their extension request that the original schedule allowed approximately six months for programming; schematic design and design development; construction documents and bidding negotiation to be completed; and 18-months for construction and contract administration. Ground breaking is expected to take place in March 2023. Programming and schematic design have been completed along with site planning. Final design development is underway and will be completed in the near future. As soon as this is finished construction documents will be completed and construction will begin. There have been some delays in the schedule, primarily related to building costs and the availability of materials. To date a total of \$1,105,736 has been spent on the project.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 4-0 to Grant an Extension of Certificate of Need per 641 Iowa Administrative Code 202.13. The decision is based upon a finding that progress has been made on the project.

The extension is valid for 12-months.

Dated this 24 day of March 2023



H.W. Miller, M.D., Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

**IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
MCFARLAND CLINIC, P.C.) **DECISION**
)
AMES, IOWA)

This matter came before the State Health Facilities Council for hearing on Tuesday, January 31, 2023.

The applicant applied through the Iowa Department of Health and Human Services (“Department”) for a Certificate of Need for the acquisition of a replacement PET/CT scanner at an estimated cost of \$2,738,212.

The record includes the application prepared by the project sponsor, written analysis prepared by Department staff, and the testimony and exhibits presented at the hearing. At the hearing Becky Swift of the Department summarized the project in relation to review criteria. Jeb Lee, Mike McKinney and Dr. Doug Lake represented the applicant.

No affected parties appeared at the hearing.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-0 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) (2022) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The project is the replacement of a PET/CT scanner at McFarland Clinic, P.C. (“Clinic”) in Ames, Story County, Iowa. According to testimony provided at the hearing, the new scanner will be a Canon Cartesion Prime SP PET/CT.
2. McFarland Clinic, P.C., is a physician-owned multi-specialty clinic with locations in Ames, Boone, Carroll, Fort Dodge, Iowa Falls, Jefferson, Marshalltown, Nevada, Story City, and Webster City. Currently, 200 physician’s practice at McFarland Clinic, representing a wide range of medical and surgical specialties. There are 1,379 total employees at the clinic.
3. Twelve board-certified radiologists work at the Clinic, and these physicians will be directly involved in the professional use of the PET/CT scanner.

4. According to the National Cancer Institute, a PET/CT scanner "combines the pictures from a positron emission tomography (PET) scan and a computed tomography (CT) scan. The PET and CT scans are done at the same time with the same machine. The combined scans give more detailed pictures of areas inside the body than either scan gives by itself. A PET-CT scan may be used to help diagnose disease, such as cancer, plan treatment, or find out how well treatment is working."
5. The project involves the removal of the current scanner and replacing it with a new PET/CT scanner. The current scanner was installed in 2009 and has reached a status where new, reliable parts are becoming difficult to obtain. The equipment has needed more frequent maintenance which has resulted in down time and delays in patient care. The existing scanner will be traded in as part of the new machine purchase.
6. The original PET scanner was originally a coordinated program between the Clinic and Mary Greeley Medical Center, which is located in Ames. The scanner was owned by Health Ventures of Central Iowa, a joint venture between the two entities. Changes in federal regulations forced Health Ventures to discontinue joint ownership and, after a complete review of available options, it was mutually decided that the Clinic would assume full ownership of the service. This occurred in 2007. The Clinic continues to operate the service and patients from Mary Greeley Medical Center have access to the scanner as needed.
7. According to testimony provided at the hearing, the Clinic received approval from the State Health Facilities Council to replace the PET scanner with the current PET/CT scanner, a Siemens Biograph mCT/PET/CT scanner in 2009.
8. The Clinic contracts with a variety of third-party payers, including Medicare and Medicaid, in order to ensure access to all patients in the clinic's service area.
9. The Clinic and Mary Greeley Medical Center have invested significant resources to develop The Bliss Cancer Center. The center provides comprehensive care by medical and radiation oncologists, and virtually all other needs associated with cancer detection, treatment and future monitoring. PET/CT scans are increasingly used in the diagnosis and treatment of oncology patients and the absence of this technology will lessen a patient's ability to receive the full spectrum of care. Maintaining a strong cancer program is an important element of the Clinic's long-term development and strategic plan, including the availability of PET/CT scans for its patients.
10. The primary service area for this project is Story, Boone and Marshall Counties. Noted is that in 2021, 65 percent of PET/CT patients at the Clinic were from one of these three counties.
11. Access to PET/CT services in the Ames area including Story, Boone, and Marshall counties is limited. UnityPoint Marshalltown provides limited PET/CT services via a mobile unit one day per week, which limits access to PET/CT studies. The next closest

PET/CT services are in Des Moines. In the absence of the new PET/CT scanner, patients would need to travel to Des Moines, Iowa City or other areas to receive their scan.

12. A permanently placed unit at the Clinic has and will continue to provide access five days a week which lowers wait times for this service and increases patient satisfaction.
13. The target population for scans will be patients receiving care from oncologists, radiation oncologists, urologists, or pulmonologists based in Ames with a condition in which a PET/CT scan will improve diagnosis and treatment of the patient's condition.
14. The new PET/CT scanner will be faster with higher image quality which will increase the Clinic's daily exam capacity and decrease patient wait time. This may lead to increased patient satisfaction as they will spend less time in the scanner.
15. This new equipment will allow the Clinic to potentially lower the injected radiopharmaceutical dose necessary to achieve adequate image quality, which would lower both the patient and the staff's exposure to ionizing radiation.
16. Contributing significantly to the need for this equipment is The Bliss Cancer Center. PET/CT scans are increasingly used in the diagnosis and treatment of oncology patients and the absence of current technology will reduce a patient's ability to receive the full spectrum of care from the cancer center.
17. While the demand for PET/CT scans is growing, the current scanner is becoming increasingly unreliable and more obsolete. The demand for diagnostic CT scans is also on the rise.
18. Advanced imaging exams, including CT scans, are often less costly to both patients and payers in the clinic setting. Stated by the applicant is that the replacement of the current unit will allow the Clinic to expand diagnostic CT services when not being used for PET/CT purposes. Further stated is that this will keep costs lower while increasing diagnostic capacity for the clinic's patient population.
19. The replacement of the current PET/CT scanner will ensure continued access to coordinated care for Clinic patients. Most patients utilizing these services are being monitored by several different medical specialists to ensure they are obtaining the most comprehensive care. The presence of these services in Ames allow patients to coordinate appointments which allows them to make fewer and shorter trips while still maintaining the ability to obtain comprehensive care. This results in less cost to the patient, both in mileage and time.
20. Several possible solutions were examined before concluding that the purchase of a replacement PET/CT scanner was the more effective solution, both financially and technologically, to fulfill current and future needs. These options included discontinuing scanning services; using the current scanner until it could no longer be repaired; and

replacing the current machine with a newer, identical machine with better replacement parts availability. The Clinic found these options undesirable.

21. There were two letters of support received. These letters were from Mary Greeley Medical Center and Story County Medical Center. These letters cite the collaboration between Mary Greeley and McFarland Clinic, which contributes to the high-quality, patient-focused care provided by both organizations to the residents of Story County and the surrounding area; the current scanner being over thirteen years old and reaching a point where reliable parts are becoming more difficult to obtain, and frequent maintenance leading to increased downtime and delays in patient care; the new PET/CT scanner being considerably faster with better image quality due to advances in technology; the new scanner allowing the clinic to potentially lower the injected radiopharmaceutical dose necessary to achieve appropriate image quality; and ensuring residents of Story County continue to have access to key diagnostic services close to home as reasons for their support.
22. There were no letters of opposition received.
23. No affected parties appeared at the hearing.
24. Two part-time employees, representing 1.5 FTE's, are currently needed to operate the PET/CT scanner. The applicant notes that with increased capacity, the need for additional staff or expanding the hours worked by current staff may occur.
25. The Clinic currently has a staffing relationship with Mary Greeley Medical Center that will allow for the sharing of a Nuclear Medicine technologist to help accommodate an expansion of the PET/CT patient schedule.
26. The project includes minimal construction in the scan room, which will mostly consist of cosmetic updates. In addition, alterations will be made to the hot lab and both patient holding rooms, and a second bathroom will be added.
27. The applicant has \$300,000 on hand and will borrow \$2,438,212 for this project. A letter from US Bank indicating the intent to loan the funds was provided.
28. There will be no operating deficit as a result of this project.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considered 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 notes that McFarland Clinic P.C. looked at several alternatives to replacing the PET/CT, including discontinuing scanning services, and found them undesirable. The Council notes that the current PET/CT scanner is nearing the end of its useful life and that obtaining replacement parts is becoming more difficult. They further note that the equipment has needed more frequent maintenance which has resulted in down time and delays in patient 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 are being, and will continue to be, used in an appropriate and efficient manner and will not be impacted by this project. The Council notes that McFarland Clinic P.C. is the only provider in Story County providing PET/CT scans and that the only other provider in the primary service area of Story, Boone and Marshall Counties is a one-day per week mobile service in Marshall County. Additionally, the Council notes that there were two letters of support and no letters of opposition, and that no parties in opposition appeared at the hearing, further supporting the conclusion that existing facilities are operating efficiently and will not be negatively impacted by this project. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that while alternatives were considered by McFarland Clinic P.C., this proposal is to replace an existing PET/CT scanner with a new model and there is only minor construction involved with this project. The Council notes this project involves cosmetic updates, the addition of a new bathroom and alterations to the hot lab and patient holding rooms. The Council further 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 135.64(2)c.

4. The Council notes that the presence of PET/CT services in Ames supports patients in coordinating appointments which allows them to make fewer and shorter trips while still maintaining the ability to obtain comprehensive care. The Council further notes that other than the one-day a week mobile service in Marshall County, patients would need to travel to Des

Moines, Iowa City or other areas to obtain their PET/CT scans. The Council also notes that the replacement of the current PET/CT scanner will ensure continued access to coordinated care for McFarland Clinic P.C. patients. They note that most patients utilizing these services are being monitored by several different medical specialists to ensure they are obtaining the most comprehensive care. The Council notes that the presence of these services in Ames allow patients to coordinate appointments which allows them to make fewer and shorter trips while still maintaining the ability to obtain care resulting in less cost to the patient, both in mileage and time. The Council, therefore, 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. Iowa Code Sections 135.64(1) and 135.64(2)d.

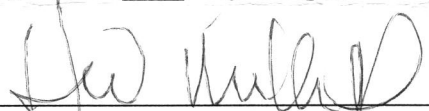
The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2022), led the Council to find that a Certificate of Need should be awarded.

It is required in accordance with 641 Iowa Administrative Code 202.12 that a progress report shall be submitted to the Iowa Department of Health and Human Services 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 Department. Requests for extension of a Certificate of Need must be filed in writing to the Iowa Department of Health and Human Services 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 13 day of April 2023



H.W. Miller, M.D., Chair
State Health Facilities Council
Iowa Department of Health and Human Services

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

**IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
ON WITH LIFE)
)
POLK CITY, IOWA) **DECISION**

This matter came before the State Health Facilities Council for hearing on Tuesday, January 31, 2023.

The applicant applied through the Iowa Department of Health and Human Services (“Department”) for a Certificate of Need for the relocation of 32 nursing facility beds from Mills to Polk County and the addition of eight beds for a total of 40 beds.

The record includes the application prepared by the project sponsor, written analysis prepared by Department staff, and the testimony and exhibits presented at the hearing. At the hearing Becky Swift of the Department summarized the project in relation to review criteria. Jean Sheldon and Dave Anders, On With Life, represented the applicant at the hearing.

The following affected parties in support appeared at the hearing, made remarks, and answered the Council’s questions: Teri Wahlig, MD, *ChildServe*; and Alyssa Miller, family member of an On With Life patient.

No affected parties in opposition appeared at the hearing.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-0 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) (2023) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. On With Life, Inc. proposes to establish a 40-bed long-term care skilled nursing facility in Polk City, Polk County, Iowa. This involves relocating 32 beds from its current location in Mills County to a vacant nursing facility in Polk County and adding eight new beds for a total of 40 beds at the Polk County location.
2. Since opening in 1991, On With Life has served more than 9,000 individuals and their families and expanded from a single inpatient program to seven programs, which serve Iowans with life-long and unique neuro rehabilitation needs.
3. On With Life fills a unique role in Iowa as a skilled brain injury program that is CARF (Commission on Accreditation of Rehabilitation Facilities) accredited as a Comprehensive

Integrated Inpatient Rehabilitation Program for Children and Adults specializing in brain injury and stroke.

4. On With Life plans to complete a corporate restructuring as part of this proposed project. On With Life's Long-Term Skilled Care Program currently operates under the entity known as On With Life, Ltd. That entity's parent company, On With Life, Inc., intends to dissolve On With Life, Ltd. and the Long-Term Skilled Care Program will move organizationally under the parent company, On With Life, Inc. .
5. Currently, On With Life's Long-Term Skilled Care Program is a 32-bed skilled nursing facility located in space leased from the State of Iowa on the campus of the Glenwood Resource Center ("GRC") in Glenwood, Mills County, Iowa. Noted during testimony is that this facility has remained full since it opened in 1996.
6. The Long-Term Skilled Care Program serves individuals who have experienced a brain injury and who need long-term care related to the complexity of their medical and life-long care needs. The individuals served in this program have high-level medical and rehabilitation needs that cannot be met in a traditional skilled nursing facility. The population served are those individuals with neuro-conditions such as stroke, traumatic brain injury, and Parkinson's Disease, among others. The medical acuity of those served in this program are almost double that of all other skilled nursing facilities in the State of Iowa.
7. The ages of those currently being served in the Long-Term Skilled Program range between 23 and 69. The current average age at admission is 31 and the average age of persons served in the program is 41. In response to a staff question, the applicant notes that older residents do not "age out." They state that each referral is reviewed on an individual basis and care plans are reviewed on an ongoing basis for appropriateness of placement and whether On With Life's Long-Term Skilled Care Program is or continues to be the right placement option.
8. The State of Iowa recently announced plans to close the entire GRC campus in 2024, which means On With Life must find an alternative location from which to provide the critical services it provides to Iowans with complex medical needs in its Long-Term Skilled Care Program.
9. Without the support of the current GRC infrastructure, On With Life does not have the means to manage the facility currently housing its Long-Term Skilled Care Program.
10. Thirty-two (32) of these proposed skilled nursing facility beds will be relocated from On With Life's existing Long-Term Skilled Care Program currently located on the GRC campus. They state that the Glenwood facility would close concurrently with the opening of the proposed facility in Polk City. On With Life will also add an additional eight beds to the new facility to meet the ongoing need for placement options for the brain injured population.
11. The facility will be dually certified for Medicare and Medicaid.

12. On With Life has seen an increase in need related to the populations it serves and the expertise it provides. Noted is that On With Life operates in the post-acute rehabilitation space. The applicant states that changes in the overall insurance model have pushed rehabilitation to more of a post-acute model. They note that less care and rehabilitation is provided in the acute setting and more care is getting pushed down the continuum to post-acute inpatient rehab, outpatient rehab and long-term care. They state that due to this increase in demand, On With Life’s long-range plan includes expansion efforts in both physical space and staff expertise to meet the growing need for expert neuro-rehabilitation services in Iowa.
13. The Long-Term Skilled Program received 207 referrals in FY 2022 and was only able to admit two individuals due to bed availability. There are no other long-term programs in Iowa offering individuals with severe brain injuries the care and services needed for this extremely complex and unique population. This is particularly true for individuals in the age range served by On With Life. If individuals are not able to be served by On With Life, they may need to leave the state to find treatment or be placed in an inappropriate facility setting, such as a traditional geriatric nursing home.
14. The calculated bed need formula indicates a current under-build in all seven counties contiguous to Polk County. The under-build for Polk County is 1,520 beds. Overall the eight-county area, as calculated by the bed need formula, is underbuilt by 3,004 beds. See the following table for additional bed information.

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

County	Projected 2027 Population Age 65+	# of NF Beds needed per bed need formula	# of licensed & approved NF Beds as of December 2022	Difference – Formula vs. Licensed & Approved
Polk	65,594	3,815	2,295	-1,520
Boone	5,819	406	310	-96
Dallas	10,499	614	529	-85
Jasper	8,401	586	267	-319
Madison	3,994	278	145	-133
Marion	7,092	498	291	-207
Story	14,320	1,033	539	-494
Warren	11,583	644	494	-150
Totals	127,302	7,874	4,870	-3,004

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

Data Source: DIA web site

Population projections – Woods & Poole Economics, Inc.

15. Over the span of the last three years, the total number of beds in the eight-county area has decreased by 31 beds. There has been a decrease of 56 beds in the past three years for Polk County. See the following table for additional detail.

**Nursing Facility Beds by County
Difference in Number Between December 2019 and December 2022**

County	# of NF Beds (facilities) as of December 2019	# of NF Beds (facilities) as of December 2022	Difference in # of NF Beds
Polk	2,351 (30)	2,295 (29)	-56
Boone	310 (4)	310 (4)	0
Dallas	489 (9)	529 (10)	40
Jasper	303 (6)	267 (5)	-36
Madison	145 (2)	145 (2)	0
Marion	301 (5)	291 (4)	-10
Story	481 (6)	539 (8)	58
Warren	521 (6)	494 (6)	-27
Totals	4,901 (68)	4,870 (68)	-31

16. There are no hospital-based nursing care units in the eight-county area.

17. There are currently 4,870 licensed and approved nursing facility beds in the eight counties with 1,609 licensed beds in dedicated CCDI units.

Number of CCDI Beds by County

County	# of CCDI Beds (facilities)
Polk	474 (6)
Boone	164 (2)
Dallas	238 (4)
Jasper	119 (2)
Madison	75 (1)
Marion	153 (2)
Story	252 (3)
Warren	134 (2)
Totals	1,609 (22)

Data Sources: DIA web site

18. 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
Polk	270 (8)	14	52 (2)	2,129 (22)	1,789 (25)
Boone	125 (1)	1	28 (1)	154 (3)	26 (1)
Dallas	30 (1)	1		396 (6)	186 (4)
Jasper			28 (1)	102 (2)	18 (1)
Madison					80 (1)
Marion	29 (1)	1		190 (2)	112 (3)
Story	16 (2)	1	30 (1)	404 (7)	257 (4)

Warren	14 (1)	1		322 (5)	286 (4)
TOTALS	484 (14)	19	138 (5)	3,697 (47)	2,754 (43)

Data source: DIA web site

19. The results of a phone survey conducted by Becky Swift in January 2023 of nursing facilities in the eight-county area show the facilities in Polk County range from 28% to 100% occupancy, for a county occupancy rate of 76%. The census at On With Life’s campus in Ankeny was 89%; however, On With Life indicated that they had two rooms being renovated and thus were out of service. If these two beds are not counted, the census for On With Life increases to 96%. There were facilities in Polk County with low census numbers. Reasons cited included staffing issues; units currently being closed; numerous discharges; and lower numbers being typical. The contiguous counties ranged in occupancy from 59% in Madison County to 83% in Marion County. The primary reasons cited for low censuses were lower numbers being typical; units being closed; a new building being licensed, but not yet taking new residents; and discharges and resident deaths.

**Survey of Nursing Facilities Located in Polk County
& Counties Contiguous to Polk County
Conducted January 2023**

Facility by County	Licensed Beds	Current Occupancy	Percent Occupied
POLK COUNTY			
Altoona Nursing and Rehab	106	86	81%
Azria Health Park Place	81	51	63%
Bishop Drumm Care Center	150	105	70%
Brio of Johnston	36	10	28%
Calvin Community	59	54	92%
ChildServe Habilitation Center	74	61	82%
Deerfield Retirement Community	30	22	73%
Fleur Heights	89	58	65%
Pine Acres Rehab and Care Center	140	72	51%
Genesis Senior Living Center	80	67	84%
Iowa Jewish Senior Life Center	72	49	68%
Karen Acres Healthcare Center	35	28	80%
Kennybrook Village	40	40	100%
Promedica Skilled Nursing and Rehab	120	95	79%
Mill Pond Retirement Community	60	51	85%
On With Life – Ankeny Campus	28	25	89%
Parkridge Specialty Care	90	85	94%
Prairie Vista Village	46	42	91%
Ramsey Village	78	67	86%
Scottish Rite Park Health Care Ctr.	51	28	55%
Sunny View Care Center	94	84	89%
The Bridges at Ankeny	100	80	80%
The Rehabilitation Ctr. Of Des Moines	74	67	91%

Trinity Center at Luther Park	120	102	85%
University Park Nursing & Rehab Ctr.	108	83	77%
Urbandale Health Care Center	115	81	70%
Valley View Village	79	67	85%
Walnut Ridge	60	18	30%
Wesley Acres	80	74	93%
TOTAL	2,295	1,752	76%
BOONE COUNTY			
Accura Healthcare of Ogden, LLC	46	38	83%
Eastern Star Masonic Home	76	51	67%
Madrid Home for the Aging	88	44	50%
Westhaven Community	100	59	59%
TOTAL	310	192	62%
DALLAS COUNTY			
Adel Acres	50	43	86%
Arbor Springs of WDM	56	55	98%
Cedar Ridge Village	40	30	75%
Edgewater	40	38	95%
Granger Nursing & Rehab Center	67	46	69%
Aspire of Perry	46	27	59%
Perry Lutheran Home	70	61	87%
Perry Lutheran Home Eden Acres	57	34	60%
Spurgeon Manor	55	46	84%
Independence Village of Waukee	48	38	79%
TOTAL	529	418	79%
JASPER COUNTY			
Accura Healthcare of Newton East	54	53	98%
Accura Healthcare of Newton West	53	28	53%
Newton Health Care Center	70	59	84%
Newton Village Health Care Center	24	18	75%
Wesley Park Centre	66	59	89%
TOTAL	267	217	81%
MADISON COUNTY			
QHC Winterset Care Center North	75	51	68%
Azria Health Winterset	70	35	50%
TOTAL	145	86	59%
MARION COUNTY			
Accura Healthcare of Knoxville, LTD	60	48	80%
Accura Healthcare of Pleasantville	53	45	85%
The Cottages	100	74	74%
West Ridge Specialty Care	78	75	96%
TOTAL	291	242	83%

STORY COUNTY			
Accura Healthcare of Ames, LLC	80	65	81%
Bethany Life	142	99	70%
Green Hills Health Care Center	56	43	77%
Northcrest Community	54	35	65%
Northridge Village	38	36	95%
Rolling Green Village	69	43	62%
Story Medical Senior Care	60	46	78%
Zearing Health Care	40	36	90%
TOTAL	539	403	75%
WARREN COUNTY			
Carlisle Center for Wellness & Rehab	80	61	76%
Good Samaritan Society –Indianola	131	58	44%
Norwalk Nursing & Rehab Center	45	38	84%
Regency Care Center	101	73	72%
The Village	54	51	94%
Westview of Indianola Care Center	83	52	63%
TOTAL	494	333	67%

20. On With Life has been very open and transparent with families and communicated their intent to relocate as soon as the decision was made. They note that families will be very involved in the design process for the proposed facility. In addition, the proposed facility will be centrally located in Iowa and provide more access for families who live throughout the state.
21. The lack of access to nursing facility beds that care for residents with brain injury impacts the entire State of Iowa.
22. Due to the unique complexity of the population served by On With Life, there are no alternatives available in Iowa. The applicant states that because On With Life is the only provider in Iowa providing long-term care for the level of need of this population, it would be catastrophic for persons served and their families if the proposed project was rejected. They state that out-of-state placement would be required for many individuals and even then, finding appropriate placement options would be limited.
23. On With Life’s main campus in Ankeny is only 10 miles from the proposed Polk City site, which provides the opportunity for shared staff and access to services, such as aquatic therapy. Additionally, notes the applicant, the facility in Polk City will provide more central access to Iowans throughout the state and access to the specialists and medical facilities located in the Des Moines market. Stated is that this includes the opportunity to be closer to the Long-Term program’s top referral sources – ChildServe in Johnston and On With Life’s Post-Acute program in Ankeny.
24. On With Life is a one-of-a-kind long-term skilled care program in Iowa, and they serve a unique population. There is a very high demand for the level of service On With Life

provides, and in the last calendar year On With Life had a waitlist that ranged from 15-25 individuals who were unable to find adequate services or placement options elsewhere.

25. There were nine letters of support submitted. These letters were from the Iowa Health Care Association, Leading Age Iowa, ChildServe, the City of Polk City, Go Polk City, UnityPoint Health – Des Moines, MercyOne Central Iowa Region, the Iowa Department of Health and Human Services – Iowa Medicaid Agency, and a family member. These letters cite the closure of the Glenwood Resource Center; the one of a kind long term care provided by On With Life; the service to patients with traumatic brain injury that most skilled nursing facilities do not have the resources to support; engaging patients in the local community as part of their individualized treatment plans; the service provided by On With Life being the most cost effective and highest quality patients with complex medical needs can receive; patients having to relocate out of state if On With Life is unable to relocate their residents to another specialized long-term care facility in Iowa; the excellent care provided by On With Life as reasons for their support.
26. There were no letters of opposition received.
27. On With Life will hire 22 new staff for the project, taking the total employee count to 77. Staff recruitment will begin 3-6 months prior to the opening of the new facility and On With Life will utilize its other services and rehab experts in the area to train and onboard new staff.
28. There will be no new construction associated with the project. There will however, be renovation to the existing facility.
29. The applicant states that they have \$1,434,582 cash on hand for the project, and will be borrowing \$5,500,00 and have \$1,000,000 in gifts and contributions for a total project cost of \$7,934,582. The applicant notes a turn-key cost of \$198,365 per bed. The applicant states that they will have an operating deficit through year three of the project and will break-even in year four. The applicant provided a letter from First National Bank indicating a preliminary loan commitment.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considered 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. Iowa Code Sections 135.64(1) and 135.64(2)a. The Council notes none of the facilities in the eight-county area are opposed to this project. The Council also notes that On With Life is the only facility in the state that provides services to severely brain injured patients. The Council notes that all of the beds at On With Life will be certified for Medicare and Medicaid. Further, because no construction is required at the facility to add the nursing facility beds, the Council finds that the On With Life proposal would meet a need in the state and that these beds can be added in a cost-efficient manner.

2. The Council concludes that existing facilities providing health services similar to those proposed are being, and will continue to be, used in an appropriate and efficient manner and will not be impacted by this project. Iowa Code Sections 135.64(1) and 135.64(2)b.

First, there are no existing facilities providing the same services as On With Life and, therefore, existing facilities will not be impacted by On With Life's proposal and will continue to provide other appropriate care. On With Life is a one-of-a-kind long-term skilled care program in Iowa, and they serve a unique population. There is a high demand for the level of service On With Life provides as illustrated by On With Care's waitlist over the past year ranging from 15-25 individuals who were unable to find adequate services or placement.

Second, the existing facilities in the seven contiguous counties will not be impacted because there are insufficient beds for these facilities across the board. The calculated bed need formula indicates a current under-build in the seven counties contiguous to Polk County, as well as an under-build of 1,520 beds for Polk County.. Overall, the eight-county area is underbuilt by 3,004 beds. Adding beds will not impact the existing facilities ability to continue providing appropriate services in an efficient manner.

Third, while utilization of the existing facilities in the contiguous counties, which ranges from 59-83%, is lower than the 85% preferred by the Council, On With Life's proposal does not undermine the appropriate and efficient delivery of services by existing facilities. The preferred utilization of other facilities is less important where, as there, the existing facilities do not provide the level of care provided by On With Life and those existing facilities are reluctant to take severe brain injury patients. Notably, and likely as a result of that reluctance, On With Life's utilization at 89% (and at 96% if out-of-operation beds are not included) remains high. Additionally, staffing issues (related to the Covid-19 pandemic and which have continued to be a problem) have lowered occupancy rates and, therefore, the ability of the existing facilities to meet the 85% utilization.

3. This project does not involve new construction.

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. Iowa Code Sections 135.64(1) and 135.64(2)d. On With Life will continue to serve patients with severe brain injury in the new facility. The Council notes that traditional nursing facilities often will not accept patients with severe brain injury, nor do they generally have staff that is appropriately trained to care for this population. The Council further notes that On With Life has had a consistent waiting list of 15-25 potential patients over the past year. Its Long-Term Skilled Program received 207 referrals in FY 2022 and was only able to admit two individuals due to bed availability. Those potential patients often have to travel out of state to find an appropriate placement when there are no bed openings.

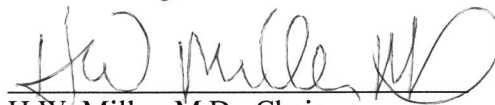
The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2023), led the Council to find that a Certificate of Need should be awarded.

It is required in accordance with 641 Iowa Administrative Code 202.12 that a progress report shall be submitted to the Iowa Department of Health and Human Services 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 Department. Requests for extension of a Certificate of Need must be filed in writing to the Iowa Department of Health and Human Services 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 13 day of April 2023



H.W. Miller, M.D., Chair
State Health Facilities Council
Iowa Department of Health and Human Services

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

**IOWA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE HEALTH FACILITIES COUNCIL**

IN THE MATTER OF THE APPLICATION OF)
)
SURGERY CENTERS OF IOWA, LLC) **DECISION**
)
DES MOINES, IOWA)

This matter came before the State Health Facilities Council for hearing on Tuesday, January 31, 2023.

The applicant applied through the Iowa Department of Health and Human Services (“Department”) for a Certificate of Need for the establishment of an ambulatory surgery center at an estimated cost of \$6,489,790.

The record includes the application prepared by the project sponsor, written analysis prepared by Department staff, and the testimony and exhibits presented at the hearing. At the hearing Becky Swift of the Department summarized the project in relation to review criteria. Doug Fulton, Brick Gentry Law, and Dr. Kevin Birusingh, Kathy Early, Mike Schindler, and Tom Hall, Surgery Centers of Iowa, LLC, represented the applicant.

No affected parties in support appeared at the hearing.

Affected parties in opposition included Alissa Smith, Dorsey & Whitney, LLP; Rob McCarville and Kim Utterback, West Lakes Surgery Center; Whitney Peyton and Janie Kinsley, Surgery Center of Des Moines – West; and Dr. David Ball.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 4-0 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) (2023) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The applicant seeks to establish Surgery Centers of Iowa, an Ambulatory Surgery Center (“ASC”) at a previous ASC site (Surgery Center of Des Moines – East) in Des Moines, which closed in 2021.
2. The ASC will serve as the flagship ambulatory surgery center for Urology Center of Iowa (“UCI”) surgeons as well serving as one of two freestanding outpatient surgical facilities available to patients in downtown Des Moines, Iowa.

3. The new ASC will contain pre-op and post op rooms, four operating rooms (“OR’s”) and two procedure rooms. One of the OR’s will contain a DaVinci XI Robot, which will be rented for a monthly fee.
4. The ASC will be a key component of Surgery Center of Iowa’s strategy to delivery urologic ambulatory surgery care to patients in the Des Moines metro and surrounding areas. Noted by the applicant is that adding an ASC to downtown Des Moines will increase access to care for vulnerable patients and provide them cost-effective treatment options previously unavailable.
5. The ASC will provide an affordable option to receive timely urologic surgical care in a convenient setting.
6. The project will be supported by 10 full-time urologists from UCI.
7. The facility will be certified for Medicare.
8. This project will allow UCI surgeons to perform a variety of procedures and robotic surgeries that have been difficult to schedule at area facilities due to extenuating circumstances such as robotic availability, hospital staffing and inadequate block time.
9. According to the American Urological Association, delaying elective surgery can adversely impact health outcomes, particularly for those patients with cancer diagnosis. They note that in addition to the medical impact of delayed surgical care, protracted wait time for surgeries causes anxiety, uncertainty, and symptom distress. The applicant notes that this claim is supported not only by UCI’s experience in scheduling surgical patients, but also is reflected in patient satisfaction surveys, where patients routinely mention surgery delays as a significant dissatisfier.
10. In their application, Surgery Centers of Iowa references patients seen at UCI in early November 2022 whose robotic surgery was scheduled for January 2023 at Mercy West because of insufficient access to the surgical robot. They noted at least 30 cases are being scheduled into the end of January or February 2023, giving these patients an average 60 day wait from the time they decide to have surgery. In addition, notes the applicant, block and robotic access is particularly poor for UCI patients who wish to have their surgery in the UnityPoint Health System, where there is not regular block or robotic time. These patients are often required to schedule at any available location or are waiting until several weeks for robotic access within UnityPoint.
11. UCI has been unable to obtain adequate robotic access for their volume of patients, resulting in delayed care. Furthermore, young, and otherwise healthy patients are often required to schedule surgery at acute care facilities due to lack of robotics in an ASC.
12. Benefits of an ASC include reduced wait times, reduced costs and personalized care.

13. The ASC's expected service area includes the entire Des Moines metropolitan area. It will also serve as the only ASC option for patients in downtown Des Moines, who wish to have non-orthopedic cases performed in a low cost-outpatient facility.
14. In addition to the Des Moines metropolitan area, the ASC is expected to perform surgeries for patients from UCI's greater service area, which includes Polk, Jasper, Warren and Madison Counties.
15. UCI has been relentless in their efforts to provide adequate robotic access for all their patients by partnering with hospitals, surgery centers and facilities in Des Moines, and have meet with these organizations to request additional block time and robotic access. Despite UCI's efforts, limited block time and scheduling constraints have contributed to delayed care. They state that it is their belief that the most efficacious path involves operation of their own single-specialty ASC.
16. UCI is currently operating at Broadlawns Medical Center, Mercy hospitals and UnityPoint hospitals and is performing non-robotic procedures at West Lakes Surgery Center. The applicant states that UCI is a growing surgical specialty with a significant market share within the urologic specialty.
17. UCI anticipates their impact to providers outside UCI to be minimal. Competing urologists have regular access to OR's through scheduled block time at UnityPoint and that this is expected to continue. Noted is that there are three urologists outside UCI and that they are located at the Iowa Clinic and that only one of these urologists performs robotic surgeries.
18. According to the American Urological Association, delaying elective surgery can adversely impact health outcomes, particularly for those patients diagnosed with cancer. In addition, protracted wait time for surgeries causes anxiety, uncertainty, and symptom distress.
19. There were two letters of support received. These letters were from a City Council Member-at-Large and a local real estate developer. The letters cite the benefit to the community, easy access for metro patients and cost-effective treatment options as reasons for their support.
20. There were two letters of opposition received. These letters were from Advanced Surgery Center of Central Iowa and Surgery Center of Des Moines-West. These letters cite duplicative and unnecessary services; excess capacity for outpatient surgery at existing facilities in Polk and Dallas Counties; no current patient delays associated with the types of outpatient surgeries the applicant proposes to perform; and no limitations on the number of operating rooms or the types of surgery the applicant could perform if the CON is approved; and a decline in ASC utilization as reasons for their opposition.
21. Affected party in opposition, Dr. David Ball, noted that Surgery Center of Des Moines – East was shut down due to low volume and that all of their patients were absorbed by

other ASC's in the area. Dr. Ball noted that there is already an abundance of ASC space in the area.

22. Other affected parties in opposition, representing West Lakes Surgery and Surgery Center of Des Moines - West, noted that they are operating below capacity. They also noted that they believe the Surgery Centers of Iowa costs are underestimated and that they never requested robotic surgery be added at West Lakes. Also noted was that Surgery Center of Des Moines – East met the 2012 FGI guidelines, but that those guidelines have been updated and a new ASC in that building would need to meet current guidelines.
23. The Des Moines metro hospitals and the Iowa Clinic did not write letters of or appear in opposition to the proposal.
24. During rebuttal testimony, Surgery Centers of Iowa noted that they have worked with the State Fire Marshal regarding the guidelines and will do what's needed to bring the building up to current standards. They also noted that they would serve an underserved population in the centrally located ASC.
25. The applicant will hire 19 new staff, primarily nurses, for the project, and that there will be 10 urologists who will own and operate the ASC.
26. There will be no new construction. The project will involve renovation, mostly cosmetic, of an already existing former ASC facility.
27. The applicant states that they will be borrowing \$4,267,062 and have \$2,222,728 in gifts and contributions from investors for a total project cost of \$6,489,790. A letter, from West Bank, indicating an interest in discussing the potential financing was provided.

CONCLUSIONS OF LAW

In determining whether to issue a certificate of need, the Council considered 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 notes that Surgery Centers of Iowa, utilizing an already existing former ASC building will perform urologic surgery in single specialty ASC. Also noted by the Council is that surgery performed in an ASC is less costly than hospital-based procedures. The Council further notes that Surgery Centers of Iowa, will also serve as the only ASC option in downtown Des Moines for patients who wish to have non-orthopedic cases performed in a low cost-outpatient facility. 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, and will continue to be, used in an appropriate and efficient manner and will not be impacted by this project. The Council notes that unlike existing ASCs, Surgery Centers of Iowa will perform urologic surgery, including robotic surgery, in a single specialty ASC. Noted by the Council is that Surgery Centers of Iowa has had difficulty scheduling this type of surgery in hospital or other ASC based settings. The Council notes that there are only three other urologists, who are affiliated with the Iowa Clinic, in the Des Moines area, and only one of them performs robotic surgery. Further, UCI will continue to perform a variety of surgical procedures at West Lakes Surgery associated with patients seen at UCI's west end location. Additionally, the Council notes that that there were two letters of support and that none of the metro hospitals nor the Iowa Clinic appeared in opposition at the hearing, further supporting the conclusion that existing facilities are operating efficiently and will not be negatively impacted by this project. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that there will be no new construction. Iowa Code Sections 135.64(1) and 135.64(2)c.

4. The Council notes Surgery Centers of Iowa will be located in downtown Des Moines, providing access to urologic surgery in a centrally located facility which is more accessible to an underserved population than the facilities in the western part of Polk County. The Council also notes a backlog of Surgery Centers of Iowa patients waiting for surgery and that that patients are having to schedule their surgeries, especially robotic surgery, weeks in advance, which can cause symptom distress and patient dissatisfaction. The Council further notes, that despite UCI's efforts, limited block time and scheduling constraints have contributed to delayed care. The Council, therefore, 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. 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) (2023), led the Council to find that a Certificate of Need should be awarded.

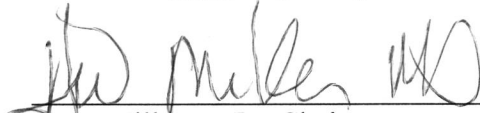
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approval. This report shall fully identify the project in descriptive terms. The report shall also reflect an amended project schedule if necessary.

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 Department. Requests for extension of a Certificate of Need must be filed in writing to the Iowa Department of Health and Human Services 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 13 day of April 2023

A handwritten signature in black ink, appearing to read "H.W. Miller", is written over a horizontal line.

H.W. Miller, M.D., Chair
State Health Facilities Council
Iowa Department of Health and Human Services

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