

MINUTES
STATE HEALTH FACILITIES COUNCIL
APRIL 14, 2014
BEST WESTERN METRO NORTH
133 SE DELAWARE, I-35 EXIT 92, ANKENY, IA

I. 9:00 AM ROLL CALL

MEMBERS PRESENT: Bill Thatcher, Chairperson, Bob Lundin, Roberta Chambers, Connie Schmett and Vergene Donovan.

STAFF PRESENT: Barb Nervig, Joy Harris and Heather Adams, Counsel for the State

II. PROJECT REVIEW

1. On With Life, Ankeny, Polk County: Add 2 skilled beds – \$557,000.

Staff report by Joy Harris. The applicant was represented by Pat Stilwill and Carla Dippold. The applicant made a presentation and answered questions posed by the Council. A motion by Chambers, seconded by Donovan, to enter exhibits presented in support of oral testimony into the record carried 5-0.

No affected parties appeared at the hearing.

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

2. St. Luke's Hospital, Cedar Rapids, Linn County: Acquire linear accelerator and CT scanner - \$4.9M.

Staff report by Barb Nervig. The applicant was represented by Doug Gross of Brown, Winick Graves; Sally W. Grey, Chairperson of Board of Directors; Kimberly Isester, Director of Cancer Care Services; Dr. Rasa Buntina, medical oncologist; Dr. Bobby (Nagendra) Koneker, radiation oncologist from Wendt Cancer Center in Dubuque; Ted Townsend, President and CEO of St. Luke's and Michelle Niermann, COO of St. Luke's.

A motion by Donovan, seconded by Chambers, to enter exhibits (slides) presented in support of oral testimony into the record carried 5-0. A motion by Lundin, seconded by Chambers to reject the letters received after the posted submittal deadline carried 5-0. The applicant made a presentation and answered questions posed by the Council.

Affected parties hearing at the hearing in opposition to the proposal were Ed McIntosh of Dorsey & Whitney representing Mercy, Cedar Rapids; Tim Charles, President and CEO of Mercy, Cedar Rapids; Rita Harris, Manager of Hall Radiation Center; Carisa Croff, nurse manager of cancer support services at Mercy; Dr. Janet Merfeld, Director of Hall Radiation Center; Sabre Riffel of Tama and Mary Quass, member of business community and Board of Trustees of Mercy.

A motion by Donovan, seconded by Schmett, to enter exhibits (slides) presented in support of oral testimony of the opposition, into the record carried 5-0.

A motion by Chambers, seconded by Donovan, to Grant a Certificate of Need carried 3-2. Lundin and Thatcher voted no.

3. Promise BirthCenter, Sioux Center, Sioux County: Establish a birth center - \$249,485.

Staff report by Barb Nervig. The applicant was represented by Doug Fulton of Brick Gentry Law; Nancy Dykstra, Director of Promise Community Health Center; Belinda Lassen, CNM; Cynthia Flynn, CNM; Ted Boesen, Iowa Primary Care Association; Caleb Widman of Lawton; Brittany Hamm and Pam Hulstein. The following signed in as representing the applicant, but did not speak: Molly Dekorne, Katie Schuller, Amy Kleinhesselink and Sarah Bradbury. The applicant made a presentation and answered questions posed by the Council.

Affected parties hearing at the hearing in opposition to the proposal were Alissa Smith of Dorsey & Whitney representing Sioux Center Hospital; Dr. Lorianna Anderson, family practice physician; Dr. Jian-zhe Cao, surgeon; Marilyn Vermeer, RN, Sioux Center Health; Kayleen R. Lee, CEO of Sioux Center Health; Marty Guthmiller, Orange City Hospital and Glenn Zevenbergen of Hegg Memorial in Rock Valley.

A motion by Donovan, seconded by Schmett, to Deny a Certificate of Need carried 4-1. Chambers voted no.

III. EXTENSIONS OF PREVIOUSLY APPROVED PROJECTS:

1. Newton Village, Newton, Jasper County: Build a 24-bed nursing facility -- \$5,221,964.

Staff reviewed the progress on this project. The applicant was represented by Adam Freed of Brown Winick Graves. A motion by Lundin, seconded by Chambers, to Grant a six month extension carried 4-0.

2. University of Iowa Hospitals & Clinics, Iowa City, Johnson County: Construct 11-story addition for Children's Hospital, adding 31 pediatric beds – \$284,973,751.

Staff reviewed the progress on this project. Brandt Echternacht was present representing the applicant. The applicant stated that occupancy of the children's hospital will occur in the Spring of 2016. A motion by Donovan, seconded by Schmett, to Grant a one year extension carried 5-0.

3. Simpson Memorial Home, Wilton, Muscatine County: Build 34-bed nursing facility as final phase of CCRC - \$3,993,700.

Staff reviewed the progress on this project. A motion by Lundin, seconded by Schmett, to Grant a six month extension carried 5-0.

IV. REQUESTS FOR DETERMINATION OF NON-REVIEWABILITY AND THE DEPARTMENT'S RESPONSE

1. ENT Clinic of Iowa, P.C., West Des Moines, Polk County: Expand medical office to a second location to provide same procedures as at current location which includes in office facial plastic surgery.

Staff report by Barb Nervig. A motion by Schmett, seconded by Donovan, to affirm the Department's determination, carried 5-0.

2. University of Iowa Hospitals and Clinics, Iowa City, Johnson County: Acquisition of Iowa City Cancer Treatment Center, including linear accelerator.

Staff report by Barb Nervig. A motion by Chambers, seconded by Donovan, to affirm the Department's determination that the linear accelerator would require a CON and the acquisition of the medical practice would not, carried 5-0.

V. APPROVE MINUTES OF PREVIOUS MEETING (NOVEMBER 2013)

A motion by Lundin, seconded by Donovan, to approve the minutes of the November 4, 2013 meeting, passed unanimously by voice vote.

**VI. DISCUSSION AND APPROVAL OF PROPOSED CHANGES TO IAC 641—
CHAPTER 202**

The proposed changes to chapter 202 were distributed to the Council members; Due to time restraints, the discussion of the changes was deferred to a future meeting.

The next meeting of the Health Facilities Council was set for Monday, July 21, 2014. An electronic meeting of the Council may be called prior to that date if needed.

The meeting was adjourned at 6:30 PM.

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

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

NEWTON VILLAGE, INC.)

NEWTON, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Monday, April 14, 2014.

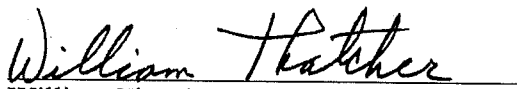
The project, the construction of a 24-bed nursing facility, was originally approved on October 19, 2011 at an estimated cost of \$3,322,655. A six month extension was granted on October 5, 2012 and a one year extension was granted on April 25, 2013. A request to modify the approved project with an increase in cost of \$1,899,309 for a new total project cost of \$5,221,964 was granted on January 10, 2013.

This request for extension states that nearly all major framing, electrical, plumbing, and mechanical and drywall work is now complete. The applicant states that due to a late start, harsh winter, the amount of construction currently underway in the area, and a shortage of construction workers, the project has been delayed by several months beyond the date set forth in the last extension request. The expected completion date is now June 2014.

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

The extension is valid for six months, until the October 2014 meeting of the Council.

Dated this 27 day of June 2014


William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

IN THE MATTER OF THE APPLICATION OF)
)
ON WITH LIFE, INC)
)
ANKENY, IOWA)

This matter came before the State Health Facilities Council for hearing on Monday April 14, 2014.

On With Life, Inc. applied through the Iowa Department of Public Health for a Certificate of Need.

No affected parties appeared at the hearing.

FINDINGS OF FACT

- 1**

4. Because of the specialized services provided at On With Life, a phone survey of other nursing facilities in the areas was not conducted. This proposal will not impact existing nursing facilities due to the unique nature of the services provided.
5. The need for additional beds is demonstrated by the applicant's occupancy rates and the following referral and denial numbers. In fiscal years 2011, 2012, and 2013 the post-acute rehabilitation program received 873 referrals. Of those, 113 individuals were denied admission because no bed was available. In the case of bariatric patients 2-4 individuals are turned away per year because On With Life was unable to meet their needs related to weight.
6. The applicant projects that the daily rate for nursing care will increase from \$1020 to \$1050. It is anticipated this will happen over the next 1.5 years to cover anticipated increases in wages, supplies, and other routine costs.
7. A less costly option was not identified by the applicant. The applicant had considered adding up to five beds but chose not to because any increase of more than two beds would have had significantly more costs related to staffing and the facility.
8. Twelve letters of support were received. No letters of opposition were received.
9. The applicant expects to fundraise the \$557,000 needed to complete the project as part of a capital campaign. The applicant did provide evidence that a bank loan could be received in the event that sufficient funding wasn't immediately available.
10. The applicant anticipates that three individuals will be hired to staff the 2 new beds. A nurse's aide and housekeeper will be hired as will an additional FTE in the area of case management or therapy.

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 notes that there is a significant need for beds for the type of services provided by the applicant and that no other post-acute programs in Iowa provide the same intensity of brain injury services, indicating a lack of other alternatives to the proposal. Iowa Code Sections 135.64(1) and 135.64(2)a.
2. The Council concludes that existing facilities providing health services similar to those proposed will continue to be used in an appropriate and efficient manner. The Council concludes that there are no existing facilities providing services of this nature in the state of Iowa, that no facilities objected to the proposal, and that this proposal will not impact existing facilities. Iowa Code Sections 135.64(1) and 135.64(2)b.
3. The Council concludes that this project involves the renovation of the existing facility to include not only the two patient rooms and bathrooms but also multi-purpose and corridor space. Iowa Code Sections 135.64(1) and 135.4(2)c.
4. The Council concludes that patients will experience problems in obtaining care of the type which will be furnished by the proposed changed health service, in the absence of that proposed service. The Council finds that 30% of the applicant's denied referrals are due to a lack of a bed. The Council further finds that 2-4 individuals are denied admission each year because the applicant is not currently equipped to provide services to bariatric patients. The Council concludes that patients will experience serious problems in obtaining care of the type furnished by the applicant in the absence of this project. Iowa Code Sections 135.64(1) and 135.64(2)d.

The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2013), led the Council to find that a Certificate of Need should be awarded.

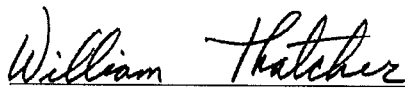
The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2013).

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 27th day of June 2014

A handwritten signature in cursive script that reads "William Thatcher". The signature is written in dark ink and is positioned above a horizontal line.

William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

IN THE MATTER OF THE APPLICATION OF)
)
PROMISE BIRTHCENTER)
)
SIOUX CENTER, IOWA)

This matter came before the State Health Facilities Council for hearing on Monday, April 14, 2014.

Promise Birth Center applied through the Iowa Department of Public Health for a Certificate of Need.

Affected parties appearing at the hearing in opposition to the proposal were Alissa Smith of Dorsey & Whitney representing Sioux Center Hospital; Dr. Lorianne Anderson, family practice physician; Dr. Jian-zhe Cao, surgeon; Marilyn Vermeer, RN, Sioux Center Health; Kayleen R. Lee, CEO of Sioux Center Health; Marty Guthmiller, Orange City Hospital and Glenn Zevenbergen of Hegg Memorial in Rock Valley.

FINDINGS OF FACT

- 1

2. Promise CHC currently provides prenatal and post-natal care, including home visits, to approximately 70 women per year with two employed Certified Nurse-Midwives (CNMs) and a Nurse-Practitioner with a specialty in Women's Health.
3. The applicant proposes the establishment of a birth center, with two birthing rooms, in Sioux Center. Currently, the only operating birth centers in Iowa are located in rural Corydon, Wayne County and in Des Moines, Polk County. Iowa does not require licensure of birth centers.
4. Promise Birth Center (PBC) will be a nurse-midwifery operated birth center that provides birth services for Promise Community Health Center clients. It will fulfill the request of the clients to have access to midwifery-led birth care, which is currently only available in the home.
5. The applicant states that women who come to the clinic use PCHC as their health home. The facility is for essentially healthy, ambulatory women carrying healthy babies. Promise Community Health Center (PCHC) was started in order to care for the medically underserved of the region without regard to ability to pay.
6. Nearly all of this population is rural and low-income, and a substantial percentage is Hispanic. Culturally, according to the applicant, these women use midwives and women care providers for their maternity needs, and tend to seek out female providers who will respect the natural birth process.
7. In addition, PCHC offers extra services, such as outreach, transportation, interpreting, on-site insurance enrollment, and navigation services to ensure that its clients receive quality health care.
8. At present, low-risk clients (except home birth clients) are transferred to the care of local family physicians when they reach 36 weeks of gestation. The applicant states that although the clients return to PCHC after the birth of their baby, they are disappointed that PCHC is not seeing them through to the end of their pregnancies.
9. Many of the applicant's clients do not wish to have a home birth, live outside the safe transfer zone (about 30 minutes) or have homes that are not suitable for a home birth. The applicant further states that the number of women the midwives can accommodate in a home setting is limited.
10. The applicant states that the women have asked that PCHC provide them with a facility where they can continue their care with their midwives through the whole maternity cycle, including the birth. In particular, the Latino Coalition and the Center for Assistance, Service and Advocacy (CASA) want PCHC to add a freestanding birth center.

11. The following statistics are listed by place of residence of the mother.

<i>Counties within the service area</i>	<i>2010 Live Births</i>	<i>2011 Live Births</i>	<i>2012 Live Births</i>
Sioux	527	497	510
Lyon	174	173	169
Plymouth	265	284	293
O'Brien	176	146	153
Osceola	59	62	80
TOTAL	1,201	1,162	1,205

12. There are six hospitals with labor and delivery services within the geographical area, three of which are in Sioux County. The applicant points out that of the approximately 1,200 births to residents of the five counties, only 750-800 give birth in hospitals located within those five counties.
13. The applicant states that hospital birth services throughout the five-county area are provided by family practice physicians and surgeries (i.e. C-sections) are performed by general surgeons. The closest obstetricians are located in Sioux City (45 miles away) or in Sioux Falls, South Dakota (55 miles away).
14. The applicant states that one CNM provides very limited home birth services in the Sioux City area and Sioux Falls has the closest hospital-based CNMs.
15. The applicant considers their service area to include Sioux, Lyon, Plymouth, O'Brien and Osceola counties. These are the same counties that Promise Community Health Center has been serving for the last five years. There is currently no operational freestanding birth center in this geographic service area as an alternative to hospital or home birth.
16. The applicant states the proposed facility is conveniently located in the heart of downtown Sioux Center, just one block off of Highway 75. It is only one block from EMS-ambulance services and four blocks from a critical access hospital. The health center and the proposed birth center strive to assist clients with transportation needs with a can donation program, which provides a fund for a regional transportation voucher, if needed.
17. The proposed project represents an alternative to hospital and home births. This application is in response to the applicant's clients' request.
18. The applicant has a goal to apply for accreditation by the Commission for the Accreditation of Birth Centers. Promise Birth Center (PBC) also intends to seek the Baby-Friendly designation, as the birth center will follow the ten steps required for accreditation as a Baby Friendly facility. The applicant states there are currently no designated Baby Friendly facilities in the state of Iowa.

19. The applicant projects the following number of births at the birth center:

<i>Counties within the service area</i>	<i>2014 Births</i>	<i>2015 Births</i>	<i>2016 Births</i>
Sioux	21	28	32
Lyon	7	10	11
Plymouth	12	16	18
O'Brien	7	9	10
Osceola	3	3	4
TOTAL	50	66	75

20. There are six hospitals with labor and delivery services that are located within the geographical area. The applicant provided the number of 2013 births at each of the hospitals based on newspaper reports and hospital personnel. The total number of births was 747.
21. The applicant states their fees to be \$4,500 for global maternity professional services, \$1,500 for newborn care and \$2,500 for the mother's facility service fee for a total of \$8,500. As a comparison, local charges for vaginal delivery with a one-day (or less) stay and no epidural medications or complications average: \$5,000 for the global maternity professional fee for the nearest hospital midwifery practice, \$3,612 for the mother's hospital charge, and \$1,870 for the baby's hospital charge for a total of \$10,482.
22. The applicant anticipates 6% of patient revenue from private pay, 24% from Medicaid, 30% from Wellmark and 24% from other insurance. The remaining 16% would be from Health Resources and Service Administration (HRSA), providing support for visits by Federally Qualified Health Center (FQHC) clients who are uninsured or who have special needs.
23. The applicant indicates that necessary personnel are already employed by PCHC. The applicant states that the two CNMs currently employed by PCHC have a variety of experiences in all practice settings.
24. The applicant states that a licensed RN will be on the premises at all times when a labor client is in the facility and a CNM will be present at all times when the woman is in active labor and until the mother and newborn are stabilized following delivery at the facility.
25. Promise uses a pool of 5-6 RNs who have extensive labor and delivery, post-partum, and newborn care experience.
26. The applicant does not have a formal transfer agreement with any local hospital.
27. The build out for the birth center includes a total of 2,313 square feet and will include two birth rooms with attached baths; a family room/library/kitchen; a CNM/RN work area/call room; a family bathroom and laundry and storage areas. The costs of the project are all related to the build out.
28. The applicant indicates the source of funds for the proposal will be cash on hand (\$39,485), gifts and contributions (\$55,000) and borrowing (\$155,000). The applicant has done

extensive research and has begun the pre-application process for obtaining funding through the USDA Rural Development's Community Facilities Program.

29. PCHC states they are financially stable with both positive cash flow and increasing net assets. They feel they are well-positioned to service the much-needed expansion of its facility.
30. There were 100 letters of support received for this proposal; several of these are from clients. Medical professionals, including physicians, nurse practitioners and CNMs also wrote in support. The supportive letters assert the birth center would offer a safe, natural alternative to a hospital birth for women who desire to have their birth attended by a CNM in a non-hospital setting.
31. There were 72 letters of opposition received; three of these from state legislators and several from local elected officials and residents who oppose the project primarily because of its potential impact on existing hospitals in the area. The Iowa Hospital Association submitted a letter of opposition citing the negative impact of this proposal on existing hospitals and the ability of those facilities to continue to offer a full range of health services to patients in the community, including charity care and emergency care. IHA also asserts that approval of the project would lead to declining OB patient volumes at the hospitals, which would hamper the hospitals' ability to recruit and retain family practice physicians.
32. Each of the six hospitals that provide labor and delivery services in the area submitted a letter of opposition and three appeared in opposition to the project at hearing. The existing hospitals oppose the project for several reasons, including the fact that ample capacity exists for labor and delivery cases at the existing hospitals and approval of the project would result in the duplication of these services. The family physicians practicing in these hospitals offer a family-centered approach to birthing in which there is no continuous fetal monitoring and laboring women are encouraged to labor naturally and without medical intervention unless necessary. The hospitals also provide services such as Spanish-speaking staff and care to low income patients. Additionally, the hospitals assert the approval of the project would result in fewer births in the area hospitals and thus have a negative impact on recruitment and retention of family practice physicians. The loss of family physicians in this area could have wide-ranging negative impacts as these physicians provide emergency room coverage and other health services, in addition to the obstetrical care.

CONCLUSIONS OF LAW

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

- a. Less costly, more efficient or more appropriate alternatives to the proposed institutional health service are not available and the development of such alternatives is not practicable;

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

1. The Council concludes that less costly, more efficient or more appropriate alternatives to the proposed health service are available. The Council concludes that a more efficient and appropriate alternative to the proposed health service currently exists through utilization of existing hospitals in the area, which have ample capacity for obstetrical patients. 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 currently being used in an appropriate and efficient manner but would be negatively impacted by this project. The Council finds that three of the four hospitals in Sioux County offer deliveries with 20 family physicians in the area able to do deliveries. The Council concludes that the proposed birth center would draw cases from those hospitals, adversely affecting the OB volume at those facilities and negatively impacting their ability to recruit family physicians. The Council is persuaded that the approval of this project could have a significant and detrimental long term impact on the community by reducing the numbers of family physicians available to care for all the residents of these communities and the full array of their health care needs. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the proposed project involves facility build out costs of \$249,485. Iowa Code Sections 135.64(1) and 135.4(2)c.

4. The Council concludes that patients will not experience serious problems in obtaining care of the type which would be furnished by the proposed health service, in the absence of that proposed service. The Council finds that in Sioux County there are three hospitals that provide birthing services. These hospitals are currently serving the patient population proposed to be served by the applicant, including offering services to women regardless of income, offering culturally sensitive services, and offering female providers who respect the natural birthing process. The Council concludes that patients in this community will not experience serious difficulties obtaining birthing services of this nature in absence of the proposed birth center. as these birthing services are readily available in the area. 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) (2013), led the Council to find that a Certificate of Need should be denied.

The decision of the Council may be appealed pursuant to Iowa Code Section 135.70 (2013).

Dated this 27th day of June 2014

William J. Thatcher
William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

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

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

SIMPSON MEMORIAL HOME, INC.)

WILTON, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Monday, April 14, 2014.

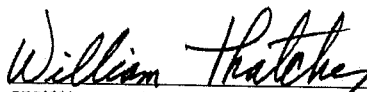
The project, the construction of a 34-bed nursing facility, was originally approved on October 5, 2012 at an estimated cost of \$3,993,700. A six month extension was granted on October 7, 2013.

The extension request states that all excavation, grading and site preparation is complete and all foundations have been cast in place, and all tie-ins to municipal utilities have been made. Severe winter weather and additional project scope has accounted for the difference in the original anticipated completion date and the currently projected completion date of June 10, 2014.

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

The extension is valid for six months, until the October 2014 meeting of the Council.

Dated this 27 day of June 2014



William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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

IN THE MATTER OF THE APPLICATION OF
ST. LUKE'S HOSPITAL
CEDAR RAPIDS, IOWA

This matter came before the State Health Facilities Council for hearing on Monday, April 14, 2014.

St. Luke's Hospital applied through the Iowa Department of Public Health for a Certificate of Need.

Affected parties appearing at the hearing in opposition to the proposal were Ed McIntosh of Dorsey & Whitney representing Mercy, Cedar Rapids; Tim Charles, President and CEO of Mercy, Cedar Rapids; Rita Harris, Manager of Hall Radiation Center; Carisa Croff, nurse manager of cancer support services at Mercy; Dr. Janet Merfeld, Director of Hall Radiation Center; Sabre Riffel of Tama and Mary Quass, member of business community and Board of Trustees of Mercy.

1. St. Luke's Hospital is a 532 bed not-for-profit hospital in Cedar Rapids. St. Luke's provides a comprehensive array of healthcare services including general medical and surgical services, cardiology, cardiothoracic surgery, orthopedics, oncology, neurology, neurosurgery, a stroke center, a neonatal intensive care unit, and rehabilitation.

2. St. Luke's currently provides care for approximately half of all patients diagnosed with cancer in Cedar Rapids. St. Luke's current cancer treatment includes surgery and chemotherapy, as well as intraoperative radiotherapy (IORT). St. Luke's received a CON to establish the IORT system in 2011. St. Luke's has been accredited and recognized for its treatment of cancer patients. St. Luke's is seeking to add fixed external beam radiation therapy to complete the continuum of care it offers to its cancer patients.
3. St. Luke's is the largest hospital in the state which does not offer its cancer patients external beam radiation services. St. Luke's attempted to establish radiation therapy services in 2009 through the purchase of a positron emission/computed tomography (PET/CT) scanner and a linear accelerator at an estimated cost of \$5,500,000. That application was denied on a 4-1 vote in August 2009.
4. St. Luke's cancer patients in need of radiation therapy must currently leave the facility and provider network, resulting in each patient being treated by a new set of health care providers and supporting team members from a different health care system. This movement between systems can result in delays, unnecessary costs, and duplication of testing and other services. The elderly and those who face mobility challenges are particularly impacted by having to travel to a different provider location and move outside of their chosen provider network.
5. For the current application, the applicant provided the following number of patients who received a diagnosis of cancer or who received their first line of cancer treatment at St. Luke's the last four years:

2010	2011	2012	2013 (annualized)
743	740	699	766

It is assumed that 50% of all cancer patients will require radiation therapy at some point in the course of treatment.

6. In 2008, St. Luke's diagnosed 712 new cancer cases, which they stated represented an increase of 22.5 percent over the previous six years. The numbers above for 2010 and 2011 are flat with a dip in 2012 and followed by an increase in annualized numbers for 2013.
7. Radiation oncology has been provided in Cedar Rapids at the Hall Radiation Center located on Mercy's campus since 1956.
8. In June 2005, Hall Radiation Center received a CON to add a tomotherapy linear accelerator bringing the total number of accelerators to three. The tomotherapy accelerator was put into service in 2006.
9. In 2009, Hall Radiation Center replaced their oldest accelerator (11 years old) with a Varian Trilogy and recently a replacement of the accelerator installed in 2001 was put into operation. This is a Truebeam accelerator, the same as St. Luke's is proposing to acquire.
10. The average age of the three accelerators at the Hall Radiation Center is less than 4 years.
11. Cancer is the leading cause of death in Iowa for individuals between the ages of 45 and 84. The following table displays the estimated new cancer cases for the three-county primary

service area and the four-county secondary service area. This table shows fairly steady numbers of new cases.

Estimated Number of New Cancers in Iowa
Source: State Health Registry of Iowa

County	2014	2013	2012	2011	2010
Linn	1100	1075	1100	1015	1015
Benton	135	140	145	130	140
Jones	125	120	125	110	110
Total	1360	1335	1370	1255	1265
Buchanan	110	120	130	115	115
Cedar	120	120	120	105	105
Delaware	110	100	110	105	105
Iowa	100	105	115	120	115
Total	440	445	475	445	440
Grand Total	1800	1780	1845	1700	1705

12. Attached to this decision and incorporated herein are two line graphs of invasive cancer incidence rates for both Linn County and the state as a whole. This data, the most current available, is for 2006-2010. The incident rate for Linn County is fairly consistent with the state as a whole.
13. At the time of the 2009 application St. Luke's, Mercy and the physician community were having discussions to establish a joint community cancer center. Both the applicant and Mercy stated in separate letters submitted to the Department that they were hopeful that a joint cancer center could be developed in Cedar Rapids.
14. In the current application, St. Luke's refers to a community cancer center that was formed through a partnership with Physician's Clinic of Iowa (PCI) and other Cedar Rapids' providers. The community cancer center is a separately incorporated non-profit that operates under the direction of a governing board comprised of members from St. Luke's, PCI and community stakeholders. The community cancer center is located in the PCI Medical Pavilion which opened in 2013 and is adjacent to St. Luke's Hospital campus.
15. The applicant stated at hearing that several changes have occurred since the 2009 application; including the enactment of the Affordable Care Act and the affiliation of Mercy Cedar Rapids with the University of Iowa Hospitals and Clinics in an Accountable Care Organization. In addition, the method of delivery of radiation therapy services has changed and the increasing complexity requires more time for certain treatments. The use of radiation therapy is also expanding, and the numbers of new cancer cases are steadily growing. Further, in 2009 Wellmark testified against St. Luke's proposal to add radiation therapy due to concerns about cost and need: notably Wellmark did not oppose the current application.
16. The applicant states they collaborate with a number of other health care providers in the Cedar Rapids community, including Physicians' Clinic of Iowa, P.C., the largest independent multi-specialty group in Cedar Rapids with over 80 board certified physicians and advanced practitioners.

17. Although Cedar Rapids is a metropolitan area, radiation therapy services do draw patients from a wider area than other services. Radiation therapy services are currently available at Mercy Medical Center in Cedar Rapids (three linear accelerators), as well as in Iowa City (four accelerators at UIHC and one freestanding accelerator operated by Dr. Tewfik), Waterloo (one radiation center operating two accelerators) and Dubuque (one radiation center operating two accelerators), all within similar travel times from the rural counties in the secondary service area of the applicant. In addition to these 12 accelerators already in use, the UIHC has received Council approval to purchase a proton beam radiation therapy system.
18. The applicant states the current proposal is the least costly option and provides cost savings and patient savings because the radiation therapy service would be provided in a free-standing facility.
19. The applicant states that funds for the proposal are available from cash on hand.
20. The applicant provided the following information regarding the total reimbursement for providing fixed external beam radiation therapy services in the case of the expected course of treatment for lung and breast cancer patients. The table compares the reimbursement to hospital versus a freestanding facility as proposed by the applicant.

Total Reimbursement to St. Luke's from Medicare

<i>Treatment</i>	<i>Hospital-based</i>	<i>Freestanding</i>
Lung	\$9,686	\$9,420
Breast	\$9,079	\$8,113

Total Reimbursement to St. Luke's from Wellmark

<i>Treatment</i>	<i>Hospital-based</i>	<i>Freestanding</i>
Lung	\$32,671	\$20,063
Breast	\$35,556	\$17,289

21. The applicant also provided information regarding the out-of-pocket savings for both Medicare and Wellmark patients that the freestanding facility provides versus a hospital based service.

Out-of Pocket Savings for Medicare Patients

<i>Treatment</i>	<i>Hospital (per patient cost)</i>	<i>Freestanding (per patient cost)</i>	<i>Savings (per patient)</i>	<i>% of Savings (per patient)</i>
Lung	\$2,412	\$1,884	\$528	21.9%
Breast	\$2,322	\$1,623	\$700	30.2%

Out-of Pocket Savings for Wellmark Patients

<i>Treatment</i>	<i>Hospital (per patient cost)</i>	<i>Freestanding (per patient cost)</i>	<i>Savings (per patient)</i>	<i>% of Savings (per patient)</i>
Lung	\$3,921	\$1,980	\$1,941	49.5%
Breast	\$4,267	\$2,130	\$2,137	50.1%

22. Mercy states that the patients to be served by St. Luke's will be patients otherwise served at the Hall Radiation Center and that the reduction in the number of patients treated at Hall will mean the cost of providing treatment per patient will increase as the costs must be spread over a significantly smaller patient base.
23. The applicant states that the linear accelerator will be purchased at an approximate cost of \$2.6 million with an estimated useful life of 7 years. The CT scanner will be purchased at a cost of \$950,000 with a useful life of 7 years. Finally, the facility build out is \$1.35 million. The application states that the \$4.9 million dollars is available from cash on hand.
24. The CON standards state that there should be no additional megavoltage radiation therapy units of comparable size within 90 minutes surface travel time of existing units which would reduce the projected volume of treatments per annum in existing units of comparable size to less than 6,000 treatments per annum and which would result in less than 300 projected new patients per annum for that existing unit. IAC 641—203.3(3)b(4).
25. Utilization data of existing radiation therapy services was provided by four of the providers in the area as displayed below. In addition, Mercy Medical Center in Dubuque submitted a letter stating the overall volume of radiation therapy services provided in Dubuque has steadily declined, with actual reductions of 5% in 2011 and 6% in 2012; with a projected drop of 4% in 2013.

In the following tables, the last row (shaded) displays the average number of treatments per accelerator.

University of Iowa Hospitals and Clinics (four linear accelerators)
Historical and Estimated Radiation Therapy Treatments

<i>FY 2011</i>	<i>FY 2012</i>	<i>FY 2013</i>	<i>FY 2016</i>	<i>FY 2017</i>	<i>FY 2018</i>
20,191	20,457	18,711	19,782	20,178	20,582
5,048	5,114	4,678	4,946	5,045	5,146

Iowa City Cancer Treatment Center (one linear accelerator)
Number of Radiation Therapy Treatments

<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
4,240	3,580	3,920	3,260	3,280
4,240	3,580	3,920	3,260	3,280

Covenant Medical Center, Waterloo (two linear accelerators)
Number of Radiation Therapy Treatments

<i>FY 12</i>	<i>FY 13</i>	<i>FY 14</i>
13,213	12,225	10,107
6,607	6,113	5,054

Hall Radiation Center, Cedar Rapids (three linear accelerators)
Number of Radiation Therapy Treatments (Actual and Projected)

<i>CY 2011</i>	<i>CY 2012</i>	<i>CY 2013</i>	<i>CY 2014</i>	<i>CY 2015</i>	<i>CY 2016</i>
14,488	13,543	14,591	14,600	14,600	14,600
4,829	4,514	4,864	4,867	4,867	4,867

26. The applicant does not specify the number of FTEs this project would require. St. Luke's currently obtains the services of a dosimetrist, a physicist, and three radiation therapists for routine support of the IORT program pursuant to a contract with Radiological Physics Consultants, Inc. The applicant has a commitment from this group to expand its support as necessary.
27. St. Luke's also works with radiation therapists from other UnityPoint Health hospitals. The applicant is currently completing an agreement with a radiation oncology group that supports another UnityPoint Health hospital to bring a full-time radiation oncologist to St. Luke's to direct and provide radiation therapy services. This agreement is contingent upon approval of this project.
28. Four letters of support for the proposal of St. Luke's to offer radiation therapy services were submitted by the posted deadline for submittal of letters from affected parties; including the Physician's Clinic of Iowa, the largest independent multi-specialty group in Cedar Rapids, which noted that St. Luke's current lack of radiation services can result in a fragmented treatment plan and a burden on patients who are already experiencing difficult circumstances. In addition, other health care providers in Cedar Rapids noted the disruption and confusion that patients experience when they must leave the St. Luke's system, and the negative impact this has on the mental, physical, and clinical outcomes of patients.
29. Thirty-two letters of opposition were submitted by the posted deadline for submittal of letters from affected parties, including Mercy officials and board of trustee members, community businesses, UIHC, and other health care providers. Those in opposition feel that the proposal is a costly duplication of service and that there is sufficient existing capacity for radiation services in this community.

CONCLUSIONS OF LAW

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

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

1. The Council concludes that less costly, more efficient or more appropriate alternatives to the proposed health service are not available and the development of such alternatives is not practicable. The Council concludes that radiation therapy services currently offered at the Hall Radiation Center are no longer an appropriate alternative to the proposed project. The Council finds that over half of all patients diagnosed with cancer in Cedar Rapids are treated by St. Luke's, and that continuing to require this significant volume of patients to navigate two distinct health systems to receive radiation therapy is not an efficient or appropriate alternative. The Council further concludes that the cost of care at the proposed free-standing facility will be lower than services at a hospital based facility and thus represents a less costly alternative than a hospital based 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 currently being used in an appropriate and efficient manner and will not be impacted by this project. The Council finds that the steady increase in new cancer cases, the complexity of cases treated with radiation, the expanding use of radiation therapy, and the patient volumes will result in existing facilities being utilized efficiently. Iowa Code Sections 135.64(1) and 135.64(2)b.

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

4. The Council concludes that patients will experience serious problems in obtaining care of the type which will be furnished by the proposed changed health service, in the absence of that proposed service. The Council concludes that cancer patients who begin their cancer care at St. Luke's will experience difficulties negotiating two distinct health systems if they require radiation therapy services. The Council is persuaded by the needs of the significant volume of patients currently treated at St. Luke's who reasonably expect a large community hospital like St. Luke's to offer radiation therapy as a component of cancer care. The Council is particularly concerned about the needs of the elderly and the disabled, who may experience increased stress and challenges in having to travel to different provider locations and navigate a new provider network and for whom one accessible location will result in streamlined care and less challenges. 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) (2013), 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 (2013).

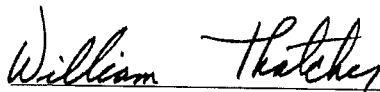
It is required in accordance with Iowa Administrative Code 641- 202.12 that a progress report shall be submitted to the Iowa Department of Public Health six (6) months after approval. This report shall fully identify the project in descriptive terms. The report shall also reflect an amended project schedule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

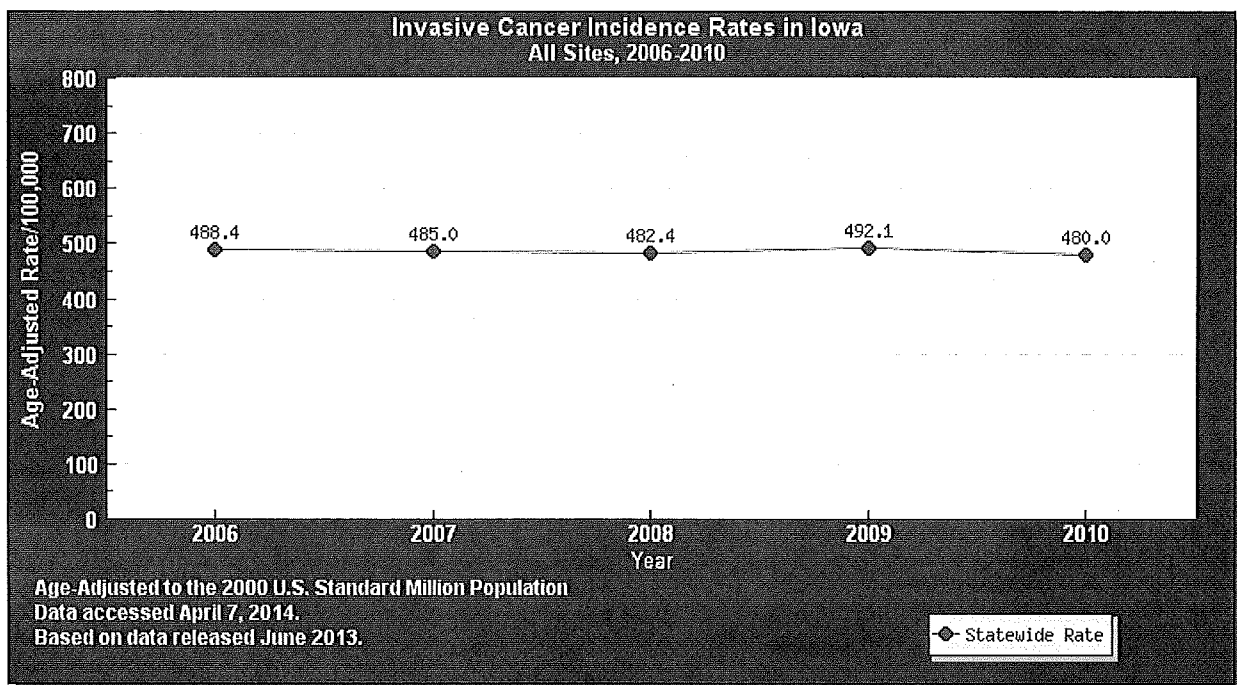
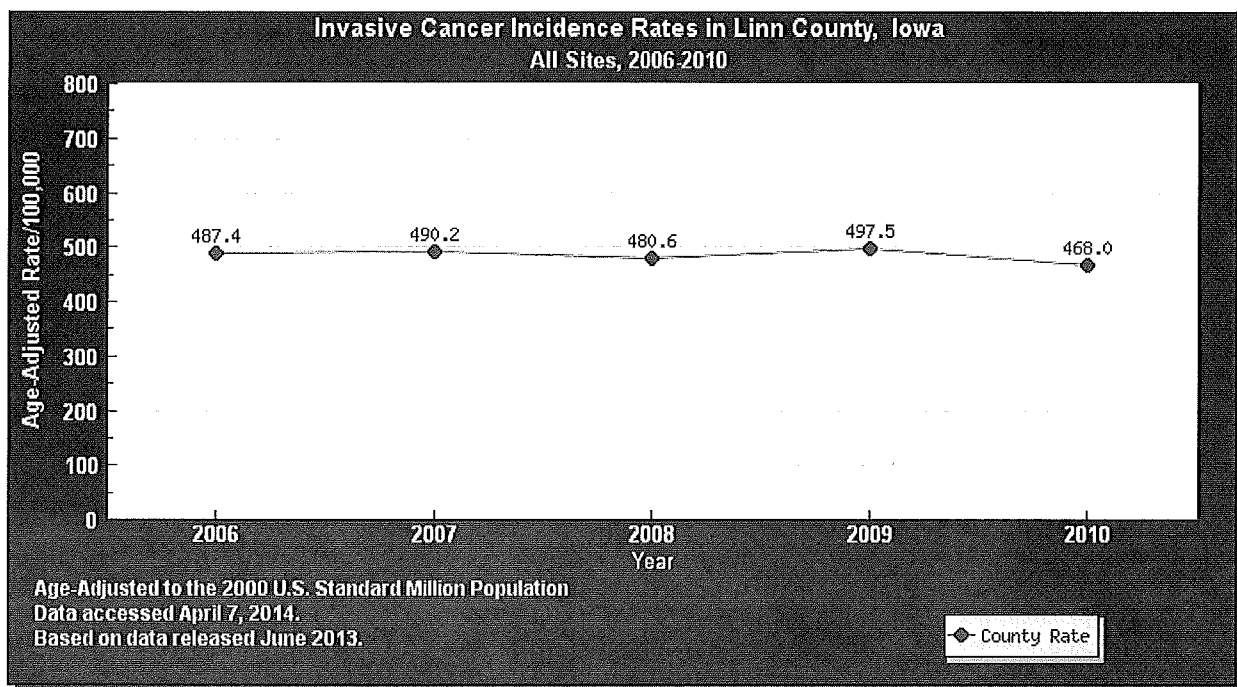
No changes that vary from or alter the terms of the approved application including a change in the approved dollar cost shall be made unless requested in writing to the department and approved. Failure to notify and receive permission of the department to change the project as originally approved may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

Dated this 27th day of June 2014

A handwritten signature in cursive script that reads "William Thatcher". The signature is written in dark ink and is positioned above a horizontal line.

William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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



Source: State Health Registry of Iowa

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

IN THE MATTER OF THE)
CERTIFICATE OF NEED EXTENSION FOR)
UNIVERSITY OF IOWA HOSPITALS & CLINICS)
IOWA CITY, IOWA)

DECISION

This matter came before the State Health Facilities Council for review on Monday, April 14, 2014.

The project, the construction of an eleven story addition for University of Iowa Children's Hospital, adding 31 pediatric beds, was originally approved on April 12, 2011 at an estimated cost of \$284,973,751. A one year extension was granted on April 4, 2012 and a second one year extension was granted on April 25, 2013.

The request for extension states that the project is being accomplished in three major phases, with several sub-phases/projects included as part of each major phase. The first phase, which began in 2011, consisted of site preparation work. Major components of this phase have been completed and consisted of the relocation and augmentation of below grade utilities, and the relocation of the west campus transportation hub. Excavation of the site for the new UI Children's Hospital tower commenced in late 2012 and is now complete. Design work for the second major phase, construction of the new building, continues. All major construction packages have been bid and awarded. Construction of the interior finishes is scheduled to begin during the summer of 2014 and be completed in spring of 2015.

The new Children's Hospital building is scheduled to be completed in October 2015 with occupancy scheduled for March 2016. This represents the same five month delay that was noted in the 2012 extension request. No additional delays are anticipated with construction and occupancy of the new Children's Hospital building. Programming and design work associated with the renovation of existing hospital space in the adjacent Pappajohn Pavilion for pediatric outpatient services is underway. This work will be accomplished in several sub-phases with the final sub-phase to be completed and occupied in early 2018, which is about 12 months beyond the date indicated in the application.

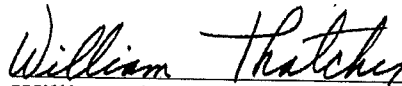
Finally, to date, \$28.1 million in total pledge commitments have been secured through the University of Iowa Foundation in support of the new UI Children's Hospital project.

The Council, after reading the extension request and hearing comments by staff and the applicant, voted 5-0 to Grant an Extension of Certificate of Need per Iowa Administrative

Code 641—202.13. The decision is based upon the finding that adequate progress is being made.

The extension is valid for one year, until the April 2015 meeting of the Council.

Dated this 27 day of June 2014

A handwritten signature in cursive script that reads "William Thatcher". The signature is written in dark ink and is positioned above a horizontal line.

William Thatcher, Chairperson
State Health Facilities Council
Iowa Department of Public Health

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