



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of
Health and Social Services**

OFFICE OF RATE REVIEW

Certificate of Need Program

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January 9, 2015

Via email & US Mail

Richard Davis, Chief Executive Officer
Central Peninsula General Hospital
250 Hospital Place
Soldotna, AK 99669

Re: Request for Determination dated 11-21-2014, Central Peninsula Hospital

Dear Mr. Davis,

Thank you for your letter dated November 21, 2014 in which Central Peninsula Hospital (CPH) formally requests a determination in accordance with 7 AAC 07.031 as to whether converting prior approved shelled-space in the Specialty Clinics Building into endoscopy and procedure room suites requires a Certificate of Need (CON).

CPH received a CON on January 8, 2014 to construct its Specialty Clinics Building. However, that CON expressly denied the part of the project that was dedicated to the addition of endoscopy and procedure room services. The denial of the endoscopy and procedure room services was reinforced by two conditions that were attached to the CON. The conditions read as follows:

***Appendix A:** Approval of this certificate is conditioned on the premise that any 'shelled in' or other space planned for conversion to additional surgical suites at a later date must go through the Certificate of Need process and be approved by the Department, regardless of the cost, prior to expending any funds for conversion or operation.*

***Appendix B:** Approval of this certificate is conditioned on the premise that prior to using or converting any or all space that was dedicated to the components of the Certificate of Need application that were denied by the Commissioner—namely . . . Endoscopy/Procedure Room services—which is now estimated to be 7,400 square feet in 'shelled in' space, Central Peninsula Hospital must request a formal determination from the Department as to whether a Certificate of Need is required for the intended use or conversion of that space prior to expending any funds for conversion or operation.*

Since these conditions clearly apply to CPH's request for determination, this analysis must first determine whether the conditions are properly satisfied before it can evaluate project costs and other pertinent elements.

Analysis of Conditions

Appendix B, which is the second condition to CPH's Specialty Clinics CON, requires CPH to request a formal determination prior to using or converting space that was dedicated to the originally requested endoscopy/procedure room services. CPH's act of submitting its request for determination dated November 21, 2014 satisfies the requirements of Appendix B. However, Appendix B still raises a key question that is the foundation to CPH's request for determination: whether a CON is required for CPH's intended use or conversion of its shelled-in space? This question is answered through an analysis of Appendix A and the project's costs.

Appendix A, which is the first condition to CPH's Specialty Clinics CON, requires that any conversion of space in the Specialty Clinics Building to an additional surgical suite must be approved by the Department by way of a CON application, regardless of cost. Therefore, this condition requires CPH to obtain a CON if it intends to use or convert its shelled-in space to additional surgical suites.

After a close review of the documentation submitted by CPH in its request for determination, it is clear that CPH's current proposal neither intends to use or convert shelled-in or other space to additional surgical suites. Rather, CPH is seeking to convert shelled-in space to two procedure rooms where "non-surgical procedures" will be performed. This is reinforced by CPH's express recognition that Appendix A "specifically prohibits surgery suites from being constructed in the new SCB without first going through the CON process."

The CON Program's requirement for capacity as it relates to general surgery services only concerns general surgery services that occur in an operating room. Since CPH is only adding procedure rooms, there will be no additional operating rooms, so there is no additional capacity for general surgery services that take place in an operating room. Accordingly, CPH's proposal satisfies the requirements of Appendix A because it does not include conversion to or addition of any surgical suites.

Since CPH's proposal properly satisfies both Appendix A and Appendix B, this analysis shifts to determine whether the project requires a CON based on costs.

Analysis of Project Costs

CPH's certified cost estimate for this project is \$864,232. While this full amount is dedicated to furniture, fixtures, and equipment, there are several other cost descriptions listed, but the descriptions lack actual cost amounts. Rather, each description is accompanied by the following language: "approved Jan 8, 2014 Specialty Clinics Building CON." CPH is essentially saying that the cost of this project is only \$864,232 because all of the other ordinary costs associated

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with this type of project have already been approved, and potentially expended, in the building of the shelled-in space where the proposed suites will be located.

Based on this logic, the activity of constructing the proposed suites is being financed with the activity of constructing the Specialty Clinics Building. On its face, one could contend that the proposed project is actually a “phased activity” under 7 AAC 07.025(d), and thus must be considered as part of the Specialty Clinics Building project.

CPH’s proposal does appear to meet the definition of a phased activity, so it is proper to analyze the other costs that affect the space conversion. However, that analysis was already completed by CPH because it is correct in its conclusion that the other costs were scrutinized by the Department and approved in the Specialty Clinics Building CON. In fact, review and approval of those costs specifically recognized that they were being dedicated to shelled-in space, and that the shelled-in space would likely be converted in the future (hence the addition and consideration of Appendices A and B). Accordingly, even after considering CPH’s proposal in light of the Specialty Clinics Building project, the total project cost of \$864,232 is correct, and this amount is below the \$1.5 million statutory threshold per AS 18.07.031.

Conclusion

CPH’s proposed project fully satisfies Appendices A and B, which are conditions to its Specialty Clinics Building CON. CPH’s proposed project, which has a proper cost estimate of \$864,232, is below the \$1.5 million statutory threshold per AS 18.07.031. Since all conditions have been met, and since the project is below the CON statutory threshold, CPH’s proposed project does not require a CON. Please be aware, this determination has no effect on the conditions to CPH’s Specialty Clinics Building CON, meaning the conditions are still in full effect and will continue to be enforced by the Department in the future.

If you are dissatisfied with this determination, you may request reconsideration under 7 AAC 07.033. A request for reconsideration must be postmarked no later than 30 days after publication of the public notice. If you wish to revise your request for determination, or apply for a CON, please notify the CON Program immediately.

Sincerely,

Jared C. Kosin
Executive Director, ORR, DHSS