

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

Monday, March 7, 2022

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 is impractical due to the schedules of the Council members and the resources of the Department. The meeting was 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. The meeting was recorded.

9:00 AM Roll Call

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

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

OTHER STAFF PRESENT: Heather Adams, Counsel for the State

OTHERS PRESENT: Robert Baudino, Jr. Esq., Baudino Law Group and Dr. Taylor Dennison, Steindler North Liberty Ambulatory Surgery Center; Dr. Brent Overton, Dr. Brent Whited, Dr. Brian Wells and Patrick Magallanes, Steindler Orthopedic Clinic; and Will Downing AIA, RDG Planning and Design; Mike Trachta, Mercy Iowa City; Ryan Heiar, City of North Liberty; Tom Cilek, Patient; and Tracy Christopher, Patient.

I. APPROVAL OF MINUTES OF PREVIOUS MEETING (February 9, 2022)

A motion by DeJong, seconded by Perrin, to approve the minutes of February 9, 2022, carried unanimously by voice vote.

II. PROJECT REVIEW

1. Steindler North Liberty Ambulatory Surgery Center, North Liberty, Johnson County – Establishment of an Ambulatory Surgery Center
\$17,900,000

Staff report by Becky Swift. The applicant was represented by Robert Baudino, Jr. Esq., Baudino Law Group and Dr. Taylor Dennison, Steindler North Liberty Ambulatory Surgery Center; Dr. Brent Overton, Dr. Brent Whited, Dr. Brian Wells and Patrick Magallanes, Steindler Orthopedic Clinic; and Will Downing AIA, RDG Planning and Design. The applicant made a presentation and answered questions posed by the Council. A motion by Perrin, seconded by DeJong, to enter the exhibit presented by the applicant in support of oral testimony into the record carried unanimously by voice vote.

Affected parties in support included Mike Trachta, Mercy Iowa City; Ryan Heiar, City of North Liberty; Tom Cilek, Patient; and Tracy Christopher, Patient. The affected parties in support each made remarks.

There were no affected parties in opposition.

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

The Chair noted that the next regular meeting of the Council would be held May 18 and/or 19, 2022. He indicated that there could be eight to nine applications and to plan on meeting both days. Discussion arose regarding the number of potential applications and keeping applicant remarks to a minimum, and whether the meeting would be held in person. The Chair reminded Council members that they are not reimbursed for any expenses. Swift asked Council members to let her know via email if they would prefer to meet in person or via Zoom in May.

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

The meeting adjourned at 11:59 AM.

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

IN THE MATTER OF THE APPLICATION OF)
)
STEINDLER NORTH LIBERTY AMBULATORY)
SURGERY CENTER) **DECISION**
)
NORTH LIBERTY, IOWA)

This matter came before the State Health Facilities Council for hearing on Monday, March 7, 2022.

The applicant applied through the Iowa Department of Public Health for a Certificate of Need for the establishment of an ambulatory surgery center at an estimated cost of \$19,184,900.

The record includes the application prepared by the project sponsor and written analysis prepared by Iowa Department of Public Health staff and all the testimony and exhibits presented at the hearing. Becky Swift of the Iowa Department of Public Health summarized the project in relation to review criteria. Robert Baudino, Jr., Esq., Baudino Law Group and Dr. Taylor Dennison, Steindler North Liberty Ambulatory Surgery Center; Dr. Brent Overton, Dr. Brent Whited, Dr. Brian Wells and Patrick Magallanes, Steindler Orthopedic Clinic; and Will Downing, AIA, RDG Planning and Design represented the applicant. The applicant made a presentation and answered questions.

Affected parties in support included Mike Trachta, Mercy Iowa City; Ryan Heiar, City of North Liberty; Tom Cilek, patient; and Tracy Christopher, patient. The affected parties in support each made remarks.

No affected parties in opposition appeared at the hearing.

The Council, after hearing the above-mentioned testimony and after reading the record, voted 5-0 to grant a Certificate of Need. As a basis for their decision the Council, considering all the criteria set forth pursuant to Iowa Code Section 135.64 (1 and 2) (2021) made the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The applicant proposes to build Steindler North Liberty Ambulatory Surgery Center (“SNLASC”), which will be dedicated to orthopedics, in North Liberty, Iowa.
2. SNLASC will be wholly owned by Dr. Taylor Dennison, an orthopedic surgeon who is a partner with Steindler Orthopedic Clinic in Iowa City. Dr. Dennison also wholly owns North Liberty Physician Real Estate, LLC (“NLPRE”), from which SNLASC will be leased. Noted in the application is that, while its surgeons will provide services at the new facility, Steindler Orthopedic Clinic has no ownership in, or control over, SNLASC or NLPRE.
3. The total cost of a one year lease is \$1,300,000. The term of the lease is 10 years with the option to renew.

4. The applicant states that patients and payers are seeking access to more convenient, comfortable, and less expensive options for outpatient services closer to home, with shorter wait times and more personalized care. They further state that ambulatory surgery centers ("ASC") deliver each of these in a non-hospital setting that is, on average, 40% less costly than outpatient hospital settings.
5. SNLASC will take its responsibility to ensure that the medically underserved have access to high-quality medical care very seriously.
6. The applicant states that over 50% of patients needing outpatient orthopedic procedures are 65 years and older. Further noted is that SNLASC will accept patients across commercial insurance, Federal and State programs, as well as employer and private pay patients.
7. The applicant states that they will seek Medicare certification as an ambulatory surgery center.
8. The applicant notes a payor mix of .05% private pay; 45% Medicare; 7% Medicaid; 35% Blue Cross/Blue Shield; and 12.5% other private insurance.
9. In addition to SNLASC being developed by NLPRE, Steindler Orthopedic Clinic will lead the development of a 36 acre medical campus where it plans to relocate its physicians and staff from its current location in Iowa City. Also in development on the campus are an orthopedic clinic and a private practice physician office building. This campus could include a hospital and hotel in the future. Noted during testimony was that the physical location of the ASC would be within the vicinity of the orthopedic clinic building, allowing on-site therapy services.
10. Noted by the applicant was that the application and requested Certificate of Need are for the ASC only.
11. SNLASC is needed to provide Steindler Orthopedic Clinic surgeons, who will provide surgery and other procedures at the facility, with additional capacity and state-of-the-art robotic surgery capability to continue providing eastern Iowans with timely access, high-quality surgical outcomes, and improved patient experience.
12. Care will be provided to the entire age range of the population of Johnson County, the primary service area, and the surrounding counties, including Cedar, Muscatine, Louisa, Wapello, Washington, Iowa, Keokuk, Benton, Des Moines, Jefferson, Van Buren, and Linn Counties, the secondary service area.
13. Demographics compiled by the State Data Center of Iowa, show 13.64% expected population growth in Johnson County and the twelve surrounding counties in the next 30 years. Noted by the applicant is that the population 65+ in this area is expected to increase by 32.24% in the next 30 years. They also note that according to the American Academy of Orthopedic Surgeons at their annual meeting in 2018 total hip replacements are projected to increase by 171% and total knee replacements are project to increase by 189% by 2030.
14. The applicant states that as the average age of Iowans increases, the need for orthopedic surgeries will increase. They further note that a study in the Annals of Medicine and Surgery found that between 2016 and 2019, average orthopedic surgical volume in ASC's increased over 38%.

15. Performing orthopedic procedures in an ASC is consistent with a nationwide trend toward moving low-risk surgical procedures into lower- cost settings of care. The Centers for Medicare and Medicaid Services (“CMS”) has recognized that many surgical procedures can be performed safely in an ASC with lower cost and improved patient convenience and comfort. In 2019, CMS took several steps to encourage providers to perform more low-risk procedures in the ASC setting, including increasing ASC reimbursements by an average of 2.1 percent, which is higher than reimbursement rates for hospital outpatient departments. In addition, there has been a push from large payors, including Wellmark, to move low-risk procedures to an ASC setting.
16. SNLASC will be developed specifically for orthopedic procedures, with six operating rooms (“OR’s”) and the ability to expand the number of OR’s in the future as needed. The OR’s will be larger in square footage than OR’s in traditional ASC’s to permit the use of modern orthopedic robotic surgery equipment, including robotics that assist with outpatient joint replacements and revision surgeries, shoulder surgery, and spine surgery.
17. The applicant noted in response to a staff question that there is there is a backlog of patients waiting for joint replacement surgery at existing facilities. They further noted that patients are approaching four months wait time for surgery to be scheduled. Noted during testimony was that it takes 90 minutes to two hours for joint replacement surgery, allowing roughly four surgeries per day per operating room. Also noted was that surgical volumes have been increasing rapidly over the past months requiring the need to run multiple cases in multiple operating rooms.
18. The applicant states that Iowa City ASC has a very limited ability to support orthopedic joint cases. They state that it was not designed for orthopedics and therefore these cases are not given priority. They note that orthopedic joint cases are only given one day per week on Iowa City ASC’s schedule and this is insufficient to meet the need. The applicant goes on to note that Mercy Iowa City does not have an outpatient ASC configuration which would allow it to create a lower ASC cost center. They state that since Mercy Iowa City does not have an ASC, sending patients to them for outpatient surgery rather than to an ASC increases the cost of care to patients. Further noted is that Steindler Orthopedic Clinic surgeons do not have privileges at the University of Iowa Hospitals and Clinics. Noted during testimony is that SNLASC will be committed to working with Mercy Iowa City on those cases that need hospitalization.
19. All 18 Steindler Orthopedic Clinic surgeons will perform outpatient orthopedic surgeries or procedures at SNLASC. SNLASC will have medical staff supervise the operation of the ASC during operating hours, including orthopedic surgeons, anesthesia providers and a nursing manager. The applicant notes that they will hire 74 staff for the ASC, including administrative staff and registered nurses.
20. There were 16 letters of support submitted for this project. These letters were from city government leaders in North Liberty and Iowa City, physicians, business leaders, residents and patients. The letters cite, among other things, the need for private practice investment that gives patients access to efficient and modern private practice community healthcare; patients choosing Steindler for its reputation for exceptional orthopedic care; a much needed and highly valued investment in North Liberty; the cadre of physicians at Steindler increasing; and the ability of patients to access the facilities with greater ease as reasons for their support. Additionally, there were four affected parties at the hearing who spoke in support of the project.
21. There was one neutral letter submitted by the University of Iowa Hospitals and Clinics.

22. There were three letters of opposition received prior to the hearing from Iowa City ASC, Faegre Drinker on behalf of Johnson County Surgical Investors, and ENT Medical Services, All three of these letters were withdrawn prior to the hearing.
23. SNLASC will build a 35,000 square foot building with six operating rooms that are large enough to accommodate robotic surgical equipment and the staff needed to conduct orthopedic surgeries.
24. The applicant states that they will borrow \$16,000,000 for the project. The applicant included a letter from Hills Bank indicating the term of the loan at an estimated fixed rate of 3.25% for five years. The applicant stated that cash will be the source of the \$1,884,900 needed to complete equipping the ASC. They state that this cash will come from the sale by SNLASC of member interests in SNLASC and cash from Dr. Dennison, if needed. Further noted is that SNLASC already has a commitment from a non-physician provider to purchase up to 40% of SNLASC's member units. The applicant states that the total reviewable project cost for the requested Certificate of Need is \$19,184,900 which includes construction costs, equipment, and one year of the lease.

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 the Centers for Medicare and Medicaid Services has recognized that many surgical procedures can be performed safely in an ASC with lower cost and improved patient convenience and comfort. The Council also notes that patients and payers want access to more convenient, comfortable, and less expensive options for outpatient services closer to home, with shorter wait times and more personalized care. They also noted that procedures performed in an ambulatory surgery center deliver each of these in a non-hospital setting that is, on average, 40% less costly than outpatient hospital settings. The Council also

notes that Steindler North Liberty Ambulatory Surgery Center will be built to modern orthopedic surgical standards, including operating rooms that are larger than at a general ASC to accommodate the equipment, including robotics, and staff needed to perform these types of procedures. The Council therefore concludes that there are no more appropriate, less costly services available in the area. 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 Iowa City ASC will continue to provide general ASC surgery and services. The Council further noted that Mercy Iowa City was not set up as an ASC, but that Steindler North Liberty ASC will continue to use it for procedures needing hospital level care. Additionally, the Council notes that that there were 16 letters of support received, that Mercy Iowa City appeared as party in support of the project at the hearing, that the three letters of opposition received were withdrawn prior to the hearing, and that no parties in opposition appeared at the hearing. The Council specifically notes that no area hospitals objected to the project. Iowa Code Sections 135.64(1) and 135.64(2)b.

3. The Council concludes that the applicant will construct a 35,880 square foot ambulatory surgery center with six operating rooms dedicated to orthopedic procedures. They also note that the operating rooms will be large enough to accommodate robotic equipment used in joint replacement and other orthopedic surgeries and the number of staff needed for these procedures, which the existing facilities cannot provide. 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 a current backlog of patients and that the current wait time at existing facilities for orthopedic surgery is four months. Also noted by the Council is that the number of patients needing orthopedic surgery is growing as the population ages. The Council further notes the time available to perform orthopedic procedures at Iowa City ASC is limited to one day a week and that Mercy Iowa City does not have an ASC, both of which contribute to the wait times. The Council further notes that that surgical volumes of Steindler surgeons have been increasing rapidly over the past months requiring the need to run multiple cases in multiple operating rooms. Noted was that it takes 90 minutes to two hours for joint replacement surgery, allowing roughly four surgeries per day per operating room. The Council also notes the need for a lower cost, more efficient service in the 13 county area that will be served by Steindler North Liberty ASC. Also noted is the rise in hip and knee joint replacement surgeries being performed in ambulatory surgery centers, with an estimated 50 percent of those procedure being completed in ASC's by 2030, reflecting the nationwide trend toward moving low-risk surgical procedures into lower-cost settings of care. Therefore 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.

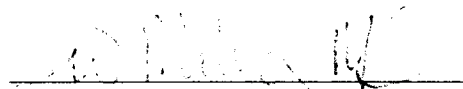
The facts, considered in light of the criteria contained in Iowa Code Section 135.64 (1 and 2) (2021), led the Council to find that a Certificate of Need should be awarded.

It is required in accordance with 641 Iowa Administrative Code 202.12 that a progress report shall be submitted to the Iowa Department of 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 (641 Iowa Administrative Code 202.14).

Dated this 30 day of March 2022



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

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