

**Division of Health Planning and
Resource Development
September 2002**

**CON Review HG-RC-0602-051
Biloxi Radiation Oncology Center, L.L.C.
Relocation of Outpatient Radiation Therapy Services
Capital Expenditure: \$1,190,347
Location: Biloxi, Mississippi**

STAFF ANALYSIS

I. PROJECT SUMMARY

A. Applicant Information

Biloxi Radiation Oncology Center (the "Center") is owned by Biloxi Radiation Oncology Center, L.L.C., a Mississippi limited liability company. The liability company consists of two (2) members, Gregory W. Cotter, M.D. and Laurence Lines, M.D. The members also serve as the governing board of the company.

Biloxi Radiation Oncology Center, L.L.C. is authorized to provide radiation therapy services, which services are currently provided on the Biloxi Regional Medical Center (the "Hospital") campus.

B. Project Description

The project involves the relocation of outpatient radiation therapy services to a location near the Cedar Lake Road exit on Interstate 10 in Harrison County. Currently all radiation therapy services provided by the Center, services provided to both inpatients and outpatients, are located at Biloxi Regional Medical Center at 150 Reynoir Street, Biloxi, Mississippi.

The new location for the provision of outpatient radiation therapy services will contain adequate space for such services and will provide the Center's outpatients with a non-hospital environment for receiving those services. According to the applicant, the new location was selected near a main corridor that will allow the patients convenient access to the Center.

The Center will construct a building consisting of 5,150 square feet of space located on land owned by Cedar Lake Medical Plaza, L.L.C. and leased to the Center. According to the "Letter of Intent to Lease" the property will be adjacent to the 70,000 square foot Cedar Lake Physicians Center, the recently opened Cedar Lake Surgery Center, and the soon to be built Open MRI Imaging Center. The Hospital supports the relocation of the Center.

The 5,150 square foot facility will include a waiting area, examination rooms, administrative areas, a space for the linear accelerator, a room for a simulator with an appropriate control area, a physics area, a dark room, a nurses' station, medical office space, an ambulance entry, utility and storage rooms and various mechanical and electrical areas.

The applicant submits that there will be no change in the types of services offered by the Center, however, the outpatient radiation therapy services will be provided in a new location while the inpatient radiation therapy services will continue to be provided at the Center's current location at Biloxi Regional Medical Center.

The Center will utilize a new state-of-the-art linear accelerator that was purchased pursuant to the authorization issued by the Department on September 7, 1999. In addition to the 6/15MV linear accelerator manufactured by Siemens (Linac Accelerator Model KD2), which was purchased by the Center in 1999, the Center will purchase a CT simulator that is manufactured by General Electric. Both pieces of equipment will be installed during the construction of the building. The remainder of the non-fixed equipment, costing a total of approximately \$75,000 - \$100,000, (according to applicant) is for furnishing the building, including furnishings and equipment for the foyer, the waiting room, the reception area, the business office, the medical office, the break room and the examination rooms.

The project will require 2 FTE additional personnel at an estimated cost of \$48,000 per year.

The total proposed capital expenditure is \$1,190,347 and of that amount, approximately 70 percent is for new construction; 23 percent is for non-fixed equipment, and the remaining 7 percent is for fees and capitalized interest.

The application contained a letter from the Division of Health Facilities Licensure and Certification, approving the site for construction. The applicant further certified that it will not begin construction until plans have been approved by the Division of Radiological Health. The capital expenditure is expected to be obligated upon approval by the Department of the Center's relocation of the outpatient radiation therapy services. The project will be completed within one year of the approval of the construction plans by the Division of Radiological Health.

II. TYPE OF REVIEW REQUIRED

This project for relocation of outpatient radiation therapy services is reviewed in accordance with Section 41-7-191, subparagraphs (1)(b) and (e), Mississippi Code 1972, Annotated, as amended, and all adopted rules, procedures, plans, criteria, and standards of the Mississippi State Department of Health.

In accordance with Section 41-7-197(2) of the Mississippi Code of 1972 Annotated, as amended, any affected person may request a public hearing on this project within 20 days of publication of the staff analysis. The opportunity to request a hearing expires on September 12, 2002.

III. CONFORMANCE WITH THE STATE HEALTH PLAN AND OTHER ADOPTED CRITERIA AND STANDARDS

A. State Health Plan (SHP)

The *FY 2002 State Health Plan** does not address criteria and standards for the relocation of outpatient radiation therapy services; however, it does contain criteria and standards for construction, renovation . . . of health care facilities. The applicant is in substantial compliance with applicable criteria and standards.

SHP Criterion 1 - Need

Applicant submits that the Center is currently operating in limited, inadequate space within the Hospital. Furthermore, there is no additional space available for the Center to expand within the Hospital that would allow the Center sufficient space to conduct the services it renders in an efficient and convenient manner.

The need for additional space is made even more apparent by the increase in the number of procedures over the past year. During the first five months of 2002, applicant states that the number of procedures performed monthly at the Center has doubled over the average number of procedures performed monthly at the Center during 2001. In April and May, the number almost tripled.

The applicant at one time contemplated a site adjacent to the Hospital in space owned by the Hospital and leased to the Center; that space was never made available to the Center. At that time the Center purchased a new linear accelerator pursuant to the Department's approval of approximately \$280,000. It was later determined that in order to acquire the additional needed space, to provide convenient access to its outpatients, and to continue serving the Hospital's inpatients, the Center should relocate its outpatient radiation therapy services to an area near a main corridor that is away from the Highway 90 area near which Biloxi Regional Medical Center is located.

According to the Applicant, the site near the Cedar Lake Road exit off Interstate 10 will give the Center's outpatients the ability to arrive at the Center quickly without unneeded traffic delay or stress caused by congested traffic. Applicant also determined that a setting outside a hospital environment creates a less stressful atmosphere for those persons who require outpatient radiation therapy services.

The inpatient radiation therapy services will remain at the Hospital, and because of the relocation of the outpatient services, the Center's current space at the Hospital will be sufficient and adequate to allow the Center to continue providing quality care to the Hospital's patients needing radiation therapy services. Therefore, applicant states, all the patients of the Center, both inpatients and outpatients, will benefit from the relocation.

The linear accelerator, a 6MV unit, currently used at the Hospital location will continue to be utilized to perform radiation therapy services on inpatients and will act as backup equipment to the Center's outpatient radiation therapy service.

SHP Criterion 2 - Bed Service Transfer/Reallocation

The Center states that it will meet all regulatory/licensure requirements for outpatient radiation therapy services.

SHP Criterion 3 - Charity/Indigent Care

The Center affirms that it will provide a "reasonable amount" of indigent/charity care as described in Chapter I of the 2002 State Health Plan.

SHP Criterion 4 - Reasonable Cost

The applicant submits that the cost per square foot is \$173.08, which cost does not exceed the median construction costs for similar projects in the state.

SHP Criterion 5 - Floor Space

The applicant is requesting authority to relocate its outpatient radiation therapy services due to the limited, inadequate space where it is currently located at the Biloxi Regional Medical Center. The new space to be constructed (5,150 square feet with 29 parking spaces) will be adequate to allow the Center to effectively and conveniently treat its outpatients, and the existing space at the Hospital (1,292 square feet) will be adequate to allow the Center to effectively and conveniently treat inpatients.

***Note:** All projects are required to be reviewed under the Plan in effect at the time the application is received. This application was received on June 19, 2002, and the FY 2003 State Health Plan had an effective date of July 1, 2002.

B. General Review (GR) Criteria

Chapter 8, Mississippi Certificate of Need Review Manual, revised 2000, contains general criteria by which all applications for Certificate of Need are reviewed. This project is in substantial compliance with applicable criteria.

GR Criterion 2 - Long Range Plan

The applicant states that the relocation of the outpatient radiation therapy services comports with the Center's plan to provide its services in the most convenient and accessible fashion as possible to all its patients. The provision of outpatient radiation therapy services in a location outside a hospital setting will provide the Center's outpatients with a convenient comfortable location for such services. Applicant believes that the provision of services is compatible with the Center's plans to provide its patients with quality care.

GR Criterion 3 - Availability of Alternatives

Applicant submits that because of limited space currently utilized by the Center at Biloxi Regional Medical Center (1,292 square feet of space), to do nothing would ignore the situation. By relocating only the outpatient services allows enough space in the current location to care for the Hospital's inpatients in a convenient and efficient manner and provides the Center's outpatients with convenient and accessible radiation therapy care.

GR Criterion 4 - Economic Viability

Biloxi Radiation Oncology Center projects net income of \$77,706, \$92,423 and \$274,782 for the first three years of operation, respectively. Applicant submits that during the first five months of 2002, 2,498 procedures, both inpatient and outpatient, (and 3,475 procedures, visits and consultations) were performed using the single 6MV linear accelerator currently in place at the Hospital. This project appears to be economically viable.

GR Criterion 5 - Need for Project

The applicant submits that the proposed location for the outpatient services is at the Cedar Lake Road exit at Interstate 10. The close proximity of the services to the interstate, a main corridor on the Coast, will allow outpatients to move in and out of the Center conveniently and efficiently without any delay caused by traffic.

The radiation therapy services, both inpatient and outpatient, are currently provided by the Center at Biloxi Regional Medical Center. This project contemplates that the inpatient radiation therapy services will remain at the Hospital; however, because of the limited space for the radiation therapy services at the Hospital, the increase in the number of procedures being performed, and the increase of traffic near the Hospital resulting from the gaming and tourism industries, the relocation of the outpatient services to another location will provide a more convenient and accessible location for the Center's outpatients.

Applicant submits that the relocation of the outpatient radiation therapy services, which services are already being provided by the Center, will not adversely affect the Hospital or existing facilities providing similar services. The application contained approximately 21 letters of support and comments.

GR Criterion 6 - Access to the Facility or Service

Applicant submits that all residents of the health planning service area, including Medicaid recipients, charity/medically indigent patients, racial and ethnic minorities, women handicapped persons and the elderly have access to the services of the Center and will continue to have access to the services, whether those services are outpatient services located near Interstate 10 or inpatient services located at Biloxi Regional medical Center. The Center offers and will continue to offer services to patients in need of care without regard to race, age, creed, sex or ethnic origin in full compliance with applicable state and federal regulations. Based on the Center's historical mix of patients, applicant projects 10.6 percent care to Medicaid recipients, 5.7 percent to charity/medically indigent, 50.0 percent to women and 46.1 percent to Medicare recipients.

GR Criterion 7 - Information Requirement

The applicant affirms that it will record and maintain the information required by this criterion and make it available to the Mississippi State Department of Health within 15 business days of request.

GR Criterion 8 - Relationship to Existing Health Care Systems

Applicant states that the project will have no adverse impact on the existing health care system of the area; on the contrary, the relocation of outpatient radiation therapy services is to be accomplished with the support of Biloxi Regional Medical Center, where the Center will continue to offer radiation therapy services to inpatients, and several of the area physicians.

The attorney for Memorial Hospital at Gulfport submitted written comments on behalf of Memorial. Comments highlighted such areas as (1) The Application is Not a True Relocation of Services; (2)The Application Fails to Comply with the Applicable CON Criteria and Standards; and (3) Capital Expenditure.

The attorney for the Applicant responded to comments by Memorial's attorney, clarifying; That the project is strictly for the relocation of outpatient radiation therapy services; the project is not for the addition of a new radiation therapy unit in a free-standing center, it is for the relocation of the outpatient services with equipment which has already been authorized by the Department; the capital expenditure is not "grossly understated", according to the cost estimate contained in the application.

GR Criterion 9 - Availability of Resources

The applicant states that special efforts will be made to work with the area's educational institutions to recruit skilled personnel for the proposed relocation. In addition, normal recruiting practices will be employed to fill the available positions for the applicants best suited to those positions.

GR Criterion 16 - Quality of Care

The applicant submits that the Center has a history of providing high quality medical care to the Mississippi Gulf Coast community and has in place quality improvement programs, the purpose of which is to insure the delivery of the highest quality care to the Center's patients in the most efficient and effective manner with the resources available.

IV. FINANCIAL FEASIBILITY

A. Expenditure Summary

Construction - New	\$ 831,347
Non-Fixed Equipment Cost	275,000
Fees	60,000
Capitalizes Interest*	24,000
Total Capital Expenditure	\$1,190,347

The above expenditure is proposed for construction of 5,150 square feet of space for the new Center. Applicant submits that the linear accelerator that will be utilized at the Cedar Lake location was purchased in 1999, over two years before the filing of the CON application, and pursuant to specific Department of Health authorization. Fixed equipment, site preparation and contingency reserve are all included in the construction cost, according to the applicant. The cost per square foot is approximately \$177.73.

B. Method of Financing

The applicant proposes to finance the capital expenditure with commercial loans. The application contained a letter from Southtrust Bank, Mobile, Alabama, indicating that it will finance \$800,000 to \$900,000 for the construction of the building and \$325,000 for furniture and ancillary equipment.

C. Effect on Operating Cost

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The applicant projects the following expenses, utilization, and results from operation for the first three years following completion of this project:

<u>Operating Expenses</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Advertising	\$ 300.00	\$300.00	\$300.00
Bank Charges	252.00	252.00	252.00
Billing & Collections	60,000.00	66,000.00	72,600.00
Books	120.00	120.00	120.00
Contract Labor	25,000.00	27,500.00	30,250.00
Courier Expense	7,920.00	7,920.00	7,920.00
Depreciation Expense	137,631.00	215,427.00	148,033.00
Dues and Subscriptions	1,700.00	1,700.00	1,700.00
Gifts and Florists	1,000.00	1,000.00	1,000.00
Guaranteed Payments	54,600.00	54,600.00	54,600.00
Insurance-Employee	18,000.00	18,000.00	18,000.00
Insurance-Prof. Liability	14,520.00	14,520.00	14,520.00
Insurance-General	6,000.00	6,000.00	6,000.00
Lease-Biloxi Regional	22,800.00	24,000.00	25,200.00
Lease-Land (2.5% Inc./Annum)	18,000.00	18,450.00	18,911.00
	114,000.00	114,000.00	114,000.00
Management Fee	16,578.00	16,578.00	16,578.00
Payroll Tax Expense	6,000.00	6,000.00	6,000.00
Pension Expense	600.00	600.00	600.00
Postage and Delivery	1,000.00	1,000.00	1,000.00
Printing & Reproduction	12,000.00	12,000.00	12,000.00
Practice Management	12,000.00	12,000.00	12,000.00
Professional Fees	108,000.00	108,000.00	108,000.00
Repairs/Maintenance	211,200.00	211,200.00	211,200.00
Salaries	5,500.00	6,050.00	6,655.00
Supplies-Medical	2,800.00	3,080.00	3,388.00
Supplies-Office	21,783.00	19,599.00	17,422.00
Taxes and Licenses	5,150.00	5,150.00	5,150.00
Telephone and Pager	2,400.00	2,640.00	2,904.00
Transcription Expense	600.00	600.00	600.00
Travel & Entertainment	108,000.00	118,800.00	130,680.00
USA Contract Services	<u>12,000.00</u>	<u>12,000.00</u>	<u>12,000.00</u>
Utilities	\$1,007,454.00	\$1,105,086.00	\$ 1,059,583.00
Total Operating Expenses			
Patient Fees (10%inc. Annum)	\$ 1,200,000.00	\$1,320,000.00	\$ 1,452,000.00
	<u>(24,000.00)</u>	<u>(24,400.00)</u>	<u>(29,040.00)</u>
Less Patient Refunds	\$ 1,176,000.00	\$1,293,600.00	\$ 1,422,960.00
Net Patient Revenue			

Net Operating Income(Loss)	\$ 168,546.00	\$ 188,514.00	\$ 363,377.00
Other Income(Expense)			
Interest Expense	<u>(90,840.00)</u>	<u>(96,091.00)</u>	<u>(99,595.00)</u>
Net Income (Loss)	\$ 77,706.00	\$ 92,423.00	\$ 274,782.00

D. Cost to Medicaid/Medicare

Applicant submits that the increased operating expenses that will occur as a result of this project will have no impact on payors. Medicaid and Medicare reimbursement with respect to radiation therapy services is based on the type of radiation therapy procedure performed. Furthermore, the charge for private pay patients will not increase as a result of this project.

V. RECOMMENDATIONS OF OTHER AFFECTED AGENCIES

The Division of Medicaid was provided a copy of the application for comment; however, no written comments had been received as of this writing.

VI. CONCLUSION AND RECOMMENDATION

This project is in substantial compliance with criteria and standards for construction of health care facilities as contained in the FY 2002 State Health Plan, the Mississippi Certificate of Need Review Manual, revised 2000, and all adopted rules, procedures and plans of the Mississippi State Department of Health.

The Division of Health Planning and Resource Development recommends approval of this application submitted by Biloxi Radiation Oncology Center, LLC, d/b/a Biloxi Radiation Oncology Center.