

Hospitals - Dominican Hospital Dominican heart center prevails

By TOM LONG
Sentinel staff writer

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SANTA CRUZ — Community Hospital may have lost its long battle to halt Dominican Hospital from opening a competing cardiac surgery center.

Superior Court Judge Sam Stevens on Friday afternoon denied Community's attempt to stop the licensing of Dominican's

heart center. At the center of Community's argument was a charge that health departments are endangering patients by not considering how many surgeries will be performed when licensing cardiac surgery centers, so Stevens' ruling could have far-reaching consequences.

"We have done our best to make public an issue that has very serious implica-

tions for not only our own community but for the entire nation," said Ann Klein, executive director of Community Hospital, after the ruling.

"At this point, that may be the best we can do," she said.

In a prepared press release, Sister Julie Hyer, Dominican's president, said, "We

are very pleased with the court's ruling today. It means that we can now focus on what our purpose was from the time we first announced our intentions to open a heart surgery unit at Dominican, which is to provide our patients with the very best in cardiovascular care."

Community Hospital has argued for more than a year that the licensing of

another another cardiac surgery center within a few miles of its own cardiac surgery center could constitute a hazard to the health of county residents. A number of studies indicate that hospitals and teams that perform a high volume of surgeries are the safest, because of proficiency and experience.

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Since two such centers could split the already limited number of local patients needing cardiac surgery, Community Hospital argued, there was a good chance that the quality of both hospital's programs could be compromised.

But state officials have said that although there are guidelines suggesting that any cardiac surgery center should perform about 150 surgeries a year to guarantee proficiency, such guidelines cannot be used as the basis for denying a license to a hospital that has the proper equipment and personnel.

Dominican Hospital has consistently maintained that studies matching patient volume with safety are too simplistic and misleading, and promised that Dominican's program will be of high quality.

The battle between the hospitals has escalated during the past year into a statewide issue of whether the State Department of Health Services is enforcing its own regulations and whether those regulations, which are more than a decade old, are out of date and inadequate.

Before any arguments were heard Friday afternoon, Stevens told the courtroom that he had already made a tentative decision to deny Community's move for a writ that would deny Dominican's licensing. Stevens said that the way the regulations are written, the "guidelines" cannot be used as absolute law but more as suggestions.

Community Hospital attorney Robert Lundy referred to depositions from highly placed licensing officials who said that licensing would not be denied to a hospital based on the number of patients

likely to undergo surgery there.

"We don't think the (state) should totally ignore the regulation," Lundy said. "If as a matter of practice this regulation is gutted, people have a right to know."

"There's never been a single hospital in the state of California that's ever had its license denied on a question of volume of patients," Lundy said. "What if those mortality studies are right? What kind of risk are we taking? People are going to die!"

And attorney Angela Botelho, representing the Department of Health Services, acknowledged, "The regulation has some problems in it. We're continuing to look at what an adequate service base should be."

Attorneys for the state and for Dominican only briefly disputed Lundy's charges, standing on the interpretation that the "guidelines" are merely suggestions.

Stevens obviously agreed, saying that in his opinion Lundy had "overstated the situation," and that the state guidelines were not basis enough for him to issue an order that would stay Dominican's license.

"If these types of changes need to be undertaken, they'll need to be undertaken by the Legislature," Stevens said.

After the decision, Lundy said that Community Hospital could still pursue either a writ from the state Board of Appeals or a formal appeal to the ruling.

The first action could be accomplished within a month and might succeed in halting the licensing of Dominican's Jack and Elena Baskin Cardiac Center, which is scheduled to be dedicated March 27. A formal appeal is a much longer process.