

Legal battle over heart center ahead

By STEVE SHENDER and JOAN RAYMOND

Sentinel Staff Writers

SANTA CRUZ — Mid-Coast Health Services Agency Director David Wright vowed Wednesday to wage a legal battle to block state approval of Community Hospital of Santa Cruz' proposed heart surgery and cardiac catheterization center.

Wright said that if officials at the Office of Statewide Health Planning and Development (OSHPD) go ahead with their reported intention to grant Community a "certificate of need" for its controversial heart care center before a formal public hearing on the proposal is completed, he will appeal to state Attorney General John VanDeKamp to block the action.

Wright's comments came at the close of an "informal hearing" conducted to determine whether the OSHPD director has discretionary authority to grant Community's certificate of need, despite the fact that the agency's own staff has recommended against it and a formal hearing on the proposal, begun last December, is still stalled by a lawsuit.

The Mid-Coast director called Wednesday's proceeding, held in the upstairs meeting room of the Santa Cruz Main Library, a "sham, farce (and an) outrage."

Indeed, the purpose of the hearing was unclear, in the wake of news, from state Sen. Henry Mello, that OSHPD officials had already decided to approve Community's certificate of need application.

Mello said Wednesday morning, before the hearing had even begun, that he had been advised by OSHPD Chief Deputy Director William Wilder last week that Community would get its certificate by June 8. The Watsonville Democrat said Wilder had told him that the agency had "found a way to grant the certificate" by "targeting" Santa Cruz as a "special population area."

Wilder could not be reached for comment today, but a spokesman denied that he had told Mello, categorically, that the AMI-owned hospital's project would be approved. "What Bill Wilder told Mello is that if the hospital could make a case for the exercise of the director's discretion, we would issue a decision in the case by June 8," said OSHPD spokesman Derek Pogson.

Mello, reached on the floor of the State Senate in Sacramento this morning, said, however, that he had not misunderstood Wilder. He said, though, that Wilder had called him this morning to "amend" his statement.

Said Mello: "He (Wilder) amended his statement to me this morning by saying, 'What I said the other day still stands, but it's on the assumption that Community Hospital presented evidence (at the hearing) that would justify them to be approved.'"

Mello called Wednesday's hearing "merely a step in the direction of approval.

"If they didn't have the hearing, then lawsuits could be

filed to set aside (Community Hospital's) permit," the legislator explained.

OSHPD Acting Chief Counsel John Rosskopf, who conducted the hearing, hedged when asked afterwards whether his superiors had already made a decision in the matter.

"I'm not sure that a decision has been made," said Rosskopf. "I'm charged to research the facts, to see if we could lawfully grant the certificate of need."

Rosskopf said he would "analyze" the testimony presented at the hearing, and "examine" state statutes before making a recommendation to top OSHPD officials. "If it's my conclusion that the people of Santa Cruz do comprise basically a special population that would justify the director in invoking (discretionary authority), I'll indicate that to him."

The first half of Wednesday's two-hour hearing was given over to testimony from witnesses — mostly physicians — who spoke in support of Community's heart care center.

The hearing's last hour was devoted to comments from the public on the hospital's proposal, which was both supported and opposed by local cardiac patients.

Wright sat silently throughout most of the proceedings, waiting until after AMI officials had completed their presentation, and until after audience members had commented, to speak.

As Wright approached the podium, Rosskopf warned those at the hearing to maintain an air of professionalism.

"I hope this doesn't get acrimonious," said Rosskopf. "I hope everyone can behave professionally."

A short time later, Rosskopf started pounding his fist on the table and interrupted Wright, as the latter raised questions about hearing "rules" and about the legality of the hearing.

Wright said the hearing had "no clear relationship to the laws of California..."

"We're really at a loss as to what this is all about and we can't get anyone to answer direct questions..."

"I can't tell what actually are the rules..."

Pounding his fist, Rosskopf interrupted, saying, "There is no debate here. We don't have a question and answer format."

Then Rosskopf repeated that he wanted no "acrimonious" statements.

Rosskopf characterized the hearing as "informal," although a court reporter was on hand to record all the testimony and AMI's corporate lawyer, David Pantalena, offered several legalistic objections.

Pantalena objected when Santa Cruz resident Todd Shuman asked that Sentinel articles about AMI and Community Hospital be included in the record.

Rosskopf allowed the articles to be submitted.

Wright complained to Rosskopf that Mid-Coast had been given "no timely notice" of the hearing, and thus — unlike AMI — had been unable to prepare and present sophisticated exhibits at the session.

He said after the hearing that his agency, with its small staff, was battling both the state and a large hospital corporation.

Calling the hearing "most irregular," Wright said, "This is not over by a long shot."

Wright said his agency was "thinking about writing the state Attorney General, but would first wait for a decision from the OSHPD director.

He said he had heard testimony from heart patients about the need for a local heart care center before and said he was sympathetic to their concerns.

"Every heart patient would like a heart center that is close, but the fact is we can't afford that many centers."