

Cardiac center hearing challenged

By STEVE SHENDER

Sentinel Staff Writer

SALINAS — Mid-Coast Health Systems Agency Thursday challenged the state's right to hold an "informal" hearing next week on Community Hospital of Santa Cruz' proposed cardiac surgery center.

Meanwhile, a Salinas hospital official said this morning that the fact that the state Office of Statewide Health Planning and Development (OSHPD) had set the hearing is a good indication that the agency intends to give a green light to the controversial facility.

In a letter to state Health and Welfare Secretary David Swoap, Mid-Coast officials questioned the legal basis for the hearing, set for 10 a.m. Wednesday in the Santa Cruz Main Library's upstairs conference room. Charging that Mid-Coast's

"legal rights" had been ignored by the state, officials threatened to take the state to court if it goes ahead with the proceeding and then approves a "certificate of need" for Community's heart care center.

The hearing, to be conducted by John Roskopf, acting chief counsel of the Office of Statewide Health Planning and Development (OSHPD), is aimed at determining whether the director of that agency has "discretionary authority" to approve Community's certificate of need application, despite the fact that the application is opposed by Mid-Coast Health Systems.

OSHPD spokesman Derek Pogson said this week that the director could exercise his discretion if it were shown that "there is a special population (in Santa Cruz) with a certain need for certain health services." Pogson indicated that the Santa

Cruz community's "isolation" might be sufficient grounds for such a determination, noting, "It's fenced in by the ocean to one side and the mountains on the other."

The state agency scheduled the informal hearing with a bare minimum of public notice at a time when a formal hearing, begun last December, remains stalled by a lawsuit filed by Community Hospital's parent company, American Medical International. AMI filed its suit to force a joint hearing on Community's certificate of need application and a competing application filed by Salinas Valley Memorial Hospital. (The state last fall granted a conditional certificate of need to Salinas Valley Memorial, over the opposition of Mid-Coast Health Systems, which insists that neither of the two hospitals' proposed heart care units is necessary.)

In their letter to Swoap, Mid-Coast President Jess Brown and Executive Director David Wright complained that OSHPD never notified the agency of next week's hearing, a courtesy to which they said Mid-Coast is legally entitled, as a "party" to the Community Hospital certificate of need "proceedings."

Brown and Wright demanded to know "when (we) will be formally notified and given an opportunity to prepare written and oral testimony and contact witnesses (for the hearing)."

According to Mid-Coast attorney Stan Price, state law requires that the agency must be given a chance to present its case at the hearing.

The two Mid-Coast officials also questioned OSHPD's right to limit the subject of next Wednesday's hearing to the question of the OSHPD director's discretion to act on the Community Hospital application.

According to Price, state law requires that even "informal" hearings like the one set for Wednesday must deal with all the merits of a case.

Brown and Wright additionally challenged the state's right to raise the issue of the OSHPD director's discretionary authority at this stage in the protracted proceedings over Community's heart center application.

According to Wright, under normal circumstances, the director may act only after all of an applicant's other remedies have been exhausted. Such action, he said, usually comes only after the conclusion of a formal public hearing, in which it has been found that a certificate of need applicant's proposal does not meet approval criteria set forth in state guidelines.

With the formal hearing on Community's application stalled by AMI's lawsuit, it has not yet been determined, at the state level, whether the Community Hospital heart center project meets state criteria.

In their letter to Swoap, the two Mid-

Coast officials demanded to know if the scheduling of the informal hearing on the director's discretion to act in the case meant that Community had already "stipulated" that its project could not comply with the usual approval criteria.

Wright and Brown demanded copies of all "communications" which may have passed between OSHPD and Community Hospital on that and other matters in recent months — material which, they said, Mid-Coast was legally entitled to and had never received.

"In particular," they wrote, "please send us the request for this hearing made by AMI and any related stipulations or agreements between AMI and OSHPD."

Wright and Brown wrote Swoap that unless the state satisfactorily answered their questions, Mid-Coast could not "agree to the scheduling" of the May 23 hearing.

Wright said Thursday that if OSHPD goes ahead with the hearing, Mid-Coast might petition State Attorney General John VanDeKamp to step into the case and "enforce existing law."

He also said that the agency could go to Superior Court for a writ to block the issuance of a certificate of need to Community and raised the possibility of a "taxpayers lawsuit" taking the state to task for "misuse of public funds."

Watching with interest from the sidelines today were officials at Salinas Valley Memorial Hospital.

Hospital spokesman Fred Sorri said this morning that an attorney had advised the hospital board Thursday night that, "since the state is calling (the hearing), that's probably a good indication that they (Community) had a chance of getting it (approval for the heart center)."

Sorri also said that the attorney had told the board that if the state approves Community's application, the AMI lawsuit currently blocking Valley Memorial Hospital's own heart surgery facility would become "moot," and would be dropped.

The hospital spokesman said Salinas Valley Memorial had "never opposed" Community's application because a heart center at the Santa Cruz facility would have "little impact" on the Salinas hospital's cardiac unit. Even if Salinas Valley Memorial had the only heart surgery facility in the Monterey Bay area, Sorri said, "Very few people would come from Santa Cruz because they would be as close to San Jose and the facilities there."

REFERENCE
MAY 18 1984