

STATE AGENCY ACTION REPORT
CON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number:

Florida Regional Medical Center, Inc./CON #10130
4748 South Ocean Blvd., Suite 3B
Highland Beach, Florida 33487

Authorized Representative: Mr. Robert J. Greene
(954) 684-3416

2. Service District/Subdistrict

District 9/Subdistrict 9-4 (Palm Beach County)

B. PUBLIC HEARING

A public hearing was not held or requested regarding the proposed general acute care hospital project in District 9, Subdistrict 9-4.

Florida Regional Medical Center, Inc. (CON #10130) submitted eight unduplicated letters of support for the project (CON application #10130, Attachment 13 – Letters of Support). All were signed between August 29, 2011 and October 10, 2011. The Agency received an additional letter of support dated September 6, 2011.

Karen T. Marcus, Chair of the Board of Palm Beach County Commissioners, stated that the proposed hospital “will be complementary to the economic development plans of the State of Florida by creating 250-300 new health care sector and 150-200 construction related jobs.” She indicated that it is estimated that the project will generate over \$4 million annually in new tax revenues for the state and the county.

Executive Director Jody Gleason, on behalf of the Palm Beach County Education Commission, Inc., stated “We believe that a new hospital in the northern part of Palm Beach County will also improve the ability of our permanent residents, seasonal residents, and visitors to access acute

care hospital services.” Further, it is “the shared vision of Palm Beach County, The Scripps Research Institute, Florida Atlantic University and Tenet Healthcare that this new hospital would expand the opportunities for clinical research, graduate medical education, and medical and surgical services while providing enhanced access to state of the art medical care”. Dr. George L. Hanbury II, President of Nova Southeastern University, and Dr. Dennis P. Gallon, President of Palm Beach State College reiterate this in their letters of support.

Douglas A. Bingham, Esq., Executive Vice President and Chief Operating Officer (Scripps—La Jolla) and Harry W. Orf, Ph.D., Vice President for Scientific Operations and Professor of Chemistry (Scripps—Florida) representing The Scripps Research Institute wrote an effusive letter of support maintaining, “the establishment of an academic medical center in Northern Palm Beach County is a critical component in fulfilling the vision of developing a true bioscience cluster around the FAU MacArthur Honors College Campus.” The Institute believes that the new hospital will bring “world-class medical services” to the area and significantly advance biomedical research. Dr. Mary Jane Saunders, President of Florida Atlantic University, adds, “As the proposed academic medical center in Jupiter matures, we anticipate using it as one of the clinical training sites for our medical students and residents.”

Dr. David Fitzpatrick, CEO and Scientific Director of the Max Planck Florida Institute, stated, “The development of an academic medical center will further grow the bioscience cluster and create additional demand for a scientifically skilled workforce.” C. Russell Allen, President and CEO of BioFlorida stated, “Academic medical centers are a natural and necessary progression of industry cluster development and we fully support the efforts of The Scripps Research Institute, Florida Atlantic University and the bioscience community to partner with Tenet to establish this center in Northern Palm Beach County.”

The applicant also included a resolution of the City Council of the City of Palm Beach Gardens, Florida expressing support for Tenet Florida, Inc. and The Scripps Research Institute to build an 80-bed academic medical center. The resolution was passed and adopted September 8, 2011 and was signed by Mayor David Levy.

C. PROJECT SUMMARY

Florida Regional Medical Center, Inc. (CON #10130) proposes to build a new 80-bed acute care hospital in Palm Beach Gardens, Palm Beach County, District 9, Subdistrict 9-4. The proposed hospital will be located in zip code 33418 on the south side of Donald Ross Road, between 1-95 and Military Trail across from The Scripps Research Institute, the Florida

Atlantic University MacArthur's Honor's College Campus and the Max Planck Florida Institute. The applicant proposes five zip codes as its primary service area (PSA): 33408, 33410, 33418, 33458 and 33477. The applicant proposes the following five zip codes as its core secondary service area (SSA): 33403, 33412, 33455, 33469 and 33478. The reviewer confirmed these are, with the exception of zip code 33455 (Martin County), all Palm Beach County zip codes at http://zip4.usps.com/zip4/zcl_3_results.jsp.

The applicant proposes to condition project approval upon:

- FRMC will provide a minimum of four percent of the 80-bed facility's total annual patient days to a combination of Medicaid, Medicaid HMO and charity patients.
- FRMC will be located on The Scripps Research Institute research park campus.
- The Scripps Research Institute, Florida Atlantic University and a local Palm Beach County official will have representation on FRMC's Governing Board. In addition, an Academic Advisory Committee (AAC) will be formed with an equal number of representatives from Scripps, FAU and Tenet. The AAC will oversee the hospital's relationships with all academic and medical education programs relating to clinical and translational research, residencies and internships at the hospital.
- FRMC will have support space for academic medical faculty, medical residents and medical students.
- FRMC will have space for conferences and classrooms in support of the medical education goals of the Florida Atlantic University School of Medicine and the research goals of The Scripps Research Institute.
- FRMC will attain Leadership in Energy and Environmental Design (LEED) certification for the design of the hospital facility.
- FRMC will include an electronic medical records system that meets "meaningful use criteria".
- FRMC will offer research, teaching and medical residency programs.
- FRMC will enter into affiliation agreements with at least 15 programs for nursing and allied health professions programs.
- FRMC will offer at least four programs for continuing medical education (CME) for physicians in the community on an annual basis.
- FRMC will collaborate with The Scripps Research Institute for the provision of resources associated with clinical trials and basic science research by employing 1.0 FTE research program coordinator.
- FRMC will offer a minimum of 12 community health screenings annually.
- FRMC will provide a minimum of \$250,000 per year for Medicaid and/or charity outreach programs within Palm Beach County for the first five years of operation.

The applicant's proposed conditions are as it stated. Should the project be approved, the applicant's proposed conditions would be reported in the annual condition compliance report as required by Rule 59C-1.013 (3) Florida Administrative Code.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in sections 408.035 and 408.037, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code. These criteria form the basis for the goals of the review process. The goals represent desirable outcomes to be attained by successful applicants who demonstrate an overall compliance with the criteria. Analysis of an applicant's capability to undertake the proposed project successfully is conducted by evaluating the responses and data provided in the application, and independent information gathered by the reviewer.

Applications are analyzed to identify strengths and weaknesses in each proposal. If more than one application is submitted for the same type of project in the same district (subdistrict), applications are comparatively reviewed to determine which applicant(s) best meets the review criteria.

Rule 59C-1.010(3) (b), Florida Administrative Code, prohibits any amendments once an application has been deemed complete; however, two exceptions exist regarding receipt of information concerning general hospital applications. Pursuant to Section 408.039(3)(c), Florida Statutes, an existing hospital may submit a written statement of opposition within 21 days after the general hospital application is deemed complete and is available to the public. Pursuant to Section 408.039(3)(d), in those cases where a written statement of opposition has been timely filed regarding a certificate of need application for a general hospital, the applicant for the general hospital may submit a written response to the Agency within 10 days of the written statement due date. The burden of proof to entitlement of a certificate rests with the applicant. As such, the applicant is responsible for the representations in the application. This is attested to as part of the application in the certification of the applicant.

As part of the fact-finding, the consultant, Marisol Novak, analyzed the application in its entirety.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

The following indicate the level of conformity of the proposed project with the review criteria and application content requirements found in sections 408.035 and 408.037, Florida Statutes; and applicable rules of the State of Florida, Chapters 59C-1 and 59C-2, Florida Administrative Code.

1. Statutory Review Criteria

For a general hospital, the Agency shall consider only the criteria specified in ss. 408.035 (1)(a), (1)(b), except for quality of care, and (1)(e), (g), and (i) Florida Statutes. ss. 408.035(2), Florida Statutes.

a. Is need for the project evidenced by the availability, accessibility and extent of utilization of existing health care facilities and health services in the applicant's service area? ss. 408.035(1)(a) and (b), Florida Statutes.

As of July 22, 2011, District 9, Subdistrict 9-4 had a total of 1,423 licensed acute care beds. There were 14 approved acute care beds in the subdistrict, 12 at Jupiter Medical Center (N0400007) and two at Palms West Hospital (N0600011)¹. Subdistrict 9-4's acute care beds averaged 54.22 percent occupancy during CY 2010.

The applicant notes that the CON statutory review criteria for new, general acute care hospitals does not include the consideration of quality of care at existing hospitals, financial feasibility, availability of resources and construction/design criteria. The applicant maintains that since existing hospitals can add acute care beds without a CON, the Agency has been more concerned with issues related to population growth, utilization trends in the applicant's service area, access and impact on existing providers in the applicant's service area².

FRMC contends that the policy regarding the criteria for approval of a new hospital is as follows:

- A primary service area with a large and rapidly growing population base.
- An expanding market in the applicant's service area, especially the primary service area, which minimizes impact on existing hospitals.

¹ Jupiter Medical Center (N1100037) and Palms West Hospital (N1100038) notified the Agency on October 27, 2011 of their intent to add 45 and 29 acute care beds, respectively. The previous 12 and two bed notifications are void.

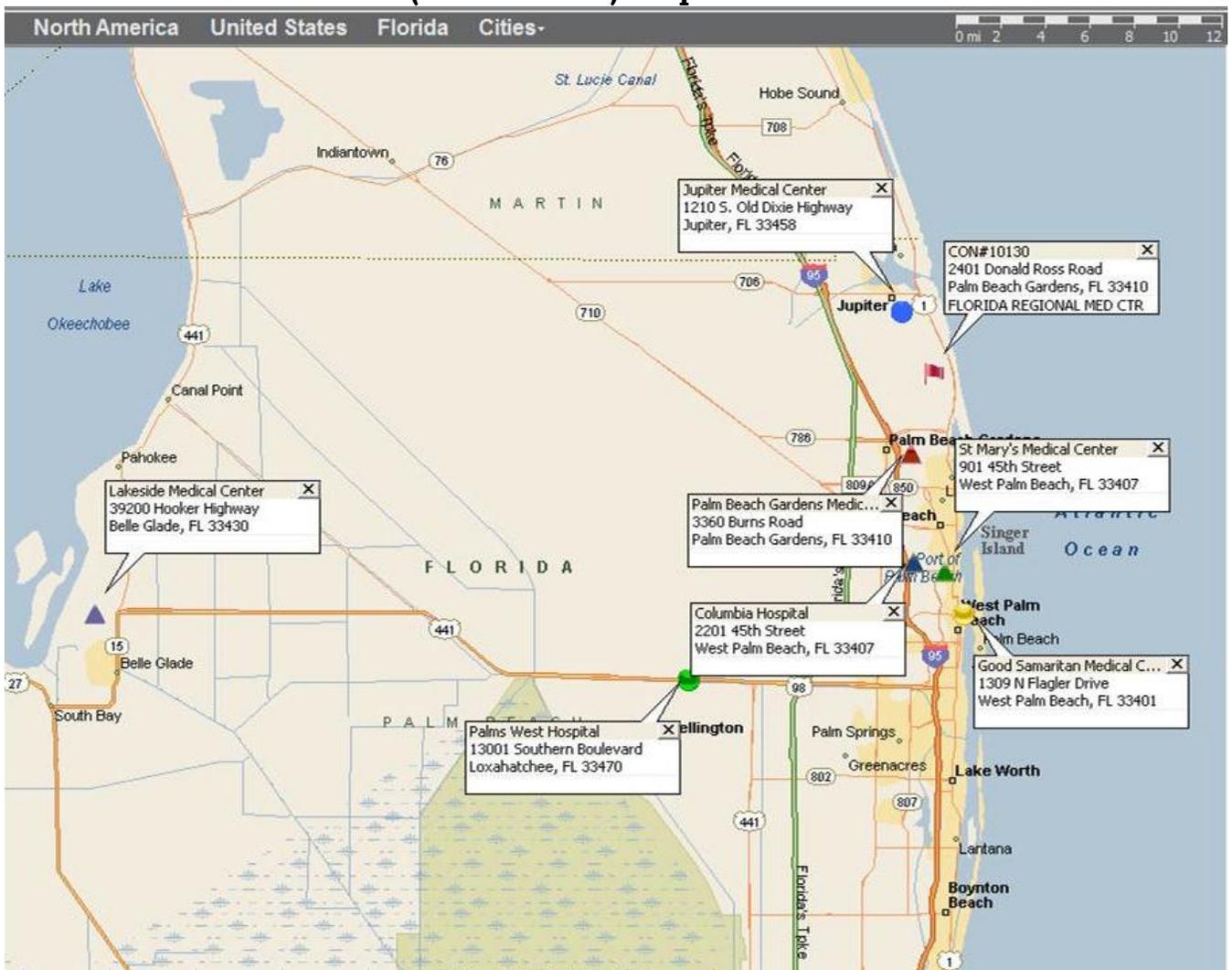
² The applicant cites Rule 59C-1.008 (2)(e) F.A.C., which addresses criteria to be addressed by an applicant when the Agency does not have a need methodology for a proposed project.

- The benefit of access enhancement outweighs the adverse impact on existing hospitals.

The applicant states that it believes it satisfies these criteria.

Florida Regional Medical Center (FRMC) states that the proposed facility represents the first step towards a significant collaboration between science and medicine. The proposed facility will be located across from The Scripps Research Institute, the Florida Atlantic University MacArthur Honor's College Campus and the Max Planck Florida Institute. See the map below.

Acute Care Hospitals in Subdistrict 9-4 and Florida Regional Medical Center's (CON #10130) Proposed Site



Source: Microsoft MapPoint

FRMC maintains that CON application #10130 represents the first phase of a multi-year development project that is anticipated to result in an academic teaching and research hospital of 200 beds to serve the long-term needs of residents of District 9 and potentially other parts of the state. FRMC states that in its initial phase of development, the proposed facility is envisioned as a new independent acute care hospital within the Tenet Healthcare Florida Region. The applicant maintains that the proposed facility will not be a satellite hospital of Palm Beach Gardens Medical Center. The proposed facility is planned as a non-tertiary facility whose focus will be on adults for the provision of general medical and surgery services. FRMC notes four significant assumptions on the conceptual development on phase one:

- Only adult services (defined as persons aged 15 years or over) are to be provided.
- No obstetrics will be offered in the proposed facility's initial phase of operations.
- Non-tertiary types of cases for adults are the focus of the proposed facility.
- The proposed facility is to re-direct non-tertiary, adult medical/surgical admissions from Palm Beach Gardens Medical Center.

The applicant maintains that there are many reasons the proposed facility is needed, these include:

- Future expansion of Palm Beach Gardens Medical Center building is limited by the Palm Beach Gardens Planning and Zoning Master Site Plan to only 12,600 gross square feet.
- According to the Agency for Health Care Administration's publications of hospital utilization data that accompanied the January 2010 and January 2011 application batching cycles, Palm Beach Gardens Medical Center reported an average occupancy rate of 70.4 percent on its 199 licensed beds³.
- Utilization of Palm Beach Gardens Medical Center is significantly affected by seasonal trends reflected in an increase in population and illness that manifest in the January-March quarter. See the table below.

³ The reviewer confirmed that the facility averaged 70.35 percent (102,204 patient days/145,270 bed days) occupancy during the two year period of July 2008-June 2010 based on the *Hospital Bed Need Projections— January 2010 and January 2011 Batching Cycle* publications. Palm Beach Gardens Medical Center had an occupancy rate of 68.90 percent for calendar year 2010.

Licensed Acute Care Bed Occupancy Rates		
Hospital/Area	Jan-Mar 2009 Occupancy	Jan-Mar 2010 Occupancy
Palm Beach Gardens Medical Center	79.7%	81.4%
Subdistrict 9-4	58.9%	59.8%
District 9	68.3%	67.1%
Florida	62.0%	62.0%

Source: CON application #10130, page 14.

- The inclusion of outpatients and observation patients with inpatients in the calculation of utilization is referred to as “functional occupancy”. On this basis, Palm Beach Gardens Medical Center states that its functional occupancy rates for the first quarter of the year averaged 84 percent and 85.4 percent, respectively, for 2010 and 2011.
- Palm Beach Gardens Medical Center has expanded and renovated to its maximum size and cannot meet projected demands and needs from the area it serves.
- Palm Beach Gardens Medical Center is landlocked and cannot grow horizontally.
- Palm Beach Gardens Medical Center cannot expand vertically due to the three-story height limitation set by the City’s zoning regulations.
- There is no space remaining on Palm Beach Gardens Medical Center’s campus for additional grade-level parking and a parking structure/garage is not permitted.
- There are no dedicated outpatient surgery operating rooms.
- There is insufficient space within Palm Beach Gardens Medical Center’s building footprint to renovate and expand ORs without reducing the number of ORs.
- The space on some nursing units is adequate by current standards but insufficient to meet future needs.
- At 1,291 square foot per bed, Palm Beach Gardens Medical Center is low with respect to the space necessary for efficient hospital operations in today’s environment.

FRMC states that as part of its vision for expanding opportunities for graduate medical education and integrating with an acute care institution, Tenet Healthcare (the applicant’s ultimate parent company), The Scripps Research Institute, and Florida Atlantic University have agreed to develop a state-of-the-art health care facility on the Scripps Florida campus. The applicant indicates that this is referred to as “translational” research and its primary goal is to integrate advancement in molecular biology with clinical trials. FRMC maintains that translational research requires that information and data flow from hospitals, clinics and participants of clinical trial studies in an organized and structured format to repositories and research-based facilities and laboratories.

The applicant contends that for Scripps Florida to compete successfully in the new era of translational science research, direct access to and a governing interest in an academic medical center and teaching hospital is paramount. FRMC asserts that the proposed facility will facilitate the delivery of scientific discoveries “from bench to bedside.” The applicant states that the overall goal of Scripps, FAU and Tenet Healthcare is that the proposed hospital will expand the opportunities for clinical research, graduate medical education and medical/surgical services while providing even better access to state-of-the-art medical care.

In addition, the Max Planck Florida Institute has established strong academic ties, scientific collaborations and affiliation agreements with The Scripps Institute and FAU. FRMC maintains that the Max Planck Institute will establish similar ties with the proposed hospital and will benefit greatly from the programs and amenities offered.

The most important factor in the project is FRMC’s commitment to develop a world-class research and teaching hospital that has the potential to become a regional rather than a local community resource. The coalition of organizations associated with the proposed facility must work together on an ongoing basis to ensure that the population gains access to services that it would otherwise not have. There is no need for an additional small community hospital that offers basic services.

Description of the Campus Site Plan

The applicant indicates that its long range plan is to expand FRMC, the FAU academic programs and The Scripps research programs symbiotically and link them with exterior pedestrian-friendly walkways and spaces to encourage educational collaboration. CON application #10130 represents the first of three phases of a multi-year development project that is anticipated to result in an academic teaching and research hospital of 200 beds. The applicant maintains that the first phase has 80 beds and will be geared toward providing routine medical/surgical services. FRMC indicates that in phase one, 74 rooms for academic and research purposes are planned, accounting for nearly 40,000 square feet of space and representing 14 percent of the total 280,000 square feet.

The applicant maintains that patient rooms at the proposed facility will be larger (239 net square feet) than those typically designed in order to accommodate as many as five to six persons in a room at a time. FRMC states that the extra space will allow a clinical staff of physicians, residents and students to make rounds to each patient room and fit comfortably. The applicant asserts that the typical patient room size at the proposed facility will be 92 percent larger than what is required by current Florida codes.

FRMC states that to accommodate the teaching function of attending faculty leading small groups of students and residents, approximately 12 to 14 percent more programmatic space is required at the proposed facility than for a typical community hospital. Therefore, it will require more gross square footage for the proposed facility than a typical community hospital.

The applicant states that the initial phase of the proposed facility will be a four-story structure used for patient care purposes. FRMC indicates that:

- The first floor will be designed for ambulatory and outpatient services as well as general and administrative functions.
- The second floor will be occupied by the surgical service department and the ICU/CCU.
- The third and fourth floors will each include a 32-bed medical/surgical unit.

FRMC lists major clinical services that will be included at the proposed facility for phase one:

- A total of 80 inpatient beds with all private rooms and bathrooms
- 64 medical/surgical beds
- 16 intensive care unit/cardiac care unit beds
- A surgical suite with three inpatient operating rooms and one outpatient operating room as well as pre and post-recovery areas
- One special procedures room for cystoscopy and GI endoscopy procedures
- An emergency department with 13 treatment beds, including seven general exam and treatment rooms plus six observation rooms also capable of emergency treatment
- An outpatient center for services such as diagnostic imaging, laboratory, cardiac diagnostics and therapy services
- An imaging suite with a 3.0T MRI, 128 slice CT, two digital radiofluoro rooms, an ultrasound room, and a nuclear medicine room
- A diagnostic cardiac catheterization laboratory for adults
- A linear accelerator and simulator in an oncology/cancer treatment center

The applicant states that the design of the proposed facility is intended to promote the physical and emotional well-being of the patient and family as well as that of the caregivers and staff. FRMC states that within the hospital building the architecture will further establish the facility as a healing environment by implementing several elements of “therapeutic distraction” such as:

- A two-story height central lobby space that maximizes the opportunity to bring nature in wherever possible by capturing attractive natural views and embracing interior and exterior landscaping.
- Creating a variation in public space volumes and providing abundant natural lighting through the use of ample windows, clerestory windows and/or skylights.
- Implementing clearly visible and well defined circulation routes to eliminate confusion and simplify way-finding within the facility while minimizing cross-use of public and service routes.

FRMC includes a rendering of the proposed building, a site plan and schematic drawings in Attachment 3 of CON application #10130. The applicant states that these documents are conceptual exhibits for purposes of illustration and understanding CON application #10130 and are meant to support the conceptual design and programming associated with the project. The applicant recognizes that local and state regulatory agencies may dictate future modifications subsequent to CON approval.

Significance of FRMC to Palm Beach County and the State of Florida

The applicant included a complete copy of a report that stated the estimated overall economic impact of the proposed hospital in its first year of operation will be \$72,138,602 and \$402,687,764 over the six year period of 2013-2019 (based on current dollars).⁴ FRMC maintains that this estimate incorporates the “multiplier effect” and includes earnings associated with:

- Construction
- Permanent employment
- Cumulative re-spending/demand for final products
- State revenue
- Recurring revenue sources such as ad valorem taxes, sales taxes, franchise fee/utility taxes
- Non-recurring revenue sources, such as building permit and impact fees

Additionally, the report estimates 714 FTEs in construction and construction related enterprises over the next five years as well as 505 FTEs in permanent jobs over the next five years generated by the proposed facility. In total, the applicant states that this report estimates a total local economic impact of \$402 million and the creation of 150-200 full-time construction jobs and 250-300 full-time health care-related jobs over a six year period by the proposed facility.

⁴ *Tenet Florida and Scripps Research Institute Academic Medical Center, Fiscal and Economic Impact Report* was prepared by the Palm Beach County Office of Economic Development on August 8, 2011 and is included in Attachment 8 of CON application #10130.

FRMC maintains that the State of Florida's \$800 million investment in the world-class global biotechnology cluster at Scripps in northern Palm Beach County was envisioned to be the first step in the long-term promise for Florida to become a landmark epicenter to bring together a new way for world-class research institutions, universities, medical schools and the private sector to work together. The applicant notes that the Chair of the Palm Beach County Commissioners states that, "the construction of this facility is a key component to the success of our bioscience cluster. It enhances Scripps Florida's drug discovery program and solidifies our commitment to translational research and educational collaboration."

FRMC contends that this future vision proposed in CON #10130 will enhance the clinical base at Scripps with a new general acute care hospital to be built on Scripps' campus that is equipped with state-of-the-art academic facilities and affiliated with FAU's new medical school. The applicant maintains that the proposed facility will educate the next generation of medical students and scientific professionals who will conduct the clinical and basic science research that allows health care discoveries to be transformed into improved outcomes for patients.

The applicant includes 22 pages of its 51 page response to this criteria describing how FRMC fits into historical precedents of prior Agency decisions. FRMC cites several recommended and final orders on CON applications and the applicability of these orders to CON application #10130. These statements are not responsive to any of the review criterion.

FRMC does present of information about availability, accessibility and the extent of utilization of existing health care facilities in the service area in response to particular legal language and final orders. The applicant organizes the information by legal case. The reviewer organized this information as best as possible below.

The applicant states that CON #10130 will demonstrate that the proposed project is needed and consistent with the Agency for Health Care Administration's rule preferences and the statutory CON review criteria on the basis of similar and unique facts and circumstances. FRMC maintains that the proposed project is consistent with the Agency's decision-making on other new hospital projects that have been identified and discussed in CON application #10130.

The applicant presents the current and projected adult population (15+ years) for Florida Regional Medical Center's service area.⁵ See the table below.

⁵ The reviewer could not verify these numbers as the Agency's data is not categorized by zip code.

Claritas Population Data for the Primary and Secondary Service Area 2011 and 2016			
Service Area	2011	2016	Percent Change
Primary	128,792	135,190	7.5%
Secondary	62,187	65,677	5.5%
Total	187,979	200,979	7.0%

Source: CON application #10130, page 41.

The applicant presents these population numbers on page 49 of CON application #10130 but they do not match the numbers presented on page 41. Both tables indicate the PSA population will have a 7.5 percent increase from 2011 to 2016, so it computes that the applicant's 125,792 population projection for 2011 is the correct projection.⁶ See the table below.

Claritas Adult Population in the Primary Service Area for FRMC	
Year	Population 15+
2011	125,792
2016	135,190
5 Year Change	
Net	9,398
Percent	7.5%

Source: CON application #10130, page 49.

FRMC states that Palm Beach Gardens Medical Center is a well-utilized hospital facility at 70 percent annually and experiences seasonal peaks in utilization during the first quarter of the year that are greater in magnitude than comparable values for Subdistrict 9-4, District 9 and Florida.

The applicant states that for the baseline period (12-month period of July 2009-June 2010), Palm Beach Gardens Medical Center had a 36 percent market share in the five zip code primary service area and a 17.1 percent market share in the five zip code secondary service area for an overall average market share of 29.7 percent. Florida Center for Health Information and Policy Analysis discharge data for calendar year 2010 shows that Palm Beach Gardens Medical Center had a 35.80 percent (4,124 discharges) market share, Jupiter Medical Center 41.56 percent (4,786 discharges), St. Mary's Medical Center 5.54 percent (638 discharges) and Columbia Hospital a 2.20 percent (254 discharges) market share. The remaining 14.90 percent (1,718 discharges) market

⁶ FRMC used 125,792 as the 2011 population in CON application #10130 narrative on pages 49 & 57 and table on page 59.

share was split between 120 facilities within the State of Florida. FRMC indicates that these figures are for resident adult (15+ years) non-tertiary medical/surgical discharges and exclude OB/GYN and normal newborns as well as other specialty and tertiary services.⁷

The applicant states that residents of Florida Regional Medical Center's PSA accounted for 11,317 non-tertiary discharges from July 2008-June 2009. The applicant did specify that these discharges were for adults 15+.

FRMC maintains that for the baseline period, Palm Beach Gardens Medical Center had 4,135 resident non-tertiary discharges from FRMC's proposed PSA and 1,006 from the secondary service area. The applicant states that there will be a 70 percent redirection factor from Palm Beach Gardens Medical Center to produce a total of 3,641 discharges. In addition, FRMC indicates that for initial planning purposes, out of area patients are estimated at five percent of total discharges and account for an additional 192 discharges which make for a facility total of 3,832 discharges.

These 3,832 discharges combined with the resident ALOS values of 5.0 and 4.7 for the primary and secondary service areas, produces an ADC of 51.9.⁸ FRMC maintains that this results in an occupancy rate of 64.9 percent on 80 beds. The applicant contends that given that there is an increase in population projected for both the primary and secondary service areas, the actual facility projections for its first three years of 2014-2016 will be slightly higher.

FRMC contends that the volumes of service for the proposed facility are solely based on the redirection of patient admissions from Palm Beach Gardens Medical Center. The applicant therefore maintains that no change in market share by zip code needs to be made to any existing hospital in the subdistrict or district, other than Palm Beach Gardens Medical Center, in order to justify the proposed facility.

⁷ The applicant states on page 6 of CON application #10130 that non-tertiary acute care services excludes: psychiatric, substance abuse, inpatient rehabilitation, open heart surgery, major cardiovascular surgery procedures, therapeutic cardiac catheterization, neonatal intensive care, burn care, transplants, neurosurgical & selected spinal surgery procedures and major/significant trauma.

⁸ The applicant states that this includes out of area patients with an ALOS of 4.9.

The applicant presents Palm Beach Gardens Medical Center’s historical occupancy along with occupancy for Jupiter Medical Center, the subdistrict and district. The applicant states that Palm Beach Gardens Medical Center’s occupancy rate has exceeded the rates of the subdistrict and district on a consistent basis. The applicant does note on page 48 of CON application #10130 that bed capacity is not relevant to this review. See the table below.

Palm Beach Gardens Medical Center’s Historical Occupancy as Compared to the Subdistrict and District			
Hospital/Area	July 2008-June 2009 Occupancy %	July 2009-June 2010 Occupancy %	Average
Palm Beach Gardens Medical Center	71.2%	69.6%	70.4%
Jupiter Medical Center	77.9%	79.2%	78.3%
Subdistrict 9-4	54.1%	54.1%	54.0%
District 9	61.2%	59.9%	60.2%

Source: CON application #10130, page 37.

FRMC contends that Palm Beach Gardens Medical Center is without dedicated areas for outpatients and observation patients so inpatient beds are routinely used to care for these patients. On this basis, the applicant maintains that Palm Beach Gardens Medical Center’s functional occupancy rates for the first quarter of the year average 84 percent and 84.5 percent respectively for 2010 and 2011. See the table below.

Palm Beach Gardens Medical Center’s Functional Occupancy Rates Based on 199 Beds		
Month	2010	2011
January	80.2%	87.1%
February	86.2%	85.3%
March	85.7%	83.7%
Average	84.0%	85.4%

Source: CON application #10130, page 43.

FRMC presents an extensive table of functional occupancy rate by unit that shows several patient care units at Palm Beach Gardens Medical Center have been operating in excess of 90 percent and often in excess of 100 percent numerous times during the year.⁹ The applicant contends that decompression of Palm Beach Gardens Medical Center’s patient census by developing the proposed facility is a practical and feasible solution to the current limitations of physical space at the existing facility.

⁹ According to data supplied by the applicant, the ICU, OHS/CVS, Orthopedics/Neurosurgery, Cardiac Cath, CVICU and Cardiac Telemetry units had an average number of days per month in excess of 90 percent occupancy that ranged from 17-28 days per month in 2010 and 10-19 days per month in 2011.

The applicant maintains that Palm Beach Gardens Medical Center is characterized by:

- Overutilization during the peak seasonal months of January-April
- Does not have dedicated area for outpatient and observation patients that meet future patient expectations
- Is undersized with respect to its surgical suites

FRMC asserts that the proposed facility will solve these problems.

The applicant indicates that the proposed facility will be able to rely on support from Tenet (the parent company) Healthcare's expertise in operations, finance and accounting, materials management and purchasing, design and construction, managed care contracts and other key functions related to the daily operation of an acute care hospital. FRMC asserts that the proposed facility will not be a satellite hospital of Palm Beach Gardens Medical Center, although, the two facilities will have a close relationship in terms of service to a similar area.

FRMC states that Palm Beach Gardens Medical Center cannot expand its physical plant on its current campus due to lack of space and the zoning regulations of the City of Palm Beach Gardens which prohibit it from expanding horizontally or vertically. Therefore, expansion of Palm Beach Gardens Medical Center is not a practical or feasible alternative. FRMC states that its plan is the re-direction of up to 70 percent of the non-tertiary medical/surgical admissions from 10 zip codes within Palm Beach Gardens Medical Center's PSA establishing a sufficient base of patients to support the proposed facility without any change in market shares rates among existing provider in the area. This, FRMC contends will assure no impact on any hospital other than Palm Beach Gardens Medical Center.

FRMC acknowledges that the chosen site of the proposed facility is within a 20-30 minute drive time of other existing hospitals in Subdistrict 9-4 such as Jupiter Medical Center, St. Mary's Medical Center and Columbia Hospital. The applicant contends that its proposed site should not be a bar to approval of the proposed facility as its proposed patient base will be comprised of patients who would have otherwise been admitted to Palm Beach Gardens Medical Center. FRMC contends that the proposed facility is designed to improve programmatic and geographic access to services.

The remainder of the applicant's responses to the statutory review criterion will be presented in the following sections:

- Definition of non-tertiary services
- Sources of data

- Time frames and planning horizon
- Service area definition
- Population and demographics
- Acute care hospital utilization and market share
- Projected utilization and bed need

Definition of Non-Tertiary Services

FRMC indicates that for the purposes of CON application #10130, non-tertiary acute care services exclude the following services:

- Psychiatric
- Substance Abuse
- Inpatient Rehabilitation
- Open Heart Surgery
- Major Cardiovascular Surgery Procedures
- Therapeutic Cardiac Catheterization
- Neonatal Intensive Care
- Burn Care
- Transplants
- Neurosurgical and Selected Spinal Surgery Procedures
- Major and Significant Trauma

The applicant proposes to serve only adult patients age 15+ at the proposed facility as pediatric services will not be offered due to the nearby presence of St. Mary's Medical Center in West Palm Beach.

Sources of Data

FRMC states that the principal source of hospital utilization data in CON application #10130 was the Agency for Health Care Administration "Hospital Patient Database" using July 2009-June 2010 data.¹⁰ The applicant acknowledges that calendar year 2010 data is available. It should be noted that the Florida Center hospital discharge data was certified for calendar year 2010 on May 31, 2011¹¹ and the applicant filed its letter of intent on August 8, 2011. FRMC maintains that based on its experience and analysis of the data, there is no significant difference for the proposed service area's utilization between the two reporting periods.

¹⁰ The applicant states that this was the most recent 12-month period of data available for the entire state at the time the consultant started preparing the application.

¹¹ Confirmed by the reviewer at <http://www.floridahealthfinder.gov/Researchers/OrderData/order-data.aspx>

The applicant indicates that the hospital bed and utilization data from the Agency for Health Care Administration’s “Fixed Need Pool” publications were used to a limited extent relating to seasonal peaks in hospital utilization. FRMC states that it used principal sources for population and demographic data:

- Claritas, Inc. zip code level population estimates and projections for 2000, 2011 and 2016 by age cohort.
- Agency for Health Care Administration population estimates and projections by age cohort at the county, district and state level for 2000-2015.

Time Frames and Planning Horizon

The applicant assumes that the first year of operation for the proposed facility would be some time during 2014—allowing for two plus years of design and construction. Therefore, FRMC prepared projected volumes for the proposed facility for 2014-2016.

Service Area Definition

FRMC maintains that the service area for the proposed facility was based on the proximity of the zip codes to the intersection of I-95 and Donald Ross Road and across the street from the location of the FAU MacArthur Campus and Scripps Florida Research Institute Campus. See the table below.

FRMC Service Area			
Service Area	Zip Code	City	County
Primary	33408	North Palm Beach	Palm Beach
Primary	33410	Palm Beach Gardens	Palm Beach
Primary	33418	Palm Beach Gardens	Palm Beach
Primary	33458	Jupiter	Palm Beach
Primary	33477	Jupiter	Palm Beach
Secondary	33403	West Palm Beach	Palm Beach
Secondary	33412	West Palm Beach	Palm Beach
Secondary	33455	Hobe Sound	Martin
Secondary	33469	Jupiter	Palm Beach
Secondary	33478	Jupiter	Palm Beach

Source: CON application #10130, page 52.

The applicant states that there are two existing acute care hospitals within the proposed service area, Palm Beach Gardens Medical Center (zip code 33410) and Jupiter Medical Center (zip code 33458). FRMC’s site is located in zip code 33418.

FRMC includes a composite of Palm Beach Gardens Medical Center’s current non-tertiary service area zip codes and those proposed for FRMC. The applicant maintains that all ten of the service area zip codes are within the primary and secondary areas of Palm Beach Gardens Medical

Center. Furthermore, the applicant contends that because there are 21 zip codes unaffected by FRMC—Palm Beach Gardens Medical Center has sufficient area and associated population base to rely on for continued admissions and outpatient visits. See the table below.

Palm Beach Gardens Medical Center Patient Origin of Non-Tertiary Acute Care Discharges: July 2009-June 2010				
Palm Beach Gardens Medical Center				FRMC Service Area Designation
Service Area	Zip Code and City	Discharges	Percent	
Primary	33410 Palm Beach Gardens	1,472	18.2%	Primary
Primary	33418 Palm Beach Gardens	1,279	15.8%	Primary
Primary	33408 North Palm Beach	872	10.8%	Primary
Primary	33404 West Palm Beach	762	9.4%	NA
Primary	33403 West Palm Beach	477	5.9%	Secondary
Primary	33458 Jupiter	331	4.1%	Primary
Primary	33417 West Palm Beach	246	3.0%	NA
Primary	33477 Jupiter	241	3.0%	Primary
Primary	33412 West Palm Beach	221	2.7%	Secondary
Primary	33407 West Palm Beach	210	2.6%	NA
Secondary	33469 Jupiter	160	2.0%	Secondary
Secondary	33411 West Palm Beach	157	1.9%	NA
Secondary	33409 West Palm Beach	98	1.2%	NA
Secondary	33401 West Palm Beach	96	1.2%	NA
Secondary	33470 Loxahatchee	86	1.1%	NA
Secondary	33478 Jupiter	81	1.0%	Secondary
Secondary	33455 Hobe Sound	67	0.8%	Secondary
Secondary	33415 West Palm Beach	55	0.7%	NA
Secondary	33414 Wellington	54	0.7%	NA
Secondary	33413 West Palm Beach	37	0.5%	NA
Secondary	33430 Belle Glade	35	0.4%	NA
Secondary	33406 West Palm Beach	33	0.4%	NA
Secondary	33997 Stuart	32	0.4%	NA
Secondary	33405 West Palm Beach	30	0.4%	NA
Secondary	34953 Port Saint Lucie	26	0.3%	NA
Secondary	33476 Pahokee	25	0.3%	NA
Secondary	33461 Lake Worth	25	0.3%	NA
Secondary	33467 Lake Worth	25	0.3%	NA
Secondary	33460 Lake Worth	19	0.2%	NA
Secondary	34983 Port Saint Lucie	19	0.2%	NA
Secondary	34974 Okeechobee	17	0.2%	NA
	All Others	813	10.0%	
	Grand Total	8,101	100.0%	

Source: CON application #10130, page 53.

Population and Demographics

FRMC states that the current population of adults (age 15+) in the PSA (zip codes 33408, 33410, 33418, 33458 and 33477) is 125,792 and projected to increase to 135,190 by 2016. The applicant forecasts the PSA to have an annual growth rate of 1.5 percent. FRMC states that the current population of adults in the secondary service area (zip codes 33403, 33412, 33455, 33469 and 33478) is 62,187, which is projected to

increase to 65,677 by 2015.¹² The applicant maintains that its primary and secondary service area accounts for 187,979 adults in 2011, increasing to 200,867 by 2016.

The applicant presents two tables on population. These are recreated below.

Adult Population 15+ Years*					
Area	2000	2011	2016	Annual Change in Population 2011-2016	
				Ne	Percent
FRMC Primary Service Area					
33408	15,393	15,370	15,508	28	0.2
33410	23,251	29,903	32,117	442	1.5
33418	22,337	30,926	34,135	641	2.1
33458	26,691	37,142	40,224	616	1.7
33477	11,054	12,451	13,206	151	1.2
Sub-Total	98,726	125,792	135,190	1,79	1.5
FRMC Secondary Service Area					
33403	995	10,244	10,325	16	0.2
33412	700	11,609	13,383	354	3.1
33455	14,804	17,137	17,716	115	0.7
33469	12,125	13,155	13,731	115	0.9
33478	861	10,042	10,522	96	1.0
Sub-Total	52,502	62,187	65,677	698	1.1
FRMC Total Service Area					
	151,228	187,979	200,867	2,577	1.4
Palm Beach County	922,980	1,066,907	1,129,616	12,542	1.2
Subdistrict 9-4	291,666	366,135	392,149	5,202	1.4
District 9	1,307,847	1,575,513	1,693,809	23,659	1.5
Florida	12,861,056	15,469,271	16,629,669	232,080	1.5

Source: CON application #10130, page 58

* The applicant left off several dates and numbers as the table had 200, 201 and 201 for the years and several columns of numbers do not add up to its matching sub-total column. The 2000 secondary zip code numbers cannot be corrected by the reviewer as Agency data is not separated by zip code. However, corrections were made to the 2011-2016 annual changes in the 'Ne' Column.

¹² The applicant noted previously that the projected population increase of 65,677 in the secondary service area would occur in 2016, not 2015, on page 41 of CON application #10130.

Current and Projected Population in the FRMC Service Area						
Zip Code/City	2011 Population			2016 Population		
	Age 0-14	Age 15+	Total	Age 0-14	Age 15+	Total
Primary Service Area						
33408 North Palm Beach	1,846	15,370	17,216	1,872	15,508	17,380
33410 Palm Beach Gardens	5,520	29,903	35,423	6,004	32,117	38,121
33418 Palm Beach Gardens	5,290	30,926	36,216	6,027	34,135	40,162
33458 Jupiter	9,616	37,142	46,758	10,471	40,224	50,695
33477 Jupiter	932	12,451	13,383	975	13,206	14,181
Subtotal	23,204	125,792	14,996	25,349	135,190	160,539
Secondary Service Area						
33403 West Palm Beach	2,647	10,244	12,891	2,710	10,325	13,035
33412 West Palm Beach	3,849	11,609	15,458	4,385	13,383	17,768
33455 Hobe Sound	2,479	17,137	19,616	2,537	17,716	20,253
33469 Jupiter	2,122	13,155	15,277	2,213	13,731	15,944
33478 Jupiter	2,239	10,042	12,281	2,381	10,522	12,903
Subtotal	13,336	62,187	75,523	14,226	65,677	79,903
TOTAL SERVICE AREA	36,540	187,979	224,519	39,575	200,867	240,442

Source: CON application #1030, page 59.

Acute Care Hospital Utilization and Market Share

The applicant states that during the July 2009-June 2010 reporting period, adult residents of the proposed primary service area had 11,644 non-tertiary medical/surgical discharges from Florida hospitals. FRMC maintains that this base of patients can support an 80-bed hospital.¹³ The reviewer found 11,515 discharges¹⁴ in the applicant’s primary service area using the non-tertiary acute care medical/surgical DRGs supplied by the applicant in attachment 9 for calendar year 2010.

FRMC states that there were 5,885 adult resident non-tertiary medical/surgical discharges from the proposed secondary service area from hospitals in Florida. The applicant indicates that combined with the primary service discharges, the total for the primary and secondary service areas are 17,529 discharges for the July 2009-June 2010 reporting period.

The applicant contends that FRMC’s PSA adult resident non-tertiary discharges increased at a faster rate (3.7 percent) than Palm Beach County (1.4 percent), Subdistrict 9-4 (1.2 percent) and District 9 (2.2 percent) from July 2007 to June 2010. FRMC states that adult residents of the proposed primary service area reported an ADC of 152.1 non-tertiary medical/surgical patients in Florida hospitals during the baseline time period. The applicant maintains that this is a 10.8 ADC (7.7 percent) increase from two years earlier and shows that there is a base of patients that can support an 80-bed hospital. The reviewer

¹³ It should be noted that on page 40 of CON application #10130, the applicant stated that for the baseline period there were 4,135 resident non-tertiary discharges from FRMC’s primary service area and 1,006 from the secondary service area.

¹⁴ Florida Center for Health Information & Policy Analysis CY 2010 hospital discharge data.

found an ADC of 154.22¹⁵ in the applicant's primary service area using the non-tertiary acute care medical/surgical DRGs supplied by the applicant in attachment 9 for calendar year 2010. This broke down to an ADC of 54.56 at Palm Beach Gardens Medical Center, 65.45 at Jupiter Medical Center, 8.64 at St. Mary's Medical Center, 2.34 at Columbia Hospital and 23.22 at the remaining 120 hospitals.

The applicant indicates that the secondary service area adult residents accounted for an additional ADC of 73.8 patients in Florida hospitals. FRMC states that combined with the PSA ADC, the total service produced an ADC of 225.9 patients during the July 2009 – June 2010 reporting period. The applicant notes that the adult resident non-tertiary ADC from the FRMC primary service area was the only area in which ADC increased on a percentage basis over the past three data reporting periods¹⁶ when compared to Palm Beach County, Subdistrict 9-4 and District 9.

The applicant provides two tables to illustrate the three year trends in resident adult discharges and ADC by zip code for the FRMC service area. These are recreated below.

Adult Resident Non-Tertiary Discharges at Acute Care Hospitals							
Area	July 07- June 08	July 08- June 09	July 09- June 10	2008-2010 Change		2008-2010 Annual Change	
				Net	Percent	Net	Percent
FRMC Primary Service Area							
33408	1,675	1,803	1,776	101	6.0%	50.5	3.0%
33410	2,629	2,611	2,761	132	5.0%	66	2.5%
33418	2,610	2,572	2,776	166	6.4%	83	3.2%
33458	2,973	2,944	2,963	-10	-0.3%	-5	-0.2%
33477	1,340	1,387	1,368	28	2.1%	14	1.0%
Subtotal	11,227	11,317	11,644	417	3.7%	208.5	1.9%
FRMC Secondary Service Area							
33403	1,027	1,099	1,010	-17	-1.7%	-8.5	-0.8%
33412	837	806	907	70	8.4%	35	4.2%
33455	1,885	1,868	1,832	-53	-2.8%	-26.5	-1.4%
33469	1,379	1,489	1,356	-23	-1.7%	-11.5	-0.8%
33478	811	801	780	-31	-3.8%	-15.5	-1.9%
Subtotal	5,939	6,063	5,885	-54	-0.9%	-27	-0.5%
FRMC Total Service Area	17,166	17,380	17,529	363	2.1%	181.5	1.1%
Palm Beach County	117,301	119,521	118,954	1,653	1.4%	826.5	0.7%
Subdistrict 9-4	36,744	37,476	37,198	454	1.2%	227	0.6%
District 9	171,023	174,522	174,711	3,688	2.2%	1,844	1.1%
Florida	1,682,287	1,714,113	1,744,928	62,641	3.7%	31,320.5	1.9%

Source: CON application #10130, page 64.

¹⁵ Florida Center for Health Information & Policy Analysis CY 2010 hospital discharge data.

¹⁶ The applicant used July 2007-June 2008, July 2008-June 2009 and July 2009-June 2010 as its reporting periods.

Adult Resident Non-Tertiary ADC at Acute Care Hospitals							
Area	July 07- June 08	July 08- June 09	July 09- June 10	2008-2010 Change		2008-2010 Annual Change	
				Net	Percent	Net	Percent
FRMC Primary Service Area							
33408	21.3	24.2	24.2	2.9	13.5%	1.4	6.8%
33410	36.0	36.1	36.0	0.0	0.0%	0.0	0.0%
33418	33.3	32.4	35.3	2.0	6.0%	1.0	3.0%
33458	34.6	36.7	38.1	3.4	9.9%	1.7	5.0%
33477	16.0	18.0	18.4	2.5	15.4%	1.2	7.7%
Subtotal	141.2	147.4	152.1	10.8	7.7%	5.4	3.8%
FRMC Secondary Service Area							
33403	14.2	14.9	14.2	0.1	0.5%	0.0	0.3%
33412	10.6	9.1	9.7	-0.8	-7.8%	-0.4	-3.9%
33455	25.0	23.3	22.9	-2.2	-8.7%	-1.1	-4.3%
33469	17.4	19.0	17.3	-0.1	-0.5%	0.0	-0.2%
33478	9.8	9.7	9.6	-0.2	-1.6%	-0.1	-0.8%
Subtotal	77.0	76.0	73.8	-3.2	-4.1%	-1.6	-2.1%
FRMC Total Service Area	218.2	223.4	225.9	7.6	3.5%	3.8	1.8%
Palm Beach County	1,517.7	1,501.4	1,474.5	-43.2	-2.8%	-21.6	-1.4%
Subdistrict 9-4	473.4	472.2	473.3	-0.2	0.0%	-0.1	0.0%
District 9	2,229.2	2,216.2	2,1743.8	-55.2	-2.5%	-27.6	-1.2%
Florida	22,129.1	22,157.0	22,174.9	45.8	0.2%	22.9	0.1%

Source: CON application #10130, page 65.

FRMC includes additional detail and information on significant hospital utilization metrics including average length of stay (ALOS), case mix index, population and use rates in terms of discharges per 1,000 population and patient days per 1,000 population in Attachment 11 of CON application #10130. The applicant states that Jupiter Medical Center ranks first in market share in the proposed primary and secondary service area for the proposed medical center with 41.7 and 35.2 percent respectively of resident adult non-tertiary medical/surgical discharges for the baseline period. FRMC contends that Palm Beach Gardens Medical Center ranks a close second in market share with 36 percent in the primary service area and 17.1 percent in the secondary service area. The applicant maintains that Palm Beach Gardens Medical Center has a 29.7 percent overall market share compared to Jupiter Medical Center’s 39.6 percent.

However, the applicant indicates that there is considerable variation within the proposed service area when market shares are analyzed by individual zip code. FRMC contends that Palm Beach Gardens Medical Center has a significantly greater market share in the zip codes situated in the central and southern portion of the proposed primary and secondary service area whereas Jupiter Medical Center has a stronger market share in the Jupiter area zip codes of the proposed service area.

The applicant asserts that this has been a pattern of patient destination for hospital treatment for many years and not expected to change significantly with the approval of the proposed facility. See the table below.

Hospital of Treatment and Market Share for Resident Adult Non-Tertiary Medical/Surgical Discharges from the FRMC Service Area July 2009-June 2010							
Area	Columbia Hospital	Jupiter Medical Center	Palm Beach Gardens Medical Center	St. Mary's Medical Center	Subdistrict 9-4	All Other Hospitals	Total Cases
Primary Service Area							
33408	51	477	872	107	1,632	144	1,776
33410	93	622	1,472	157	2,491	270	2,761
33418	69	774	1,279	156	2,482	294	2,776
33458	43	2,030	331	154	2,678	285	2,963
33477	5	956	241	40	1,268	100	1,368
Subtotal	261	4,859	4,195	614	10,551	1,093	11,644
Secondary Service Area							
33403	89	68	477	195	896	114	1,010
33412	23	89	221	59	675	232	907
33455	8	409	67	30	531	1,301	1,832
33469	20	993	160	38	1,250	106	1,356
33478	11	515	81	38	684	96	5,885
Subtotal	151	2,074	1,006	360	4,036	1,849	5,885
Total	412	6,933	5,201	974	14,587	2,942	17,529
Total Percent	2.4%	39.6%	29.7%	5.6%	83.2%	16.8%	100.0%

Source: CON application #10130, pages 67 and 68.

Projected Utilization and Bed Need

FRMC emphasizes that a fundamental premise of the proposed project is the redirection of non-tertiary, adult medical/surgical admissions from Palm Beach Gardens Medical Center to FRMC. The applicant asserts that the proposed facility has two major goals:

- To decompress Palm Beach Gardens Medical Center in order to redesign and re-work the existing space for future modernization projects.
- The development of a world-class research and academic oriented hospital to support the aspirations of The Scripps Research Institute and the Florida Atlantic University School of Medicine.

To determine projected patient days, ADC and bed need based on a 75 percent occupancy standard for the proposed facility, the applicant applied the following:

- Analysis of historical utilization trends in discharges, use rates and current discharge rate per 1,000 in the adult population (15+) applied to the projected population
- Baseline data set of residents cases for the primary and secondary service area was established by the re-direction of 70 percent of admissions at Palm Beach Gardens Medical Center
- Discharge rates and market shares were held constant for forecasted inpatient volume for 2014-2016
- ALOS values of 4.8 for the primary service area and 4.6 for the secondary service area were held constant—this was based on the actual experience of adult residents of the area for non-tertiary, medical/surgical inpatient stays.

FRMC presents market share and discharges for the zip codes affected by the redirection of adult non-tertiary admissions from Palm Beach Gardens Medical Center to the proposed facility in table recreated below. The applicant states that it should be kept in mind that Palm Beach Gardens Medical Center’s service area for non-tertiary services includes additional zip codes as does its service area for tertiary services.

Market Share and Discharges for Zip Codes Affected by the Redirection of Adult Non-Tertiary Admissions from Palm Beach Gardens Medical Center to FRMC									
		Palm Beach Gardens Medical Center July 2009-June 2010 Data				Florida Regional Medical Center July 2009-June 2010 Data			
		Before the redirection of 70% of Admissions		After the redirection of 70% of Admissions		After the redirection of 70% of Admissions from Palm Beach Gardens Medical Center			
Zip Code	Service area based on non-tertiary discharges	Discharges	Market Share	Discharges	Market Share	Service area	Discharges	Market Share	Total Resident Discharges
33408	PSA	872	49.1%	262	14.7%	PSA	610	34.4%	1,776
33410	PSA	1,472	53.3%	442	16.0%	PSA	1,030	37.3%	2,761
33418	PSA	1,279	46.1%	384	13.8%	PSA	895	32.3%	2,776
33458	PSA	331	11.2%	99	3.4%	PSA	232	7.8%	2,963
33477	PSA	241	17.6%	72	5.3%	PSA	169	12.3%	1,368
Subtotal		4,195	36.0%	1,259	10.8%		2,937	25.2%	11,644
33403	PSA	477	47.2%	143	14.2%	SSA	334	33.1%	1,010
33412	PSA	221	24.4%	66	7.3%	SSA	155	17.1%	907
33455	SSA	67	3.7%	20	1.1%	SSA	47	2.6%	1,832
33469	SSA	160	11.8%	48	3.5%	SSA	112	8.3%	1,356
33478	SSA	81	10.4%	24	3.1%	SSA	57	7.3%	780
Subtotal		1,006	17.1%	302	5.1%		704	12.0%	5,885
Total		5,201	29.7%	1,560	8.9%		3,641	20.8%	17,529

Source: CON application #10130, page 70.

The applicant summarized the re-direction of non-tertiary adult admissions in the proposed service area zip codes from Palm Beach Gardens Medical Center for the baseline period in a table recreated below. Florida Regional Medical Center indicates that this is based on re-direction of 70 percent of Palm Beach Gardens' non-tertiary admissions during the 12-month reporting period ending June 2010 that were residents of FRMC's proposed service area zip codes.

Florida Regional Medical Center Service Area and Volume Based On July 2009 – June 2010 Discharges	
Admissions from FRMC's Five Primary Service Area Zip Codes that Overlap with Palm Beach Gardens Medical Center	2,937
Admissions from FRMC's Five Secondary Service Area Zip Codes that Overlap with Palm Beach Gardens Medical Center	704
Primary and Secondary Service Area Total	3,641
Admissions from Other Areas at 5%	192
Total FRMC Admissions	3,832
FRMC Patient Days	18,939
FRMC ADC	51.9
FRMC Bed Need at 75%	69
FRMC Occupancy Rate Based on 80 Beds	64.9%

Source: CON application #10130, page 71.

FRMC maintains that since examination of the discharge rates and ALOS values over the past three years supports holding these values constant throughout the forecast period, the only variable that fluctuates in its model is population. The applicant presents projected volumes of inpatient services at the proposed facility for the first three years of operations. See the table below.

Projected Volumes of Inpatient Services at FRMC			
	Year One	Year Two	Year Three
Service Area and Date	2014	2015	2016
Primary Service Area			
Adult Population 15+	131,431	133,310	135,190
Non-Tertiary Medical/Surgical Use Rate	94.4	94.4	94.4
Non-Tertiary Medical/Surgical Discharges	12,409	12,586	12,764
Market Share	25.2%	25.2%	25.2%
Non-Tertiary Medical/Surgical Discharges	3,129	3,174	3,219
Non-Tertiary Medical/Surgical ALOS	4.8	4.8	4.8
Patient Days	14,926	15,140	15,353
ADC	40.9	41.5	42.1
Bed Need at 75% Occupancy Standard	55	55	56
Secondary Service Area			
Adult Population 15+	64,281	64,979	65,677
Non-Tertiary Medical/Surgical Use Rate	96.0	96.0	96.0
Non-Tertiary Medical/Surgical Discharges	6,171	6,238	6,305
Market Share	12.0%	12.0%	12.0%
Non-Tertiary Medical/Surgical Discharges	738	746	754
Non-Tertiary Medical/Surgical ALOS	4.6	4.6	4.6
Patient Days	3,384	3,420	3,457
ADC	9.3	9.4	9.5
Bed Need at 75% Occupancy Standard	12	12	13
Inpatient Volumes of Service from Other Areas at 5% of Total			
Non-Tertiary Medical/Surgical Discharges	204	206	209
Patient Days	964	977	990
ADC	2.6	2.7	2.7
Bed Need at 75% Occupancy Standard	4	4	4
Total Facility Inpatient Volumes			
Non-Tertiary Medical/Surgical Discharges	4,071	4,127	4,182
Patient Days	19,274	19,537	19,800
ADC	52.8	53.5	54.2
Bed Need at 75% Occupancy Standard	70	71	72
Occupancy Rate Based on 80 Beds	66.0%	66.9%	67.8%

Source: CON application #10130, page 72.

Projected Bed Need and the 20 Year Vision and Concept

FRMC states that it is the shared vision and collaboration of The Scripps Florida Research Institute, Florida Atlantic University and Tenet Healthcare (parent company of FRMC) to develop an academic and research affiliated hospital. The applicant contends that in order to provide a basis for the fulfillment of its vision associated with phase 2 and 3 of the proposed project, a supplemental analysis of potential hospital bed need is presented.

The applicant maintains that while estimation of the parameters of bed need 20 years into the future is speculative, it is appropriate to discuss as the basis of the vision of the proposed facility as a 200-bed teaching hospital.

FRMC cites nine statutory teaching hospitals in Florida located in six health care districts. The applicant states that these hospitals have a broad geographic service area due to specialized and tertiary services,

staff, faculty, community physicians and surgeons. Therefore, FRMC indicates that its analysis considered all 11 health care districts and examined the relationship between resident acute care admissions to all hospitals. The applicant indicates that unlike to previous information, this analysis includes all resident acute care discharges by the total population.

The applicant arrayed total Florida resident acute care discharges for all districts for calendar year 2010 and compared this to the subset of such discharges from the nine statutory teaching hospitals regardless of patient origin or destination. See the table below.

Resident Acute Care Discharges at Statutory Teaching Hospitals in Florida Calendar Year 2010								
District	Total Resident Acute Care Discharges	Total Resident Acute Care Discharges at Statutory Teaching Hospitals	Statutory Teaching Hospitals % of Total Resident Acute Care Discharges	Total Population as of July 1, 2010	Resident Acute Care Discharges Per 1,000 Population	Resident Acute Care Discharges Per 1,000 Population at Statutory Teaching Hospitals	Resident Acute Care Discharges at Statutory Teaching Hospitals within the Same District	% of Resident Acute Care Discharges at Statutory Teaching Hospitals Retained within the Same District
1	77,925	595	0.8%	712,984	109.294	0.835	NA	NA
2	69,547	1,968	2.8%	734,840	94.642	2.678	NA	NA
3	215,321	35,229	16.4%	1,621,418	132.798	21.727	27,298	77.5%
4	222,597	37,344	16.8%	1,974,355	112.744	18.915	31,934	85.5%
5	173,314	17,080	9.9%	1,366,833	126.800	12.496	12,338	72.2%
6	273,972	34,974	12.8%	2,231,619	122.768	15.672	31,135	89.0%
7	268,968	69,572	25.9%	2,365,317	113.713	29.413	67,356	96.8%
8	178,910	2,313	1.3%	1,594,678	112.192	1.450	NA	NA
9	224,517	3,475	1.5%	1,888,246	118.902	1.840	NA	NA
10	199,621	3,527	1.8%	1,742,843	114.538	2.024	NA	NA
11	298,359	50,880	17.1%	2,555,661	116.744	19.909	50,561	99.4%
Florida	2,203,051	256,957	11.7%	18,788,794	117.253	13.676	220,662	85.9%

The following facilities are statutory teaching hospitals: District 3, Shands Hospital at the University of Florida; District 4, Mayo Clinic; Shands Jacksonville Medical Center; District 5, Largo Medical Center; District 6, Tampa General Hospital; District 7, Florida Hospital, Orlando; Orlando Regional Medical Center; District 11, Jackson Memorial Hospital; Mount Sinai Medical Center.

Source: CON application #10130, page 76 based on the State Center's Hospital CY 2010 Discharge Database & AHCA Population Estimates 2000 to 2020, September 2010.

The applicant contends that using a statewide average produces a projected need for 449, 643 and 870 teaching hospital beds in District 9 in calendar year 2030 using the "low, medium and high" range concept. FRMC asserts that its proposed build-out of 200 beds is certainly within the realm of reasonableness given the projected need for statutory teaching hospital beds presented on page 77 of CON application #10130. However, a statutory teaching hospital must have at least seven different graduate medical education programs accredited by the Accreditation for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association and the presence of 100 or more full-time resident physicians.

The most important factor in the project is FRMC’s commitment to develop a world-class research and teaching hospital that has the potential to become a regional rather than a local community resource. The coalition of organizations associated with the proposed facility must work together on an ongoing basis to ensure that the population gains access to services that it would otherwise not have. There is no need for an additional small community hospital that offers basic services.

b. Will the proposed project foster competition to promote quality and cost-effectiveness? Please discuss the effect of the proposed project on any of the following:

- **applicant facility;**
- **current patient care costs and charges (if an existing facility);**
- **reduction in charges to patients; and**
- **extent to which proposed services will enhance access to health care for the residents of the service district.**

ss. 408.035(1)(e) and (g), Florida Statutes.

FRMC maintains that one of the fundamental assumptions to the proposed project is the re-direction of non-tertiary, adult medical/surgical admissions from Palm Beach Gardens Medical Center to FRMC. The applicant contends that Palm Beach Gardens Medical Center’s market share is more than sufficient to subdivide and support the proposed project based on the 70 percent re-direction factor of admissions. FRMC presents a summary of the market shares between the two facilities in a “before and after” scenario. The applicant asserts that this table demonstrates that the proposed project will have no effect on competition in terms of market share for adult non-tertiary medical/surgical services. See the table below.

Summary of Market Shares for Palm Beach Gardens Medical Center and FRMC			
Zip Codes	Palm Beach Gardens Medical Center		FRMC
	Before	After	
Primary Service Area			
33408	49.1%	14.7%	34.4%
33410	53.3%	16.0%	37.3%
33418	46.1%	13.8%	32.3%
33458	11.2%	3.4%	7.8%
33477	17.6%	5.3%	12.3%
Subtotal	36.0%	10.8%	25.2%
Secondary Service Area			
33403	47.2%	14.2%	33.1%
33412	24.4%	7.3%	17.1%
33455	3.7%	1.1%	2.6%
33469	11.8%	3.5%	8.3%
33478	10.4%	3.1%	7.3%
Subtotal	17.1%	5.1%	12.0%
Total	29.7%	8.9%	20.8%

Source: CON application #10130, page 78.

In terms of competition and potential impact on existing facilities, the applicant indicates that two immediate benefits can be attributed to the re-direction of admissions of Palm Beach Gardens Medical Center to the proposed facility:

- The proposed facility will have a sufficient volume of admission and ADC to be self-supporting as its anticipated admissions will be based on the existing and historical experience.
- The impact of the proposed facility will be limited solely to Palm Beach Gardens Medical Center.

FRMC states that other factors limit and negate any potential impact on existing providers in the subdistrict:

- The proposed facility will only offer adult services, 15+ years.
- No formal pediatric services will be offered
- No obstetrics will be offered at the proposed facility in its initial phase of operations

The applicant contends that approval of the proposed facility will:

- Enhance programmatic access to inpatients and outpatients at Palm Beach Gardens Medical Center by decompressing its patient census
- Enhance geographic and programmatic access to emergency care and basic hospital services, especially for those in the proposed primary service area
- Enhance access to the programs and resources of a teaching and research hospital affiliated with FAU's School of Medicine and The Scripps Florida Research Institute.

FRMC states that current restrictions to the current approved master site plan on future development¹⁷ on the Palm Beach Gardens Medical Center campus include:

- Palm Beach Gardens Medical Center can add only 12,600 square feet
- The construction of an on-site parking structure is not permitted
- The maximum building height on the campus is 36 feet, or a maximum of three stories.

¹⁷ This plan was done by the urban design studio for Palm Beach Gardens Medical Center.

The applicant indicates that other challenges face Palm Beach Gardens Medical Center's patients, physicians and staff:

- Palm Beach Gardens Medical Center has expanded and renovated to its maximum size and cannot meet projected demands and needs from the area it serves
- Palm Beach Gardens Medical Center is landlocked and cannot grow horizontally.
- Palm Beach Gardens Medical Center cannot expand vertically.
- There is no space remaining on Palm Beach Gardens Medical Center's campus for additional grade-level parking and a parking structure/garage is not permitted.
- There are no dedicated outpatient surgery operating rooms.
- There is insufficient space within Palm Beach Gardens Medical Center's building footprint to renovate and expand ORs without reducing the number of ORs.
- The space on some nursing units is adequate by current standards but insufficient to meet future needs.
- At 1,291 square foot per bed, Palm Beach Gardens Medical Center is low with respect to the space necessary for efficient hospital operations in today's environment.

FRMC contends that approval of the proposed facility will allow Palm Beach Gardens Medical Center to decompress its patient census creating the space necessary for it to modernize for the future.

The applicant maintains that the proposed facility will enhance geographic access to residents in the immediate vicinity of the project's site—improving access to basic hospital services for residents living in areas west of I-95 and the near the I-95 corridor. Additionally, FRMC indicates that the proposed facility will make emergency department services more convenient to residents of the area. The applicant states that it will have an emergency department with seven general exam/treatment beds and six observations beds capable of treating emergency patients at the proposed facility.

Furthermore, FRMC contends that approval of CON application #10130 will facilitate the first step towards a significant collaboration between science and medicine. The applicant states that the goal of the collaboration is to enhance the progression of medical research, education and training of physicians/surgeons into point-of-care patient applications in the hospital setting. FRMC indicates that its vision is to expand the opportunities for clinical research, graduate medical education and medical/surgical services while providing even better access to state-of-the-art medical care.

FRMC indicates that District 9 is one of the five districts in Florida without a statutory teaching hospital even though:

- District 9 ranks fifth in current population statewide
- Districts 3 and 5 have teaching hospitals, but rank seventh and ninth, respectively, in population.

Although the project is to establish a general and not a teaching hospital, Florida Regional Medical Center states that it will be one of the clinical training sites for FAU medical students and residents. Therefore FRMC contends, programmatic access will be enhanced by the opportunities to improve the health of the area’s residents and train the next generation of physicians and scientists.

The applicant concludes this question with a statement of support from Florida Governor Rick Scott, “One of my goals for this state has been to grow other sectors of our economy that have potential. Research and development is one of those areas, and this Tenet-Scripps announcement is a great example of the business world and the academic world, working together to make that happen.”

c. Does the applicant have a history of providing health services to Medicaid patients and the medically indigent? Does the applicant propose to provide health services to Medicaid patients and the medically indigent? ss. 408.035(1)(i), Florida Statutes.

Florida Regional Medical Center, Inc. is newly incorporated and does not have a historical track record of utilization. However, the applicant provided the PSA resident non-tertiary calendar year 2010 percent of discharges by payer type from all Florida hospitals and Palm Beach Gardens Medical Center. See the table below.

Discharges by Payer Type for the Primary Proposed Service Area Calendar Year 2010		
Payer Category	Percent of Total Resident Non-Tertiary Adult Discharges at All Florida Hospitals	Percent of Total Resident Non-Tertiary Adult Discharges at Palm Beach Gardens Medical Center
Managed Medicaid	1.3%	1.2%
Medicaid	2.9%	1.8%
Charity	0.5%	1.1%
Total	4.7%	4.1%
All Others	95.3%	95.9%
Total	100.0%	100.0%

Source: CON application #10130, page 85.

The applicant maintains that the above data supports that Palm Beach Gardens Medical Center has a history of providing health services to Medicaid patients and the medically indigent commensurate with the need in the communities it serves. FRMC asserts that it will continue this level of service and has agreed to condition four percent of annual patient days to a combination of Medicaid, Medicaid HMO and Charity upon approval of CON application #10130.

- d. Does the applicant include a detailed description of the proposed general hospital project and a statement of its purpose and the need it will meet? The proposed project's location, as well as its primary and SSAs, must be identified by zip code. Primary service area is defined as the zip codes from which the applicant projects that it will draw 75 percent of its discharges, with the remaining 25 percent of zip codes being secondary. Projected admissions by zip code are to be provided by each zip code from largest to smallest volumes. Existing hospitals in these zip codes should be clearly identified. ss. 408.037(2), Florida Statutes.**

The facility location will be in zip code 33418 and the primary service area zip codes are: 33408, 33410, 33418, 33458 and 33477. The secondary service area zip codes are 33403, 33412, 33455, 33469 and 33478.

The applicant projects 4,071 discharges in year one (2014), 4,127 discharges in year two and 4,182 discharges in year three. FRMC states that in year three (2016), it will draw 77 percent of its patients from the primary service area and the remaining 23 percent of patients will come from a combination of local secondary service area zip codes and out of area patients. See the table below.

FRMC Projected Patient Origin by Zip Code for Year Three (2016)¹⁸			
Service Area	Discharges	Percent	Cumulative %
Primary Service Area			
33410	1,129	27.0%	27.0%
33418	981	23.5%	50.5%
33408	669	16.0%	66.5%
33458	254	6.1%	72.5%
33477	185	4.4%	77.0%
Subtotal	3,219	77.0%	77.0%
Secondary Service Area			
33403	358	8.6%	85.5%
33412	166	4.0%	89.5%
33469	120	2.9%	92.3%
33478	61	1.5%	93.8%
33455	50	1.2%	95.0%
Subtotal	754	18.0%	95.0%
Other Areas	209	5.0%	100.0%
Facility Total	4,182	100.0%	100.0%

Source: CON application #10130, page 88.

F. Written Statement(s) of Opposition

Except for competing applicants, in order to be eligible to challenge the Agency decision on a general hospital application under review pursuant to paragraph (5)(c), existing hospitals must submit a detailed written statement of opposition to the Agency and to the applicant. The detailed written statement must be received by the Agency and the applicant within 21 days after the general hospital application is deemed complete and made available to the public. ss. 408.039(3)(c), Florida Statutes.

Columbia Hospital Limited Partnership d/b/a Columbia Hospital

On November 2, 2011, the Agency received a 21-page detailed statement of opposition to this project. The opposition was signed by Dana C. Oaks, Chief Executive Officer, on behalf of Columbia Hospital Limited Partnership d/b/a Columbia Hospital.

Columbia indicates that CON application #10130 should be denied because it fails to satisfy the applicable statutory review criteria set forth in Section 408.035 in five particular points:

- The need for the health care facilities and health services being proposed
- The availability, accessibility and extent of utilization of existing health care facilities and health services in the service district of the applicant

¹⁸ The applicant contends that service area designation is based on the percent of total patients expected from each zip code which does not exactly correlate with estimated market share for that specific zip code.

- The extent to which the proposed services will enhance access to health care for residents of the service district
- The extent to which the proposal will foster competition that promotes quality and cost-effectiveness
- The applicant's past and proposed provision a health care services to Medicaid patients and the medically indigent

Columbia cites that the applicant failed to meet specific statutes and rule criteria listed below:

- FRMC's application failed to include a statement of intent, that if approved, it will within 120 days furnish satisfactory proof of financial ability to operate pursuant to section 408.037 (2) Florida Statutes. However, CON application #10130 includes Schedule D (H), which contains this requirement and it is signed and dated by the applicant's representative.
- Pursuant to section 408.037(2) Florida Statutes, the applicant's "purposes" are not cognizable under CON regulations as a legitimate basis for CON approval.
- Objective consideration of s. 408.035 Florida Statutes, and Rule 59C-1.008(2)(e) 2 & 3 Florida Administrative Code, criteria dictate that the FRMC application must be denied.

The opposition statement is organized based upon specific criticisms of the FRMC application relative to the statutory review criteria.

FRMC does not prove the need for the health care facilities and health services being proposed.

Columbia states that FRMC bases "need" for the proposed hospital on three arguments:

- The need to "decompress Palm Beach Gardens Medical Center by shifting a major portion of non-tertiary patient volume to the new hospital
- The need for a hospital with a significant emphasis on teaching and research to be located in Palm Beach County in close proximity to FAU's College of Medicine and the Scripps Research Institute
- The need for the economic development benefits that the new hospital will confer upon Palm Beach County

Columbia maintains that the need for decompression of Palm Beach Gardens Medical Center is not demonstrated in the FRMC application and decompression of another facility does not equate to need for a proposed new hospital.

Columbia cites that FRMC has no proposal or commitment to voluntarily delicense any number of beds but instead argues that the lack of CON review of bed additions at existing hospitals renders the issue moot. Another weakness in the decompression argument, Columbia contends, is the apparent lack of consideration of utilizing existing Tenet hospitals to decompress Palm Beach Gardens Medical Center. Columbia maintains that there were on average 348 unoccupied beds at Good Samaritan Medical Center and St. Mary’s Medical Center on a typical day. See the table below.

Acute Care Beds, Occupancy & Empty Beds at Tenet Hospitals Acute Care Subdistrict 9-4, Calendar Year 2010				
Hospital	Beds	Occupancy	ADC	Empty Beds
Good Samaritan Medical Center	326	33.1%	108	218
Palm Beach Gardens Medical Center	199	68.9%	137	62
St Mary’s Medical Center	328	60.2%	198	130
Tenet in N. Palm Beach County	853	51.9%	443	410

Source: Columbia Hospital opposition statement, page 4.

Columbia states that while FRMC argues that planning and zoning restrictions imposed by the City of Palm Beach Gardens limit or preclude expansion of Palm Beach Gardens Medical Center, no information is provided on efforts by the existing facility to obtain zoning or plan amendments. Columbia doubts that such request would be denied.

Columbia states that the 75 percent occupancy standard used by FRMC is reasonable and has long been used by health planners to project a bed need. However, Columbia indicates that FRMC argues that Palm Beach Gardens Medical Center must be decompressed although during CY 2010 Palm Beach Gardens was at 68.9 percent occupancy. By FRMC’s contentions, Columbia concludes that the proposed 80-bed hospital will be inadequate and in need of immediate decompression as soon as it is constructed.

As to the need for a teaching/research hospital, Columbia states that FRMC’s arguments are spurious as the CON program does not recognize teaching and research missions as legitimate reasons for approval.

Columbia asserts that FRMC’s application appears to be carefully worded leaving an erroneous impression that the proposed facility will be a “teaching hospital” and that there are current agreements in place with Scripps and the FAU College of Medicine for hospital-based clinical research and post-medical school residency programs. Columbia cites that FAU has no formal agreement with Tenet to utilize the proposed

facility and the application presents no formal or proposed written agreements between Scripps or FAU and Tenet or FRMC. Columbia also points out that FRMC did not offer to condition the CON on any specific teaching or residency programs, numbers of students/residents or to accomplish any related activities within an enforceable timeframe. Further, the CON conditions proposed involving FAU/Scripps do not suggest anything that could not be provided in association with existing hospitals, including one or more Tenet Hospitals. Columbia concludes that the absence of a teaching hospital in Palm Beach County/District 9 does not justify the establishment of one, none of the statutory teaching hospitals in Florida are as small as the proposed facility and Tenet has no experience is operating a teaching hospital in Florida.

Columbia contends that any economic development benefit of the proposed project is immaterial to the fundamental issue of need for a new hospital from the standpoint of the health care needs of the community. Additionally, Columbia contends that any job creation at FRMC would be offset by job reductions at other hospitals.

FRMC did not address the availability, accessibility and extent of utilization of existing health care facilities/services in the service district. Columbia maintains that FRMC does not adequately address the need for the project as evidenced by the availability, accessibility and extent of utilization of existing hospitals in the area. Columbia states that utilization in the subdistrict (Subdistrict 9-4 had 1,429 acute care beds) averaged 54.22 percent during calendar year 2010 and there were on average 651 empty acute care beds—410 in Tenet-owned hospitals. Columbia states that it had 120 empty beds on average in calendar year 2010 and will be adversely affected by the establishment of FRMC. That FRMC chose largely to ignore a proper evaluation of availability, accessibility and extent of utilization of existing hospitals is not surprising to Columbia.

Columbia contends that FRMC's claim that all expected utilization will be "redirected" from Palm Beach Gardens is dubious for several reasons:

- FRMC provides no explanation as to how or why 70 percent of Palm Beach Gardens Medical Center's discharges in the proposed service area will shift to FRMC.
- If the applicant's patient shift were to actually occur, the annual occupancy at Palm Beach Gardens Medical Center would be reduced to levels well below an optimal utilization threshold.

- The projected discharge shift present by FRMC is nonsensical—it predicts a 7.8 percent market share from zip code 33458 when residents of that zip code need only cross the street to access the hospital.
- FRMC creates a market share charade claiming it will have a larger market share in Palm Beach Gardens Medical Center’s home zip code (33410) than in its own zip code (33418).

Columbia maintains that it is far more likely that two events will occur as the result of the establishment of FRMC:

1. FRMC’s utilization will come at the expense of other existing hospitals in addition to Palm Beach Gardens Medical Center.
2. The current service area of Palm Beach Gardens Medical Center will adjust in a southward direction—magnifying the adverse impact on hospitals to the south, particularly Columbia Hospital.

Pursuant to s. 408.037(2) Florida Statutes, and Rule 59C-1.008(1)(f) Florida Administrative Code, Columbia indicates FRMC failed to properly designate both its primary and secondary service area as evidenced by discharges from a secondary service area zip code (33403 with 358 projected discharges) exceeding discharges from two primary service area zip codes (33458 and 33466 with 254 and 185 projected year three (2016) discharges).¹⁹

Columbia contends that rather than the “gerrymandered maze” provided by FRMC, the proposed facility is quite likely to exhibit the pattern found among existing hospitals. Columbia applied its reasonable market share and estimates resulting in a substantially higher forecast of utilization at the proposed facility—a much greater impact on existing providers. See the table below.

¹⁹ Columbia cites the table on page 88 of CON application #10130 for this data.

Projected Volume at FRMC Applying Realistic Market Share Estimates			
	Year One (2014)	Year Two (2015)	Year Three (2016)
Primary Service Area			
Adult Population 15+	131,431	133,310	135,190
Use Rate	94.4	94.4	94.4
Area Discharges	12,407	12,584	12,762
Market Share	40.7%	40.7%	40.7%
Facility Discharges	5,050	5,122	5,194
ALOS	4.8	4.8	4.8
Patient Days	24,240	24,586	24,931
ADC	66.4	67.4	68.3
Bed Need at 75%	89	90	91
Secondary Service Area			
Adult Population 15+	64,281	64,979	65,677
Use Rate	96.0	96.0	96.0
Area Discharges	6,171	6,238	6,305
Market Share	11.1%	11.1%	11.1%
Facility Discharges	685	692	700
ALOS	4.6	4.6	4.6
Patient Days	3,151	3,183	3,220
ADC	8.6	8.7	8.8
Bed Need at 75%	12	12	12
Inpatients from Other Areas (5%)			
Facility Discharges	302	306	310
Patient Days	1,442	1,462	1,482
ADC	4.0	4.0	4.1
Bed Need at 75%	5	5	5
Total Facility Inpatient Volumes			
Facility Discharges	6,037	6,120	6,204
Patient Days	28,833	29,231	29,633
ADC	79.0	80.1	81.2
Bed Need at 75%	105	107	108
Occupancy Rate Based on 80 Beds	98.7%	100.1%	101.5%

Source: Columbia opposition statement, page 13.

Columbia states that all inputs and assumptions were held constant except for market share figures. Columbia points out that the ADC is likely to be 79 and increasing to 81 in year three for FRMC with the revised market share analysis. At that level of utilization, Columbia asserts that it makes sense that the applicant’s architectural plans accommodate a 112-bed capacity.

Columbia states that FRMC’s contention that the discharges at the proposed facility will come via a wholesale shift from Palm Beach Gardens Medical Center is without merit. Columbia presents a table based on existing hospitals market share of how current area hospitals, including three HCA facilities, would experience discharge losses with the establishment of FRMC.

Existing Hospitals Market Share				
Hospital	Year 2016 Discharges		Difference	
	Without FRMC	With FRMC	Number	Percent
Jupiter Medical Center	7,512	5,094	(2,418)	-32.2%
Palm Beach Gardens Medical Center	5,622	3,645	(1,977)	-35.2%
Saint Mary's Medical Center	1,123	789	(334)	-29.7
Good Samaritan Medical Center	845	570	(275)	-32.5%
Martin Memorial Hospital South	715	633	(82)	-11.5%
Martin Memorial Medical Center	605	535	(70)	-11.6%
Columbia Hospital	441	308	(133)	-30.2%
JFK Medical Center	364	2367	(97)	-26.6%
Palms West Hospital	343	284	(59)	-17.2%

Source: Columbia Hospital opposition statement, page 5.

The 1,977 discharge shift for Palm Beach Gardens Medical Center, Columbia points out, is far less than the 3,973 discharges stated by the applicant. Columbia expects Palm Beach Garden Medical Center to mitigate the 25.9 ADC loss with the establishment of FRMC by aggressively marketing in zip codes such as 33404. Zip code 33404, Columbia maintains, is in the primary service areas of Columbia Hospital making up 11.3 percent of its acute care discharges and Palm Beach Gardens Medical Center making up 9.4 percent of its acute care discharges. This increased competition within this zip code and other geographic areas resulting from new available capacity at Palm Beach Gardens Medical Center would substantially increase the potential adverse impact of the proposed facility on Columbia Hospital.

There are no access problems for area residents and FRMC did not demonstrate enhancement of access in CON application #10130
 Columbia maintains that the FRMC application does not demonstrate any access concerns, whether financial, programmatic or geographic. Columbia points to the proposed service area of FRMC which experienced 6.3 percent combined Medicaid, Medicaid HMO and charity discharges but the applicant only proposes a 4 percent combined condition upon approval.

Columbia states that establishment of the proposed facility in the general location proposed by FRMC will not result in any significant enhancement of access for the citizens of Palm Beach County. See the table below.

Travel Time and Distance Between Selected Hospital Locations Subdistrict 9-4, Calendar Year 2010				
Hospital	From FRMC		From Palm Beach Gardens Medical Center	
	Minutes	Miles	Minutes	Miles
Jupiter Medical Center	11	5.3	15	7.5
Good Samaritan Medical Center*	22	14.9	17	9.5
Palm Beach Gardens Medical Center*	12	6.0	--	--
St Mary's Medical Center*	18	11.7	13	7.7

*Columbia denotes that all of these facilities are owned by Tenet.
Source: Columbia Hospital opposition statement, page 16.

The Proposed Hospital is Anti-Competitive

FRMC, if approved Columbia states, will become the fourth Tenet-owned hospital in northern Palm Beach County and the sixth county wide. Columbia maintains that during 2010, Tenet-owned hospitals dominated the northern Palm Beach acute care market controlling approximately 60 percent of the acute care bed supply—62.1 percent had FRMC been in operation during the base year. Columbia states that approval of FRMC will only worsen the competitive imbalance and further diminish consumer choice in Palm Beach County. In addition, Columbia indicates that FRMC has failed to demonstrate any improvement in quality of cost-effectiveness of health care delivery resulting from the “competition” that the proposed project would foster. See the table below.

Subdistrict 9-4 Acute Care Beds Calendar Year 2010		
Hospital	Beds	
	Number	Percent
Columbia Hospital	162	11.4%
Lakeside Medical Center	70	4.9%
Jupiter Medical Center	163	11.5%
Palms West Hospital	175	12.3%
Good Samaritan Medical Center (Tenet)	326	22.9%
Palm Beach Gardens Medical Center (Tenet)	199	14.0%
St Mary's Medical Center (Tenet)	328	23.0%
Tenet Subtotal	853	59.9%
North Palm Beach County	1,423	100.0%
Proposed FRMC (Tenet)	80	5.3%
Tenet with Addition of FRMC	933	62.1%
North Palm Beach County with FRMC	1,503	100.0%

Source: Columbia opposition statement, page 17.

FRMC's commitment to Medicaid and charity is substandard

Columbia indicates that the actual percentage of inpatient acute care days generated by Medicaid (including Medicaid managed care) and charity patients who resided in proposed service area was 6.3 percent. FRMC's proportional commitment, Columbia points out, is less than two-thirds of the subdistrict average and must be considered deficient. See the table below (table only includes adults 15+ and excludes obstetrics).

Patient Days by Payer, Calendar Year 2010			
Payer	Primary Service Area	Secondary Service Area	Total
Charity	157	308	465
Insurance	11,570	6,047	17,617
Medicaid	2,708	2,134	4,842
Medicare	37,816	17,593	55,409
Non Payment	130	216	346
Other	26	65	91
Other Gov't	940	853	1,793
Self	2,045	1,080	3,125
Total	55,392	28,296	83,688
Medicaid + Charity			
Number	2,865	2,442	5,307
Percent	5.2%	8.6%	6.3%

Source: Columbia opposition statement, page 18.

Jupiter Medical Center (JMC)

On November 3, 2011, the Agency received a 38-page document plus five attachments in opposition to this project. Jupiter Medical Center, Inc.'s written statement of opposition was signed by Robert A. Weiss with Parker, Hudson, Rainer & Dobbs, LLP.

Jupiter Medical Center states that the scope of the Agency's review is defined by the applicable statutory and regulatory criteria and is not authorized to expand the scope of its review, but must weigh and balance the merits of the application using the criteria provided. Jupiter Medical Center asserts that FRMC failed to satisfy any of the five criteria required for approval and further fails to demonstrate that any arguable compliance with any criterion outweighs the substantial harm to existing health care facilities and services that would result from establishment of the proposed hospital.

JMC maintains that the establishment of the proposed hospital will result in an unsustainable adverse impact to Jupiter Medical Center. Further, FRMC will not offer any new programs or services in the primary service area, and will offer fewer services than are currently provided at Jupiter Medical Center. The proposed location for FRMC is approximately four miles south of Jupiter Medical Center.

Jupiter Medical Center contends that FRMC is not applying for the academic medical center it describes in the application but for an 80-bed community hospital that intends to serve only the residents of its immediate area without offering any specialized programs or services.

The applicant, Jupiter Medical Center indicates, acknowledges that the proposed hospital’s future status as a teaching hospital affiliated with The Scripps Research Institute is “speculative” and “[not] specifically subject to CON review at this time.” In addition, JMC states that the Fiscal and Economic Impact Report presented by the applicant addresses economic issues not within the purview of the CON statutory review.

Jupiter Medical Center organizes the remainder of its opposition based on applicable statutory criteria for approval.

Section 408.035 (1)(a) and (b), Florida Statutes: The need for the health care facilities and health services being proposed; and the availability, accessibility and extent of utilization of existing health care facilities and health services in the service district of the applicant.

FRMC’s proposed facility will be located approximately 10 minutes driving distance from Jupiter Medical Center and 13 minutes driving distance from Palm Beach Gardens Medical Center, the two hospitals within FRMC’s proposed service area. Jupiter Medical Center states that the applicant will not offer any specialty programs or services that are not already offered by Jupiter Medical Center or Palm Beach Gardens Medical Center.

JMC contends that there is significant excess acute care bed capacity in the subdistrict and that the current subdistrict occupancy rate of 54.2 percent is lower than Palm Beach County (60.5 percent), District 9 (60.0 percent) and the State of Florida (57.1 percent). Jupiter Medical Center indicates that there is extensive unused acute care bed capacity available in the subdistrict—specifically at St Mary’s Medical Center and Good Samaritan Medical Center, Tenet-owned facilities. See the table below.

Subdistrict 9-4 Acute Care Utilization			
Facility Name	Number of Licensed Beds	CY 2010 Occupancy Rate	Q1 2011 Occupancy Rate
Columbia Hospital (HCA)	162	26.2%	28.2%
St Mary’s Medical Center (Tenet)	328	60.2%	64.0%
Good Samaritan Medical Center (Tenet)	326	33.1%	36.4%
Palms West Hospital (HCA)	175	72.4	73.8%
Palm Beach Gardens Medical Center	199	68.9%	80.0%
Jupiter Medical Center	163	79.0%	91.9%
Lakeside Medical Center	70	44.1%	44.5%
Subdistrict Total	1,423	54.2%	59..3%

Source: Jupiter Medical Center opposition statement, page 8.

Jupiter Medical Center notes that it has notified the Agency of its intent to add 45 acute care beds to its license and this will lower the occupancy rate for the facility as well as the subdistrict.²⁰ The addition of the 45 licensed beds into the occupancy analysis would reduce the combined occupancy rate for Jupiter Medical Center and Palm Beach Gardens Medical Center to 65.3 percent for calendar year 2010 and 76.5 for the peak season first quarter 2011.

In regards to population growth within the proposed service area, Jupiter Medical Center points to FRMC’s application stating that it must depend on the redirection of patients from other existing providers to achieve 95 percent of the hospital’s projected volume.

Jupiter Medical Center indicates that the actual “bed need” in the service area is for only 18 beds, using a 75 percent occupancy target. JMC states that its 45-bed notification will more than suffice to meet the future demand for acute care beds in the proposed service area in the planning horizon. Furthermore, Jupiter Medical Center contends that the data presented by the applicant demonstrates that population growth will not support the development of the proposed 80-bed facility. See the table below.

FRMC Service Area 2010-2014 Volume Growth			
	CON #10130 2010 Population Data	CON #10130 2014 Population Data	2010-2014 Growth
Primary Service Area Non-Tertiary Discharges	11,644	12,409	765
Secondary Service Area Non-Tertiary Discharges	5,885	6,171	286
Combined Discharges	17,529	18,520	1,051

Source: Jupiter Medical Center opposition statement, page 10.

Section 408.035(1)(e), Florida Statutes: The extent to which the proposed services will enhance access to health care for residents of the service district.

FRMC acknowledges in its application that there are no access barriers to acute care hospital services and does not contend that the proposed facility will enhance geographic, financial or cultural access to acute care services. Jupiter Medical Center states that FRMC’s assertion that it will improve “programmatic” access is false as “programmatic access” is only achieved if the new hospital provides new programs or services that are not already offered at one or more hospitals in the service area. FRMC

²⁰ Jupiter Medical Center and Palms West Hospital notified the Agency on October 27, 2011 of their intent to add 45 and 29 acute care beds, respectively. This was after the October 12, 2011 application omission deadline.

proposes no new or specialized health care programs or services. JMC maintains that decompression of Palm Beach Gardens Medical Center does not equate to “programmatically access” but rather to an issue pertaining to bed availability and the appropriate level of utilization at the facility.

Jupiter Medical Center states that the applicant bases the need for decompression at Palm Beach Gardens Medical Center on a functional occupancy analysis during peak season. JMC maintains that Palm Beach Gardens Medical Center’s peak season occupancy in 2010 was 81.4 percent and declined to 79.97 percent in 2011.²¹ Jupiter Medical Center indicates that this is a reasonable occupancy level over the three month period, particularly for a 199-bed facility with all private rooms.

Jupiter Medical Center contends that Palm Beach Gardens Medical Center’s functional occupancy level analysis is flawed. FRMC indicates in the application that it has the ability “to accommodate a total of 234 patients when necessary during the peak season months of December to May”. Therefore, Jupiter Medical Center states that FRMC’s functional occupancy analysis should reflect 234 functional beds and by this process had only 72.6 percent functional occupancy for the 2011 peak season.

In addition, Jupiter Medical Center points out that the applicant presents no documentation that Palm Beach Gardens cannot obtain approval for on-site expansion. The decompression argument, JMC contends, ignores the substantial bed capacity available at other facilities, including Tenet-owned acute care facilities. Jupiter Medical Center points out that the applicant also acknowledges that Palm Beach Gardens Medical Center recently expanded its outpatient registration area and implemented a renovation project to triple the size of its emergency department. JMC asserts that Palm Beach Gardens Medical Center’s alleged “institution-specific” need for additional improvements cannot support a determination by the Agency of community need for FRMC’s proposed facility.

²¹ Palm Beach Medical Center’s 1st quarter 2010 utilization data was 81.74 percent per the AHCA Hospital Bed Need Projections published July 22, 2011 and preliminary 1st quarter 2011 utilization data received from the District 9 local health council confirms 79.97 percent occupancy at Palm Beach Medical Center.

FRMC states that it will include sufficient square footage within the proposed hospital for some unspecified graduate medical education program and larger than usual patient room sizes for teaching purposes. Jupiter Medical Center maintains that larger patient room sizes are occurring nationwide. As for the affiliation with The Scripps Institute and FAU, Jupiter Medical Center indicates that this is not unique and JMC cites several research and graduate medical education programs it is currently involved in, including:

- Collaboration with Florida Atlantic University in the joint FAU-JMC Center of Excellence in Geriatrics
- Jupiter Medical Center’s Clinical Research Program is affiliated with the Mt. Sinai Community Clinical Oncology Program.
- Jupiter Medical Center is working with The Scripps Research Institute on a tissue specimen study for breast, ovarian and prostate cells.
- JMC held major conferences involving 134 hours of instruction, 1,426 physician participants and 1,688 non-physician participants.
- Jupiter Medical Center has approximately 20,000 square feet of education space either in place or soon to be completed.

Jupiter Medical Center contends that FRMC does not propose any innovative programs or services specifically designed to support clinical research or educational needs—“research support” can be accomplished at FRMC may also be accomplished at any other hospital in the county. JMC contends that with modern technology linking researchers with patient clinical data, real-time virtual communication technology, and electronic health information initiatives, the physical co-location of patient care and research activity is not necessary. For example, Jupiter Medical Center cites the recently announced collaboration between The Scripps Research Institute and the Moffitt Cancer Center—located in Tampa, Florida to the design lymph nodes for cancer immunotherapy with a nearly \$2 million grant from the National Cancer Institute.

In regard to The Scripps Research Institute, Jupiter Medical Center states that it is fully in support of Scripps’ research endeavors. However, JMC believes that the assumption that only the 80-bed non-tertiary hospital proposed by FRMC can facilitate/support The Scripps Research Institute translational research efforts is not credible. Jupiter Medical Center points to Sanford-Burnham Institute, located in La Jolla, California partnering with Florida Hospital’s multiple sites for “bench to bedside” research.

In conclusion, Jupiter Medical Center states that as a matter of law, Scripps’ alleged need to have a hospital closer is an “institution-specific” need that cannot form the basis for a finding of community need.

Section 408.035(1)(g), Florida Statutes: The extent to which the proposal will foster competition that promotes quality and cost-effectiveness.

FRMC does not assert that its proposed facility will foster competition that promotes quality and cost-effectiveness. Jupiter Medical Center contends that approval of another Tenet hospital will enhance Tenet's already dominant position in the market to the detriment of other hospitals. Tenet, Jupiter Medical Center asserts is in a strong position to bargain for high prices and rates with large employers and managed care companies because of its ownership of multiple hospitals located through the subdistrict and Palm Beach County.

JMC states that FRMC's proposed service area is a virtual duplication of Jupiter Medical Center's and as such JMC will be subject to a greater and more concentrated adverse impact than any other existing hospital in the subdistrict. Jupiter Medical Center indicates that all eight of its primary service area zip codes are within the proposed facility's combined primary and secondary service areas and approximately 80 percent of Jupiter Medical Center's non-tertiary adult patients originate from these zip codes.

Jupiter Medical Center states that it will lose admissions to FRMC through various means, including:

- Significant overlap in the medical staffs of Palm Beach Gardens Medical Center and Jupiter Medical Center—so that physicians who would have historically admitted patients to either facility will now split admissions between three facilities if FRMC is approved.
- It is reasonable to expect that Jupiter Medical Center will lose virtually all of the patient admissions through the emergency department arising from areas within the proposed service area that are closer to FRMC.

In addition, Jupiter Medical Center indicates that because population growth in the proposed service area will remain relatively slow, patients FRMC draws must be re-directed from existing providers. JMC expects a redirection of 1,565 patients from Jupiter Medical Center to FRMC in the first year of operation of the new hospital. See the table below.

Jupiter Medical Center Inpatient Cases Lost to the Opening of FRMC			
	FRMC Patients from the Service Area	Jupiter Medical Center Market Share	Jupiter Medical Center Patients Lost to FRMC
Primary Service Area	3,129	41.7%	1,305
Secondary Service Area	738	35.2%	260
Combined	3,867		1,565

Source: Jupiter Medical Center opposition statement, page 22.

Jupiter Medical Center acknowledges that it is expected to experience some incremental growth, 1.38 percent per year in discharge volume increase. Therefore, Jupiter Medical Center indicates, the anticipated adverse impact on its facility by the establishment of FRMC will range from 983 lost cases and 4,650 patient days (with market growth) to 1,565 and 7,402 patient days (without market growth) in the first year of operation of the proposed hospital. Furthermore, Jupiter Medical Center anticipates that the establishment of FRMC will result in a severe adverse financial impact of \$14.3 million in lost net revenue or approximately eight percent of JMC’s total net revenue. Jupiter Medical Center maintains that this will affect its future viability, require it to eliminate a substantial number of jobs and curtail many community benefits it currently provides.

Jupiter Medical Center states that as the only not-for-profit acute care provider in the northern Palm Beach County area, JMC provides many services to the community including services that are not profitable and are focused on the financially underserved population in the community, such as:

- The collaborative development of a Primary Care Medical Clinic and the provision of free imaging and laboratory services to clinic patients.
- Jupiter Medical Center provided a total of \$8.7 million in care to the financially underserved population in 2009.
- In the 12 months ending September 30, 2011, Jupiter Medical Center provided 410 community health activities at a cost of \$209,560.

The substantial adverse impact resulting from the establishment of FRMC, Jupiter Medical Center states, will significantly adversely affect JMC’s ability to continue to provide valuable community health care services—services FRMC does not propose to provide.

Section 408.035(1)(i) Florida Statutes: The applicant's past and proposed provision of health care services to Medicaid patients and the medically indigent.

Jupiter Medical Center states that FRMC does not propose to enhance access to services for Medicaid patients or the medically indigent. FRMC proposes to condition approval of its application on the provision of four percent of the hospital's annual patient days to Medicaid, Medicaid HMO and charity patients. JMC states that it provides 6.9 percent of its services to Medicaid, Medicaid HMO and charity patients in addition to its active community outreach program and cooperative establishment of a free clinic.

Jupiter Medical Center maintains that the "Fiscal and Economic Impact Report" prepared by the Palm Beach County Office of Economic Development is not within the purview of the statutory review criteria of the Agency. In addition, Jupiter Medical Center states that the conclusion stated in the "Fiscal and Economic Impact Report" are not credible because the report fails to disclose the data relied upon and fails to account for the adverse impact on the community that would result from the approval of FRMC—including the significant loss of permanent jobs at Jupiter Medical Center and other existing hospitals.

Jupiter Medical Center concludes the opposition statement responding to FRMC's reliance on prior AHCA final orders. These arguments are not applicable or appropriate to delve into a CON application, but in a legal forum.

Included in the statement of opposition was an attachment (attachment B) containing 37 unduplicated letters of opposition to FRMC's proposed hospital from members of the community. Thirty-three of these letters were dated October 3, 2011 to November 2, 2011, four were not dated.

Thirteen of the letters of opposition were sent by community members associated with Jupiter Medical Center including Board members, Trustees, members of the Jupiter Medical Center Foundation and Planning Committee as well as the Jupiter Medical Center Auxiliary. Opposition letters were written by Dr. Mark L. Corry, Paul J. Chiapparone, S. Barrie Godown, Peter O. Crisp, Ann T. Schwartz, Joseph R. Taddeo, Douglas S. Brown, Karen J. Golonka, Dr. James P. Mullen, Jennifer Doss, Ernie Cantelmo, Richard J. Katz Jr, and Dr. R. Neil Borland. These letters share similar themes including:

- Jupiter Medical Center already provides consistent, high quality health care services to the community
- There is no need for an additional acute care hospital in the community

- The community fully supports Jupiter Medical Center
- Jupiter Medical Center is a not-for-profit hospital that provides services that may not be profitable for an organization
- Jupiter Medical Center has recently raised over \$30 million dollars from the community for a capital improvement project
- The success of Scripps and the bioscience cluster does not depend on the proposed facility—Jupiter Medical Center currently conducts clinical research trials, including one with Scripps

Amy Byer Shainman, the Palm Beach County Outreach Coordinator for FORCE (Facing Our Risk of Cancer Empowered) indicates that her organization works closely with Jupiter Medical Center’s emerging breast health programs. She states that she “feels strongly that another hospital so close would blunt the momentum we have been building.” CEO of the Drug Study Institute, Melody Sanger, states that she has been personally involved in helping bring biotech companies to Florida, testifying at the hearing to bring Scripps, Max Planck and Torrey Pines to the area. Ms. Sanger contends that, “we brought Scripps here to boost the economy in the county and the state: they promised to add jobs, not potentially take jobs away.” She concludes by stating, “I believe Scripps should collaborate with the existing 13 hospitals already in our region.”

The thirteen other letters of opposition were written by doctors practicing in the area. These include Dr. Jack Waterman, Dr. Barry M. Miskin, Dr. Anthony Shaya, Dr. Holly W. Hadley, Dr. Robert A. Briskin, Dr. K. Adam Lee, Dr. C. Michael Collins, Dr. Lee A. Fox, Dr. Evan Rosen, Dr. Ronald Zelnick, Dr. David Herold, Dr. Phillip J Scharfer and the Jupiter Medical Center’s Medical Executive Committee representing 14 members. These letters include similar themes:

- The new facility would diminish Jupiter Medical Center’s ability to serve the community
- Jupiter Medical Center participates in many important clinical research projects
- Jupiter Medical Center is the only not-for-profit hospital in northern Palm Beach County
- No need for another acute care hospital in the area
- Scripps does not need to wait five years to build an unnecessary hospital, it can use existing hospitals and physicians

Six residents and former patients of Jupiter Medical Center wrote letters of opposition to FRMC’s application. All patients stated that they had excellent, quality care and as members of the community are highly supportive of Jupiter Medical Center. One letter states “Jupiter Medical Center is what makes this community function.”

Jupiter Medical Center included four attachments:

- JMC's oncology clinical research program with Mt. Sinai
- A map of FRMC's primary and secondary service area
- A Jupiter Medical Center overview
- An adopted resolution by the Town of Jupiter urging Scripps Florida to collaborate with Jupiter Medical Center in order to bring additional biomedical research, economic activity and innovation to Palm Beach County.²²

G. Applicant Response to Written Statement(s) of Opposition

In those cases where a written statement of opposition has been timely filed regarding a certificate of need application for a general hospital, the applicant for the general hospital may submit a written response to the Agency. Such response must be received by the Agency within 10 days of the written statement due date. ss. 408.039(3)(d), Florida Statutes.

Florida Regional Medical Center, Inc. (CON #10130) responded to the opposition statements stating that Jupiter Medical Center and Columbia Hospital's opinions are more argumentative than substantive. The applicant contends that the documentation in CON application #10130 satisfies each of the relevant statutory review criteria and is consistent with the Agency's prior approval of similar projects.

Regarding specific arguments in the opposition statements submitted by both Jupiter Medical Center and Columbia Hospital, FRMC responded point-by-point.

Institution-Specific Need vs. Community Need

The applicant maintains that the proposed facility responds to the needs of the community as well as those of Palm Beach Gardens Medical Center's patients, physicians and staff—these needs are intertwined, neither exists in a vacuum.

Programmatic Access

FRMC contends that its proposal is the only practical and feasible solution to the programmatic access problems that challenge Palm Beach Gardens Medical Center's patients, physicians, staff and the broader community that Palm Beach Gardens Medical Center serves. The applicant maintains that the provision of new services in order to satisfy

²² Resolution 58-11. This resolution was passed by the Vice-Mayor Jim Kuretski, Councilor Robert M. Friedman and Councilor Wendy Harrison. Mayor Karen J. Golonka abstained from the vote and Councilor Todd R. Wodraska was absent.

programmatic access concerns has never been a “litmus test” threshold for approval of new hospitals in Florida under the CON review program.

Decompression of Palm Beach Gardens Medical Center

FRMC insists that the decompression of Palm Beach Gardens Medical Center is a legitimate and valid reason to approve CON application #10130. The only practical solution for the physical constraints at Palm Beach Gardens Medical Center, the applicant indicates, is the construction of FRMC and the redirection of a substantial portion of its non-tertiary admissions from Palm Beach Gardens Medical Center.

Existing Acute Care Bed Capacity in the Subdistrict

FRMC states that since the repeal of the Acute Care Bed Need rule in 2005 and statutory deregulation, existing bed capacity is no longer a significant concern to the Agency because hospital bed capacity is an ever-changing number. The applicant contends that the Agency is more focused on improvements in access and whether the proposed service area has shown an increase in the number of admissions and patient days to mitigate impact on existing providers.

The applicant maintains that given the Agency’s position as to the insignificance of existing beds, the arguments presented by both Jupiter and Columbia related to market concentration of beds at Tenet Healthcare hospitals in Subdistrict 9-4 is also largely irrelevant. FRMC cites that Jupiter Medical Center’s notification of its intent to add 45 beds should cause the re-calculation of the percentages Jupiter Medical Center presents. The applicant concludes by stating that the conclusion drawn by Jupiter and Columbia are not well-founded because neither specifically establishes that the subdistrict is the appropriate geographic unit for consideration and both opposition statements are based on a fluid number.

Impact on Existing Providers in the Subdistrict

FRMC restates that one of the fundamental assumptions to the proposed project is the re-direction of non-tertiary, adult medical/surgical admissions from Palm Beach Gardens Medical Center to the proposed hospital. The applicant maintains that numerous other CON applications approved by the Agency in recent years that have proposed satellite or affiliated hospitals have relied upon a re-redirection or transfer of admissions from the existing main facility to the proposed new hospital.

Competition

FRMC contends that approval of the proposed facility will have a beneficial effect on competition for two principal reasons:

- It will provide another point of access to residents of northern Palm Beach County where the two existing hospitals are both characterized by extremely high utilization during the first quarter of the year, often in excess of 90 percent.
- It will encourage existing providers to examine their portfolio of services and to make any needed adjustments so that they can remain competitive.

The applicant states that the Agency describes the CON program as currently being much less intense from a regulatory perspective and reflects a general trend towards more open market competition among hospitals and less regulation. FRMC maintains that the CON program is involved in fewer overall decisions of hospitals than it once was.

Medicaid and Charity Care Conditions

FRMC indicates that its proposed Medicaid and Charity care condition of four percent of patient days is based on an analysis of the resident discharges in the primary service area which is likely to account for 75-80 percent of admissions to the proposed hospital.

Past Decisions by the Agency for Health Care Administration

The applicant cites past cases and decisions in this section. These arguments are not applicable or appropriate to delve into in a CON application, but in a legal forum.

The applicant then responds specifically to the comments in the statement of opposition by Jupiter Medical Center. In general, FRMC reiterates previous statements, arguments and conclusions made in CON application #10130. Specific, pertinent new information provided by the applicant is organized below.

Institutional Need and Community Need

FRMC asserts that when access issues exist, including programmatic access, the needs of the community and of the institution are inextricably tied together. The applicant notes that in situations where the occupancy rate at Palm Beach Gardens Medical Center is in excess of 90 percent during the first quarter of the year, there are problems in bed availability that are subsequently manifested in the emergency department and the surgery department—in terms of patient holding and delay in treatment.

Current Utilization of Existing Beds in the Subdistrict

The applicant indicates that a considerable degree of effort was made by Jupiter Medical Center to show that there is a significant excess acute care bed capacity in the subdistrict. FRMC insists that this premise is unsupported based on the Agency's current interpretation of the CON statute as well as by Jupiter's own inconsistent actions, and therefore,

must be rejected. The applicant maintains that bed capacity and occupancy rates of existing hospital providers are no longer significant health planning factors given that hospitals are able to add beds without a Certificate of Need.

Utilization Trends in the Subdistrict vs. Utilization Trends in the Proposed Facility Service Area

FRMC contends that the information provided by Jupiter Medical Center on the patient days and occupancy rates of total acute care beds in Subdistrict 9-4 are not persuasive for the following reasons:

- The data was for total acute care beds and utilization, including tertiary services and non-tertiary services that FRMC does not propose to provide.
- The data was for Subdistrict 9-4 while FRMC's proposed service area is focused on 10 zip codes in Palm Beach Gardens and Jupiter plus one adjacent zip code in extreme southern Martin County.²³
- Only two hospitals in Subdistrict 9-4 are particularly relevant to the inpatient hospital needs of FRMC service area residents: Palm Beach Gardens Medical Center and Jupiter Medical Center.
- Jupiter Medical Center's statement of opposition is totally silent with respect to the utilization data presented in CON application #10130.

Furthermore, the applicant cites Jupiter Medical Center's statistics regarding total acute care beds and occupancy rates for calendar year 2010 and the first quarter of 2011 and comments that:

- The subdistrict's occupancy for the first quarter of 2011 is higher than calendar year 2010 occupancy.
- Palm Beach Gardens Medical Center and Jupiter Medical Center's first quarter 2011 occupancy is significantly higher than their respective calendar year 2010 occupancy rates.
- Occupancy rates for the first quarter of 2011 at Palm Beach Gardens Medical Center and Jupiter Medical Center are significantly higher than other hospitals in Subdistrict 9-4, Palm Beach Gardens and JMC are the top two hospitals in terms of first quarter occupancy rates.
- The combined first quarter occupancy rate for 2011 for Jupiter Medical Center and Palm Beach Gardens Medical Center would be 85.4 percent. This clearly indicates that on some days, occupancy would be greater than 85 percent and likely in excess of 90 percent.
- The extremely high utilization of Palm Beach Gardens Medical Center during the first quarter of the year presents several programmatic access problems and issues for patients.

²³ The applicant only proposed service area containing ten zip codes in CON application #10130—nine in Palm Beach County and one in Martin County. This is the first mention of an eleventh zip code.

Jupiter Medical Center’s Proposed Addition of 45 Acute Care Beds

The applicant asserts that Jupiter Medical Center’s adding beds without an evaluation of the need, projected utilization, enhancement of access or impact on other hospitals in the area while at the same time criticizing CON application #10130 renders JMC’s criticisms duplicitous and insincere. FRMC contends that Jupiter Medical Center’s intent to add 45 beds:

- Supports the concept that additional beds are needed in the North Palm Beach County area
- Undermines Jupiter’s criticism that low occupancy rates in Subdistrict 9-4 preclude the need for additional beds
- Excess capacity (under-utilized beds) at existing hospitals in Subdistrict 9-4 are alternatives to the project.

Population Growth in the Proposed Service Area

FRMC states that it noticed some minor errors in a table related to historical, current and projected adult population resulting in the truncation in the last characters of several columns of data due to the conversion of the original file in Microsoft Excel to Microsoft Word. A corrected version was included in the response statement. The applicant maintains that the service area’s current population and number of patients is sufficient to justify the new hospital.

Analysis of Projected Bed Need

FRMC indicates that incremental population growth for the adult population in the proposed service area results in a need for 26 beds, not 18 as suggested by Jupiter Medical Center. See table below.

FRMC Proposed Service Area Bed Need	
Data	Value
2016 Discharges for the Proposed Service Area	19,069
July 2009-June Discharges for the Proposed Service Area	17,529
Net Incremental	1,540
Average Length of Stay	4.7
2016 Patient Days	7,238
2016 Average Daily Census	19.8
2016 Bed Need @ 75%	26

Source: Page 19 of applicant’s response to opposition statement.

FRMC maintains that Jupiter Medical Center’s argument that JMC’s 45-bed addition meets the projected service area bed need is irrelevant and is also without merit because Jupiter Medical Center did not present a detailed methodology and description of the projected bed need.

Functional Occupancy

FRMC points out that Jupiter Medical Center does not disagree with the concept of functional occupancy. Although, the applicant does state that the data presented in Jupiter Medical Center's opposition statement regarding occupancy was misleading because the occupancy rates referred to are for inpatient days only and do not include the occupancy data for outpatients and observation patients who used inpatient beds. The applicant contends that JMC's statement is unfair because Jupiter Medical Center attempted to confuse the issue of functional occupancy rates by referencing only inpatient data within its discussion of functional occupancy.

Furthermore, the applicant cites Jupiter Medical Center's contention that Palm Beach Gardens Medical Center's bed capacity should be higher due to the ability to convert some private rooms back to semi-private status. FRMC states that even if this was theoretically possible, it is neither desirable nor practical. The applicant notes that the current architectural code for inpatient rooms directs that they are to be private, so that semi-private rooms should be considered as a "last resort" in dire circumstances.

The Inability of Palm Beach Gardens Medical Center to Expand

FRMC submitted a statement by Jupiter Medical Center's CEO John Couris regarding space limitations at Jupiter Medical Center, "It will boost the hospital's baby-delivering capacity from 1,200 births a year to 1,500. The hospital now turns away more than 100 women a year for lack of space, he said."²⁴ The applicant states that this statement is an admission by Mr. Couris of the programmatic access problem in the area, despite the availability and accessibility of obstetric beds at St. Mary's and Good Samaritan, similar to those described in CON application #10130.

The Availability of Existing Beds at Other Acute Care Hospitals in North Palm Beach County

FRMC indicates that other than Palm Beach Gardens Medical Center and Jupiter Medical Center, no other hospital in Subdistrict 9-4 has any significant market share of resident discharges from the proposed service area. The applicant maintains that patients and physicians have "voted with their feet" and overwhelmingly use these two hospitals for their hospital care. Therefore, FRMC insists, the excess bed capacity available and accessible at the other hospitals in the subdistrict is irrelevant.

²⁴ "Jupiter Medical gets \$10 million grant for new women's care wing" by Stacey Singer in the Palm Beach Post, updated November 18, 2010. Reprinted in the applicant's response to opposition statement, pages 29-30.

Research and Teaching Programs

FRMC cites Jupiter Medical Center’s criticisms to the research and teaching aspect of CON application #10130 while “touting” Jupiter Medical Center’s own plans and efforts in the area of research and medical education. The applicant states that Jupiter Medical Center’s engagement and expenditures on these activities show a need and benefit of these activities in the community. FRMC also questions why Jupiter Medical Center does not credit the applicant’s even more extensive commitment to these activities. The applicant states, that unlike Jupiter Medical Center, it includes significant and measurable CON conditions that provide FAU and Scripps with a role in the governance of the hospital and an enforceable promise to engage in research and teaching activities.

Impact on Competition

FRMC states that whether subdistrict 9-4 is the most appropriate geographic unit for evaluation of competition and market power is debatable, and suggests that Palm Beach and Martin Counties should be used for the analysis of competition and market prominence. The applicant contends that neither the 45-bed increase at Jupiter Medical Center nor the 80-beds in the proposed facility for Tenet is relevant or material.

FRMC maintains that an analysis should consider discharges not bed numbers when considering competition and presents an analysis of the adult acute care discharges and non-tertiary discharges for residents Subdistrict 9-4 for July 2009-June 2010. See table below.

Adult Acute Care Discharges and Non-Tertiary Discharges, Subdistrict 9-4 July 2009-June 2010		
Provider	Total Adult Acute Care Discharges	Adult Non-Tertiary Acute Care Discharges
4 Tenet Hospitals	44.8%	43.8%
3 HCA Hospitals	22.8%	23.0%
Jupiter Medical Center	17.7%	18.5%
Subtotal	85.3%	85.3%
All Others	32.4%	32.4%
Total	100.0%	100.0%

Source: Page 32 of applicant’s response to opposition statement.

FRMC asserts that a new hospital in northern Palm Beach County will offer residents of the area another alternative to existing service at Palm Beach Gardens Medical Center and Jupiter Medical Center which are characterized by overutilization during the peak season months and are often associated with delays/denials of admission.

Admissions through the Emergency Department

The applicant indicates that Jupiter Medical Center’s position that it will lose virtually all of the patient admissions through the emergency department within the proposed service area closer to FRMC is not supported and must be rejected as pure speculation. FRMC cites an analysis of the data from the Agency’s Hospital Patient Database that reveals significant variation in the pattern of admission on non-tertiary patients via the emergency department.

The applicant maintains that distance is not the sole factor determining the hospital of treatment. For example, FRMC states that in Jupiter Medical Center’s home zip code (33458) 24.2 percent of all adult non-tertiary admissions via the emergency department were at other hospitals and in Palm Beach Gardens Medical Center’s home zip code (33410) 35.4 percent were at other hospitals. See the table below.

Hospital of Treatment for PSA Resident Non-Tertiary Admissions via the Emergency Department July 2009-June 2010								
Zip Code	Jupiter Medical Center		Palm Beach Gardens Medical Center		All Others		Zip Code Total	
	Admits	Percent	Admits	Percent	Admits	Percent	Admits	Percent
33458	1,502	75.8%	200	10.1%	280	14.1%	1,982	100.0%
33410	354	17.9%	1,278	64.6%	347	17.5%	1,979	100.0%
33418	479	25.8%	1,079	58.0%	301	16.2%	1,859	100.0%
33408	273	22.3%	743	60.6%	210	17.1%	1,226	100.0%
33477	658	75.6%	150	17.2%	62	7.1%	870	100.0%

Source: Page 36 of applicant’s response to opposition statement.

Anticipated Adverse Impact—Lost Patient Volume

FRMC asserts that Jupiter Medical Center’s projection of lost patient volume is simply incorrect since it fails to understand the basic premise of CON application #10130—the applicant’s patient volume forecast is predicated on a re-direction of patient admissions from Palm Beach Gardens Medical Center. FRMC maintains that based on the projected increase in population, Jupiter Medical Center is projected to increase its discharges from the applicant’s service area by a net of 417 cases in 2014.

The applicant also cites several depositions, previous cases and finding of facts in recommended/final orders to support its statements; however, these arguments are not applicable or appropriate to delve into in a State Action Agency Report, but in a legal forum.

The applicant then responds specifically to the comments in the statement of opposition by Columbia Hospital. In general, FRMC reiterates previous statements, arguments and conclusions made in CON application #10130. Specific, pertinent new information provided by the applicant is organized below.

Statutory Requirement for a Statement of Intent to Furnish Satisfactory Proof of Financial Ability to Operate

FRMC states that Columbia Hospital is incorrect in its assertion that CON application #10130 failed to include this statement. The reviewer confirmed that this statement is in Schedule D of the CON application.

Bed and Occupancy Rates

FRMC indicates that there is no reason to propose a condition to delicense beds at Palm Beach Gardens Medical Center or any other Tenet affiliated hospital as suggested by Columbia Hospital. The applicant states that given the repeal of the Agency's Acute Care Bed Need Rule in 2005, there is no standard or threshold for hospital bed occupancy rates nor distance or travel time.

Relationship with Scripps and FAU

The applicant asserts that to expect great levels of written detail at this early stage is not reasonable and is no more than a 'straw man' that Columbia Hospital sets up to try and knock down. FRMC contends that its commitment is well-documented because of its specified location and its CON conditions—seats for Scripps and FAU on its governing board and an academic advisory committee that is equally represented by all three organizations.

Economic Development

FRMC maintains that Columbia Hospital's contention that the economic development of CON application #10130 is immaterial to the issue of whether or not there is a need for the proposed project, is not supported by the facts associate the programmatic access problems in the service area. Furthermore, the applicant states that this allegation is inconsistent with previous positions taken by Columbia Hospital's parent company, HCA.

The applicant presented a Palm Beach Post editorial with an opinion on the benefits, including economic, to the area.²⁵ This editorial also notes that the proposed facility will draw patients from the surrounding area outside of Palm Beach Gardens Medical Center.

²⁵ *Give the Public its Payoff* by Rhonda Swan, in the Palm Beach Post published October 16, 2011.

Market Share, Projected Bed Need and Impact

FRMC indicates that the market share estimates for the proposed project are based on the historical pattern of admissions to Palm Beach Gardens Medical Center by patients and physicians who use the hospital. These historical patterns of admissions, maintains the applicant, are a combination of many factors, including:

- The reason for admission
- Availability of medically appropriate services
- The location of the patient's residence
- The location of the physician's office
- The location of the hospital

The applicant maintains that with respect to the identification of the primary and secondary service area zip codes, these were based on a consideration of additional factors such as the total adult population, population distribution/density and the road system.

In regard to Columbia Hospital's criticism to the designation of zip code 33403 as a secondary service area zip code despite its projection to contribute more discharges than two primary service area zip codes, the applicant states that this is due to a large physician group with an office in zip code 33403. FRMC further cites that according to MapQuest, the travel time from the centroid of zip code 33403 to the proposed facility is 11 minutes compared to the 5 minutes to Palm Beach Gardens Medical Center—the six minute difference is inconsequential. It is unclear to the reviewer how this explanation addresses Columbia Hospital's contention.

FRMC asserts that because of the compact nature of the service area and its overlap with the historical service area of Palm Beach Gardens Medical Center, proximity to the proposed facility is not expected to be the most significant variable in the decision as to which hospital a patient is ultimately admitted. The applicant insists that Columbia Hospital's projection of lost patient volume is simply incorrect as it fails to understand the basic premise of CON application #10130—the proposed patient volume forecast is predicated on a re-direction of patient admissions from Palm Beach Gardens Medical Center.

H. SUMMARY

Florida Regional Medical Center, Inc. (CON #10130) proposes to build a new 80-bed acute care hospital in Palm Beach Gardens, Palm Beach County, District 9, Subdistrict 9-4. The proposed hospital will be located in zip code 33418 on the south side of Donald Ross Road, between 1-95 and Military Trail in Palm Beach Gardens across from The Scripps Research Institute, the Florida Atlantic University MacArthur's Honor's College Campus and Max Planck Florida Institute. The applicant proposes five zip codes as its primary service area: 33408, 33410, 33418, 33458 and 33477. The applicant five zip codes as its core secondary service area: 33403, 33412, 33455, 33469 and 33478.

The applicant plans for Florida Regional Medical Center to provide adult non-tertiary services and indicates that obstetrics will not be offered because of the nearby St. Mary's Medical Center in West Palm Beach.

The applicant proposes to condition project approval upon:

- FRMC will provide a minimum of four percent of the 80-bed facility's total annual patient days to a combination of Medicaid, Medicaid HMO and charity patients.
- FRMC will be located on The Scripps Research Institute research park campus.
- The Scripps Research Institute, Florida Atlantic University and a local Palm Beach County official will have representation on FRMC's Governing Board. In addition, an Academic Advisory Committee will be formed with an equal number of representatives from Scripps, FAU and Tenet. The AAC will oversee the Hospital's relationships with all academic and medical education programs relating to clinical and translational research, residencies and internships at the hospital.
- FRMC will have support space for academic medical faculty, medical residents and medical students.
- FRMC will have space for conferences and classrooms in support of the medical education goals of the Florida Atlantic University School of Medicine and the research goals of The Scripps Research Institute.
- FRMC will attain Leadership in Energy and Environmental Design certification for the design of the hospital facility.
- FRMC will include an Electronic Medical Records system that meets "meaningful use criteria".
- FRMC will offer research, teaching and medical residency programs.
- FRMC will enter into affiliation agreements with at least 15 programs for nursing and allied health professions programs.
- FRMC will offer at least four programs for continuing medical education (CME) for physicians in the community on an annual basis.

- FRMC will collaborate with The Scripps Research Institute for the provision of resources associated with clinical trials and basic science research by employing 1 FTE research program coordinator.
- FRMC will offer a minimum of 12 community health screenings annually.
- FRMC will provide a minimum of \$250,000 per year for Medicaid and/or charity outreach programs within Palm Beach County for the first five years of operation.

Need:

As of July 22, 2011, District 9, Subdistrict 9-4 had a total of 1,423 licensed acute care beds. There were 14 approved acute care beds in the subdistrict, 12 at Jupiter Medical Center (N0400007) and two at Palms West Hospital (N0600011). As of October 27, 2011, these earlier notifications are void and Jupiter Medical Center (N1100037) and Palms West Hospital (N1100038) have notified the Agency of their intent to add 45 and 29 acute care beds, respectively. Subdistrict 9-4's acute care beds averaged 54.22 percent occupancy during CY 2010.

Florida Regional Medical Center, Inc. states that need is satisfied on all the three criteria that FRMC contends current policy is based upon when approving a CON application:

- A primary service area with a large and rapidly growing population base.
- An expanding market in the applicant's service area, especially the primary service area, which minimizes impact on existing hospitals.
- The benefit of access enhancement outweighs the adverse impact on existing hospitals.

A large portion of the need analysis was spent with justifications based on FRMC citing historical precedents of prior Agency decisions. These arguments are not applicable or appropriate to delve into in a SAAR but in a legal forum.

The applicant cites an annual forecasted rate of growth in the total service area as 1.4 percent. FRMC forecast 4,182 discharges in 2016 (year three of operation) and 19,800 patient days equating to a 67.8 percent occupancy rate based on 80 days. These discharges will be comprised solely on a 70 percent redirection of adult non-tertiary admissions from Palm Beach Gardens Medical Center. FRMC maintains that the fundamental premise of the proposed project is to decompress Palm Beach Gardens Medical Center and to develop a world-class research and academic oriented hospital to support the aspirations of

The Scripps Research Institute and FAU School of Medicine. The applicant indicates that using a statewide average produces a projected need for 449-870 teaching hospital beds in District 9 in calendar year 2030.

The applicant acknowledges that Jupiter Medical Center ranks first in the market share of the entire proposed service area but maintains that there is considerable variation within the proposed service area when market shares are analyzed by individual zip code.

However, the most important factor in project approval is FRMC's commitment to develop a world-class research and teaching hospital that has the potential to become a regional rather than a local community resource. The coalition of organizations associated with the proposed facility must work together on an ongoing basis to ensure that the population gains access to services that it would otherwise not have. There is no need for an additional small community hospital that offers basic services.

Competition:

Florida Regional Medical Center, Inc. had nine letters of support and a resolution for the City Council of the City of Palm Beach Gardens expressing support for the project. These letters basically support the idea of an academic medical center in conjunction with The Scripps Institute and the FAU School of Medicine. Two written statements of opposition were received by existing facilities—one from Columbia Hospital and one from Jupiter Medical Center.

FRMC asserts that the proposed facility's admissions will come from the 70 percent re-direction on non-tertiary adult medical/surgical admissions to Palm Beach Gardens Medical Center and will have no effect on competition in terms of market share. The applicant maintains that the proposed facility will enhance programmatic access to residents and enhance access to the programs and resources of a teaching and research hospital.

The applicant contends that other factors that will limit, if not negate, potential impact on existing hospitals are that the facility will treat only adult patients (age 15 years and older), will not offer pediatric services and in its initial phase of operations will not offer obstetric services.

Medicaid/charity care:

Florida Regional Medical Center, Inc. proposes to condition project approval to provide four percent of its total annual patient days to the combination of Medicaid, Medicaid HMO and charity patients.

I. RECOMMENDATION:

Approve CON #10130 to establish a new 80-bed acute care hospital in Palm Beach Gardens, Palm Beach County, District 9, Subdistrict 4.

CONDITIONS:

1. FRMC will provide a minimum of four percent of the 80-bed facility's total annual patient days to a combination of Medicaid, Medicaid HMO and charity patients.
2. FRMC will be located on The Scripps Research Institute research park campus.
3. The Scripps Research Institute, Florida Atlantic University and a local Palm Beach County official will have representation on FRMC's Governing Board. In addition, an Academic Advisory Committee (AAC) will be formed with an equal number of representatives from Scripps, FAU and Tenet. The AAC will oversee the hospital's relationships with all academic and medical education programs relating to clinical and translational research, residencies and internships at the hospital.
4. FRMC will have support space for academic medical faculty, medical residents and medical students.
5. FRMC will have space for conferences and classrooms in support of the medical education goals of the Florida Atlantic University School of Medicine and the research goals of The Scripps Research Institute.
6. FRMC will attain Leadership in Energy and Environmental Design (LEED) certification for the design of the hospital facility.
7. FRMC will include an electronic medical records system that meets "meaningful use criteria".
8. FRMC will offer research, teaching and medical residency programs.
9. FRMC will enter into affiliation agreements with at least 15 programs for nursing and allied health professions programs.
10. FRMC will offer at least four programs for continuing medical education (CME) for physicians in the community on an annual basis.
11. FRMC will collaborate with The Scripps Research Institute for the provision of resources associated with clinical trials and basic science research by employing 1.0 FTE research program coordinator.
12. FRMC will offer a minimum of 12 community health screenings annually.
13. FRMC will provide a minimum of \$250,000 per year for Medicaid and/or charity outreach programs within Palm Beach County for the first five years of operation.

AUTHORIZATION FOR AGENCY ACTION

Authorized representatives of the Agency for Health Care Administration adopted the recommendation contained herein and released the State Agency Action Report.

DATE: _____

James B. McLemore
Health Services and Facilities Consultant Supervisor
Certificate of Need

Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation