STATE AGENCY ACTION REPORT

ON APPLICATION FOR CERTIFICATE OF NEED

A. PROJECT IDENTIFICATION

1. Applicant/CON Action Number

Adventist Health System/Sunbelt, Inc.
d/b/a Florida Hospital/CON #9543
601 East Rollins Street
Orlando, Florida 32803

Authorized Representative: Richard E. Morrison
(407) 303-1607

2. Service District/County

District 7 (Orange County)

B. PUBLIC HEARING

Although no public hearing was requested, the applicant offered letters of support for the project from Dr. Eduardo J. Lugo, Medical Director of Florida Hospital's Neonatal Intensive Care Unit, Dr. Thomas P. Carson, Pediatric Cardiology Consultants, P.A., and Dr. Ahmed Al-Malt, Director, Fetal Diagnostic Center of Orlando. The letters of support address the availability issues in the Orlando area for Level III NICU beds.

C. PROJECT SUMMARY

Adventist Health System/Sunbelt, Inc. d/b/a Florida Hospital (Florida Hospital), proposes to add twenty Level III Neonatal Intensive Care Unit (NICU) beds to Florida Hospital's existing 13-bed Level III NICU, creating a 33-bed unit. The applicant is one of two providers of Level III neonatal intensive care services in District 7. The hospital, located in Orange County, is a 902-bed Class I General Hospital licensed for 702 acute care beds, 35 hospital-based skilled nursing beds, 49 comprehensive medical rehabilitation beds, 59 adult psychiatric beds, 16 child/adolescent psychiatric beds, 28 Level II NICU beds and 13 Level III NICU beds.

According to the *Certificate of Need Predicated on Conditions* page, the applicant is proposing that a minimum of 25 percent of the Level III NICU patient days at Florida Hospital Orlando will be provided to Medicaid, Medicaid HMO, and charity care patients, on a combined basis. Florida Hospital Orlando is a designated Medicaid Disproportionate Share Provider.

The total project cost is estimated at $4,155,517. Construction costs are projected at $1,629,000 and the project will involve 7,930 GSF of renovated space.

D. REVIEW PROCEDURE

The evaluation process is structured by the certificate of need review criteria found in Section 408.035, Florida Statutes. 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 assessing the responses 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 best meets the review criteria.

Section 59C-1.010(2)(b), Florida Administrative Code, allows no application amendment information subsequent to the application being deemed complete. 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, Richard Patterson, analyzed the application in its entirety with consultation from the Financial Analyst, Roger Bell, who evaluated the financial data, and the Architect, Joel Hill, who evaluated the architectural and the schematic drawings.

E. CONFORMITY OF PROJECT WITH REVIEW CRITERIA

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

1. Fixed Need Pool

a. Does the project proposed respond to need as published by a fixed need pool? Ch. 59C-1.008 and Ch. 59C-1.042, Florida Administrative Code.

In Volume 28, Number 4, dated January 25, 2002, on page 374 of the Florida Administrative Weekly, a fixed need pool of three beds was published for Level III NICU beds in District 7 for the July 2004 planning horizon.

District 7 has 57 licensed Level III NICU beds and zero approved Level III beds as of January 25, 2002. The Level III NICU beds in District 7 experienced a revised occupancy rate of 84.12 percent during the period July 2000 through June 2001 (see chart below).

The applicant proposes the expansion of its existing Level III NICU program from 13 to 33 beds. The applicant is applying outside of the fixed need pool.

b. Regardless of whether bed need is shown under the need formula, the establishment of new Level III neonatal intensive care unit beds within a district shall not normally be approved unless the average occupancy rate for Level III beds in the district equals or exceeds 80 percent for the most recent 12-month period ending six months prior to the beginning date of the quarter of the publication of the fixed need pool. Ch. 59C-1.042(3)(f), Florida Administrative Code.

As stated above, District 7 Level III NICU beds experienced an occupancy rate of 84.12 percent (revised, see note below) for the most recent reporting period.

Occupancy Rates in District 7 Level III NICU Beds
July 2000 through June 2001

Hospital	#Beds	Occupancy
Arnold Palmer Hospital	44	60.39%
Florida Hospital	13	164.45%*
Total/Average	57	84.12%*

Source: ***Florida Hospital Bed & Service Utilization by District,*** **January 2002 Batching Cycle *D7 local health council corrected data received from Florida Hospital revises**

published data.

c. **Special Circumstances for the Approval of Additional Neonatal Intensive Care Unit Beds at Existing Providers, Ch. 59C-1.042(3)(g), Florida Administrative Code - Need for additional Level III neonatal intensive care beds at hospitals with Level III neonatal intensive care services seeking additional Level III beds is demonstrated in the absence of need shown under the formula specified in paragraph (3)(e) of this rule if the occupancy rate for their Level III beds exceeded an average of 90 percent as computed by the agency for the same period specified in subparagraph (3)(e)2.**

Although the published need in the district is for three Level III NICU beds, the applicant is requesting 20 beds. The applicant meets the "special circumstances" defined in Rule. The applicant contends that the need for twenty additional Level III NICU beds is based on the historical and projected utilization of Level III NICU services at Florida Hospital Orlando.

Florida Hospital Orlando discusses that in each of the past four years, the Level III NICU has operated in excess of 100 percent occupancy. The table below illustrates the occupancy rate for the Level III NICU beds at Florida Hospital Orlando by calendar year:

Florida Hospital Level III Utilization by Calendar Year

1998	1999	2000*	2001*
108.51%	114.84%	166.52 (166.98)%	154.08%

Source: ***Florida Hospital Bed and Service Utilization by District*, July 1999 and July 2000 Batching Cycles; *Local Health Council corrected data received from Florida Hospital**

The applicant states that, due to bed unavailability, some Level III NICU patients must be treated in Level II NICU beds. The applicant indicates that this proposal is to also address AHCA concerns over the high occupancy levels in the Level III NICU and to address space issues related to the minimum patient station requirements.

The applicant analyzed the average daily census (ADC) for its Level III NICU and reports that for 2001 the monthly ADC was never below 14, with a high of 27, in the 13-bed unit. The applicant also noted that the patient day totals for the Florida Hospital Orlando Level III NICU for calendar years 2000 and 2001 have been corrected with the local health council, resulting in corrected occupancy rates of 179.2 percent and 154.1 percent, respectively. The local health council confirmed the corrected Level III NICU patient days reported change from 7,008 to 7,311 for 2001, however the increase in the year 2000 data (from 7,555 to 8,525) could not be confirmed. The local health council reported that Florida Hospital corrected its year 2000 data from 7,555 to 7,923,

resulting in 166.52 percent utilization rather than 179.2 percent. The 13-bed Level III NICU is of insufficient size to accommodate current volume.

Florida Hospital Orlando projects average occupancy in excess of 165 percent for the planning horizon (July 2004) unless additional beds are added. The applicant included five-year utilization projections based on the 2000 district fertility rate of 61.6 live births per 1,000 females of childbearing age and based on a fertility rate growth of 1.2 percent. The projected District 7 resident live births range between 28,027 and 28,342 according to Table 7 of the application. The applicant shows that the projections for live births at District 7 facilities assume a seven percent increase over the District 7 resident live births due to in-migration, resulting in a range of 29,989 to 30,326 in Table 8. Florida Hospital's historical market share was determined (Table 9) and applied to the District 7 facility births, which results in a projected range of 10,286 to 10,948 Florida Hospital facility births in 2007 (Table 10).

Florida Hospital Orlando calculated total NICU days per live births (Table 11), using both Level II and Level III NICU days as set forth in Table 2 of the application. The applicant then attributed an increasing Level III NICU percentage of the total NICU days to determine anticipated Level III NICU days in 2007. However, the reasonableness of the assumption that the percentage of Level III NICU days to the total will increase was not explained in the application. In any event, the applicant determined that between 17 and 21 additional Level III NICU beds are needed at 80 percent occupancy by 2007.

The following chart shows a quantification of additional Level III NICU beds needed at Florida Hospital in 2007, using Florida Hospital Orlando's Level III NICU days as a percentage of District 7 facility births, projected to the year 2007:

Projected Additional Level III NICU Beds Needed at Florida Hospital, Year 2007, Based on 1999, 2000, and 2001 Data

	1999	2000	2001
Florida Hospital Level III NICU Patient Days	5,449	7,923*	7,311*
District 7 Facility Births	26,403	28,076	28,064
Percentage of Patient Days to Total Facility Births	.2064	.2822	.2605
% Patient Days to Total Births times Year 2007 Projected Births at District 7 Facilities (30,326)	6,259	8,558	7,900
Year 2007 Projected Patient Days ÷ # Days (365)	17.15	23.45	21.64
Year 2007 Projected Daily Census ÷ 80% = Total Beds Needed in 2007	21	29	27
Less 13 Existing Beds = New Beds Needed in 2007	8	16	14

Source: *Florida Hospital Bed and Service Utilization by District* July 2000; *D7 local health council corrected data received from Florida Hospital

As indicated, the number of new beds needed is between eight and 16, depending on which year is chosen. The applicant states that two factors contributed to the year 2001 decrease in Level III NICU patient days at Florida Hospital: the closing of the obstetrical service at Florida Hospital East Orlando, and disputes over a contract with a major insurer, which have been resolved. The applicant does not demonstrate a need for 20 additional Level III NICU beds, even using the above-referenced year 2000 data and a five-year horizon of 2007. The planning horizon for Level III NICU bed need projections in this batching cycle is July 2004. The application (Schedule 10) assumes project implementation in August 2004. If the foregoing analysis is undertaken for the planning horizon of July 2004, using the corrected 2000 Florida Hospital Level III NICU patient days and 2000 District 7 facility births (above), 16 new beds are needed. However, the reasonableness of relying on the year 2000 experience has not been established.

Year	D7 Resident Total Births	Fl Hosp Total Level III NICU Patient Days	Pt. Days/ Total Births
1996	23,149	4,628	.20
1997	23,745	4,242	.18
1998	24,225	5,149	.21
1999	24,717	5,449	.22
2000	26,282	7,923	.30
2001	26,161	7,311	.28

Source: Vital Statistics (D7 Resident Total Births); *Florida Hospital Bed and Service Utilization by District* July 1997, 1998, 1999, 2000, and 2001 Batching Cycles (Florida Hospital Patient Days 1996-1999); D7 local health council corrected data received from Florida Hospital

The data above shows that the total Level III NICU days at Florida Hospital in the year 2000 were extraordinarily high and not indicative of the typical annual experience. No justification, such as an increase in average length of stay or in market share, was established for reliance on the 2000 data for the projection of needed beds. The applicant did not demonstrate a need for the proposed 20 additional Level III NICU beds.

2. Local Health Plan Preferences

Is need for the project supported by the applicable district plan? ss. 408.035(1) and 408.037(1), Florida Statutes, and Ch. 59C-1.030(2)(c), Florida Administrative Code.

The District 7 Local Health Council has not specified any preferences for neonatal intensive care beds.

3. Agency Rule Preferences

Please indicate how each applicable preference for the type of service proposed is met. Chapter 59C-1.042, Florida Administrative Code.

a. Ch. 59C-1.042(3)(k), Florida Administrative Code - Services to Medically Indigent and Medicaid Patients. In a comparative review, preference shall be given to hospitals which propose to provide neonatal intensive care services to Children's Medical Services patients, Medicaid patients, and non-Children's Medical Services patients who are defined as charity care patients according to the Health Care Board, Florida Hospital Uniform Reporting System Manual, Chapter III, Section 3223. The applicant shall estimate, based on its historical patient data by type of payer, the percentage of neonatal intensive care services patient days that will be allocated to:

(1) Charity care patient;
(2) Medicaid patients;
(3) Private pay patients, including self-pay; and
(4) Regional Perinatal Intensive Care Center Program and Step Down Neonatal Special Care Unit patients.

As stated above, the applicant is proposing a minimum of 25 percent of its Level III NICU patient days to Medicaid, Medicaid HMO, and charity care patients, on a combined basis. Although not a regional perinatal intensive care center, Florida Hospital Orlando is a designated Medicaid Disproportionate Share Provider.

Refer to E.4.i. below for further discussion.

b. **Ch. 59C-1.042(4), Florida Administrative Code - Level II and Level III Service Continuity. To help assure the continuity of services provided to neonatal intensive care services patients:**

(1) **The establishment of Level III neonatal intensive care services shall not normally be approved unless the hospital also provides Level II neonatal intensive care services.**

The applicant currently has 28 Level II and 13 Level III NICU beds.

(2) **Applicants proposing to provide Level III neonatal intensive care services shall ensure developmental follow-up on patients after discharge to monitor the outcome of care and assure necessary referrals to community resources.**

The applicant states that it ensures developmental follow-up for its neonatal patients through a discharge-planning program. The multi-disciplinary discharge planning team conducts follow-up checks on discharged infants to monitor outcomes and determine appropriate referrals for care.

c. **Ch. 59C-1.042(5), Florida Administrative Code - Minimum Unit Size.**

This provision is not applicable since Florida Hospital Orlando provides Level III NICU services. The applicant's proposal will bring the Level III unit to 33 beds if the project is approved.

d. **Ch. 59C-1.042(6) - Minimum Birth Volume Requirement. Hospitals applying for Level III neonatal intensive care services shall not normally be approved unless the hospital has a minimum service volume of 1,500 live births for the most recent 12-month period ending six months prior to the beginning date of the quarter of the publication of the fixed bed need pool. Specialty children's hospitals are exempt from these requirements.**

The hospital exceeds the minimum service volume of 1,500 live births.

e. **Ch. 59C-1.042(7) - Geographic Access. Level II and Level III neonatal intensive care services shall be available within two hours ground travel time under normal traffic conditions for 90 percent of the population in the service district.**

Currently Level II and Level III NICU services are available and accessible within the two hours ground travel time to 90 percent of the residents of District 7.

f. **Ch. 59C-1.042(8) - Quality of Care Standards.**

(1) **Physician Staffing: Level III neonatal intensive care services shall be directed by a neonatologist or a group of neonatologists who are on active staff of the hospital with unlimited privileges and provide 24-hour coverage, and who are either board-certified or board-eligible in neonatal-perinatal medicine.**

The applicant states that there are five neonatologists on staff providing 24-hour coverage at the hospital, and two maternal fetal medicine specialists on active staff with unlimited privileges. Curriculum vitae were provided in Attachment A of the application.

(2) **Nursing Staffing: The nursing staff in Level II and Level III neonatal intensive care units shall be under the supervision of a head nurse with experience and training in neonatal intensive care nursing. The head nurse shall be a registered professional nurse. At least one-half of the nursing personnel assigned to each work shift in Level II and Level III neonatal intensive care units must be registered nurses.**

The applicant states that the nurse manager of neonatal services is Jean Hallaron, R.N. A curriculum vitae was provided in Attachment B of the application. Schedule 6 indicates that 100 percent of the incremental nursing staff consists of registered nurses.

(3) **Special Skills of Nursing Staff: Nurses in Level II and Level III neonatal intensive care units shall be trained to administer cardio-respiratory monitoring, assist in ventilation, administer I.V. fluids, provide pre-operative and post-operative care of newborns requiring surgery, manage neonates being transported, and provide emergency treatment of conditions such as apnea, seizures, and respiratory distress.**

The applicant states that all of the nurses in Florida Hospital Orlando's NICUs are trained in the foregoing requirements and that extensive in-service training and continuing education are provided to the neonatal nursing staff. Attachment C of the application lists the training and in-service education offerings.

(4) **Respiratory Therapy Technician Staffing: At least one certified respiratory care practitioner therapist with expertise in the care of neonates shall be available in the hospitals with Level II or Level III neonatal intensive care services at all times. There shall be at least one respiratory therapist technician for every four infants receiving assisted ventilation.**

The applicant states that diagnostic, therapeutic, and life-support services are provided 24 hour a day and a minimum of 2 respiratory therapists are on the Level III NICU at all times.

(5) **Blood Gases Determination and Ancillary Service Requirements: Blood gas determination shall be available and accessible on a 24-hour basis in all hospitals with Level II or Level III neonatal intensive care services. Hospitals providing Level II or Level III neonatal intensive care services shall provide on-site, on a 24-hour basis, x-ray, obstetric ultrasound, and clinical laboratory services. Anesthesia shall be available on an on-call basis within 30 minutes. Clinical laboratory services shall have the capability to perform microstudies.**

The applicant states that it provides all of the foregoing requirements, including blood gas determination, on-site x-ray, obstetric ultrasound, and clinical laboratory services, available 24 hours, seven days a week. Anesthesiology services are available on-site.

(6) Nutritional Services: Each hospital with Level II or Level III neonatal intensive care services shall have a dietician or nutritionist to provide information on patient dietary needs while in the hospital and to provide the patient's family instruction or counseling regarding the appropriate nutritional and dietary needs of the patient after discharge.

The applicant states that Florida Hospital's neonatal dietician, Julia Kammeraad, R.D., provides nutritional counseling and is responsible for assessing, planning, implementing, and reevaluating the status and care of pediatric and neonatal patients. A curriculum vitae was included in Attachment B of the application.

(7) Social Services: Each hospital with Level II or Level III neonatal intensive care services shall make available the services of the hospital's social service department to patients' families which shall include, but not be limited to, family counseling and referral to appropriate agencies for services. Children potentially eligible for the Medicaid, Children's Medical Services, or Developmental Services Programs shall be referred to the appropriate eligibility worker for eligibility determination.

The applicant describes the duties of the social workers in assisting the patient's family, including counseling and referral to appropriate agencies for services. The resume for the full-time social worker assigned to neonatal intensive care services, Brenda Marin-Soto, is provided in Attachment B of the application.

(8) Developmental Disabilities Intervention Services: Each hospital that provides Level II or Level III neonatal intensive care services shall provide in-hospital intervention services for infants identified as being at high risk for developmental disabilities to include developmental assessment, intervention, and parental support and education.

The applicant provides developmental assessment and intervention to neonates, including inpatient counseling for high-risk infants and their families and ongoing management, consultation, and education for issues related to feeding, sensory impairment, motor abnormalities, congenital anomalies, and promotion of normal patterns of development, and discharge planning related to developmental needs, community services, and on-going follow-up as specified in the physician's discharge plan.

(9) Discharge Planning: Each hospital that provides Level II or Level III neonatal intensive care services shall have an interdisciplinary staff responsible for discharge planning. Each hospital shall designate a person responsible for discharge planning.

According to the applicant, two Clinical Care Coordinators are responsible for assuring discharge planning services, which are conducted by a multidisciplinary team, are provided to neonates and their families. Included in Attachment B of the application are the resumes of Clinical Care Coordinators Kathleen Gillon and Michael O'Brien.

h. Ch. 59C-1.042(10), Florida Administrative Code - Level III Neonatal Intensive Care Unit Standards: The following standards shall apply to Level III neonatal intensive care services:

(1) Pediatric Cardiologist. A facility providing Level III neonatal intensive care services shall have a pediatric cardiologist, who is either board certified or board eligible in pediatric cardiology, available for consultation at all times.

There are four pediatric cardiologists on staff and all are board-certified. Curriculum vitae for Drs. Robert Appleton, Thomas Carson, Jorge Garcia, and Agustin Ramos are included in Attachment A of the application.

(2) Nurse to Neonate Staffing Ratio. Hospitals shall have a nurse to neonate ratio of at least 1:2 in Level III NICUs at all times. At least 50 percent of the nurses shall be registered nurses.

The applicant indicates it meets this standard and will continue to do so in operating additional beds. The applicant also states that every nurse providing Level III NICU care at Florida Hospital is a registered nurse. Schedule 6A of the application reflects that all of the incremental staff needed by the proposed bed addition will be registered nurses.

(3) Requirements for Level III NICU Patient Stations. Each patient station in a Level III NICU shall have, at a minimum:

- **a. Eighty square feet per infant;**
- **b. Two wall mounted suction outlets preferably equipped with a unit alarm to signal loss of vacuum;**
- **c. Twelve electrical outlets;**
- **d. Two oxygen outlets and an equal number of compressed air outlets and adequate provisions for mixing these gases;**
- **e. An incubator or radiant warmer;**
- **f. One heated humidifier and oxyhood;**
- **g. One respiration or heart rate monitor;**
- **h. One resuscitation bag and mask;**
- **i. One infusion pump;**
- **j. At least one non-invasive blood pressure monitoring device for every three beds;**
- **k. At least one portable suction device; and**
- **l. Availability of devices capable of measuring continuous arteria; oxygenation in the patient**

The applicant indicates that it is in compliance with all of the requirements above. Refer to the architectural review below in E.4.h.

(4) Equipment Required to be Available to Each Level III NICU on demand:

- **a. An EKG machine with printout capacity;**
- **b. Portable suction equipment; and**
- **c. Not less than one ventilator for every three beds**

The applicant indicates it has all the required equipment above available.

i. Ch. 59C-1.042(11) - Emergency Transportation Services: Each hospital providing Level II neonatal intensive care services or Level III neonatal intensive care services shall have or participate in an emergency 24-hour patient transportation system.

(1) Provision of Emergency Transportation. Hospitals providing Level II or Level III neonatal intensive care services must operate a 24-hour emergency transportation system directly, or contract for this service, or participate through a written financial or non-financial agreement with a provider of emergency transportation services.

(2) Requirements for Emergency Transportation System. Emergency transportation systems, as defined in paragraph (11)(a), shall conform to section 10D-66.52, Florida Administrative Code.

Florida Hospital operates a 24-hour Children's Hospital Transport service, including a dedicated children's transport vehicle, which is specially equipped to handle the needs of infants requiring neonatal intensive care. Attachment D of the application contains the applicant's neonatal transport policies and protocols.

j. **Ch. 59C-1.042(12) - Transfer Agreements: A hospital providing only Level II neonatal intensive care services shall provide documentation of a transfer agreement with a facility providing Level III neonatal intensive care services in the same or nearest service district for patients in need of Level III services. Facilities providing Level III neonatal intensive care services shall not unreasonably withhold consent to transfer agreements which provide for transfers based upon availability of service in the Level III facility, and which will be applied uniformly to all patients requiring transfer to Level III, as defined in subparagraph (2)(e)2. An applicant for Level II or Level III neonatal intensive care services shall include, as part of the application, a written protocol governing the transfer of neonatal intensive care services patients to other inpatient facilities.**

See response to 3.i. above.

k. **Ch. 59C-1.042(13) - Data Reporting Requirements: All hospitals with Level II or Level III neonatal intensive care services shall provide the agency or its designee with patient utilization and fiscal reports which contain data relating to patient utilization of Level II and Level III neonatal intensive care services.**

The applicant states that it will continue to provide all data required by the agency in this section of the Rule.

4. Statutory Review Criteria

a. Is need for the project evidenced by the availability, efficiency, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the applicant's service area?
ss. 408.035(2) and 408.035(7), Florida Statutes.

With respect to availability, the applicant is one of only two providers in District 7 offering Level III NICU services. The other is Arnold Palmer Hospital, which is also located in Orlando. Arnold Palmer Hospital is licensed for 44 Level III NICU beds. For the 12 months ending June 30, 2001, the occupancy rate for the Level III NICU beds at Arnold Palmer Hospital was 60.39 percent, which indicates that Level III NICU beds are available in the service area, particularly in Orlando. The most recent occupancy rate (calendar year 2001) for the Level III NICU at Arnold Palmer Hospital of 58.80 percent confirms bed availability there. The applicant has not shown that the unoccupied Level III NICU beds are unavailable to neonates needing those services in District 7. Florida Hospital apparently prefers to serve some Level III NICU patients in its Level II NICU rather than transferring those neonates to the Level III NICU at Arnold Palmer Hospital. Additional beds at Florida Hospital will improve the availability of this service only for Florida Hospital patients. Although the applicant's Level III NICU operates in excess of 100 percent, the applicant did not present evidence documenting any access problems to the available Level III NICU beds at Arnold Palmer Hospital, one of the state's designated Regional Perinatal Intensive Care Centers. Furthermore, the addition of unneeded beds to the service area will create inefficiencies due to their underutilization.

The applicant's facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations. Refer to E.4.b. below for more discussion on quality of care.

As stated above, the utilization at Arnold Palmer Hospital's Level III NICU does not evidence need for the 20 additional beds proposed in this application. Notwithstanding Arnold Palmer Hospital's Level III NICU occupancy, the applicant contends that transferring Level III NICU patients to Arnold Palmer Hospital is not an acceptable option due to capacity issues and patient care issues. The applicant states that Arnold Palmer Hospital places infants requiring Level II NICU care in Level III NICU beds when its Level II NICU reaches capacity. However, the application does not indicate any denial of access for specific neonates needing Level III NICU services. The applicant also states that transferring neonates presents unacceptable risks and places a burden on families. Due to the proximate location of the two providers, these concerns should be minimized.

Need for 17 beds beyond that published as needed in the fixed need pool has not been demonstrated. Although the availability, quality of care, accessibility, and extent of utilization at Florida Hospital will be improved with this project, need for 20 additional Level III NICU beds is not evidenced by the availability, quality of care, accessibility, and extent of utilization of existing health care facilities and health services in the service district of the applicant.

b. Does the applicant have a history of providing quality of care? Has the applicant demonstrated the ability to provide quality care? ss. 408.035(3), Florida Statutes.

The facility is accredited by the Joint Commission on Accreditation of Healthcare Organizations. The applicant is also a designated Medicaid Disproportionate Share Provider.

The applicant has been honored with awards and recognitions including the Governor's Sterling Award, the Healthcare Forum Commitment to Quality award, U.S News and World Report's One of America's Best Hospitals, several acknowledgments for its cardiac program, the National Research Corporation Consumer Choice Award, and several Florida Medical Business Awards.

The application also describes the medical management program, the quality and utilization management process, the performance improvement committee, the Clinical Best Practice program, the SHARE program, and consumer surveys.

According to AHCA data, the applicant had 62 confirmed complaints (10 without deficiency), during the last three years. Thirty-two of the confirmed complaints were related to billing. The others concerned patient care, pressure sores, medical records, medical services, inappropriate discharges, restraints, nursing service, medicine problems, infection control, surgery on wrong side, and EMTALA/emergency access. Seven non-billing-related complaints, including one involving emergency access, were pending as of April 19, 2002.

c. Is the applicant proposing special health care services for its service area that are not reasonably and economically accessible in adjacent service areas? ss. 408.035(4), Florida Statutes.

The applicant states that 12.8 percent of its Level III NICU patients in 2001 were from outside of District 7 (Table 17). The proposed project does not involve special health care services that are not reasonably or economically accessible in adjacent districts.

d. Is this project to be located in a research or teaching hospital? Will the program affect the clinical needs of health professional training programs in the service area? ss. 408.035(5), Florida Statutes.

The proposed project is not to be located in a statutorily defined teaching hospital nor will the primary purpose of the project involve research or physician education. However, the applicant states that it is a statutory Family Practice Teaching Hospital and operates one of the largest family practice residency programs in the country. The application describes Florida Hospital's numerous affiliations with colleges and universities, and details the nursing and allied health professional training programs offered at Florida Hospital College of Health Sciences. The applicant also explicates its commitment to research and characterizes itself as a Florida Administrative Code R. 59C-1.044(2)(d)-defined research hospital.

e. What resources, including health manpower, management personnel, and funds for capital and operating expenditures, are available for project accomplishment and operation? ss. 408.035(6), Florida Statutes.

The applicant provides a detailed description of its recruitment and retention policies. While Schedule 6A of the application shows incremental nursing staff added by this project to be 17.7 FTE, the applicant has not indicated it anticipates difficulty hiring the number of staff shown on this schedule. This appears to be in direct contradiction to the statement in the Orlando Sentinel's April 16, 2002, issue attributed to Mr. Richard Morrison, Florida Hospital Vice President, in which he noted that Florida Hospital has 375 (nursing) vacancies and "I think we're fairly desperate" for nursing personnel.

The audited financial statements for the periods ending December 31, 2001 and 2000 were analyzed for the purpose of evaluating the applicant's ability to provide the capital and operational funding necessary to implement the project. The following is a list of accounts and ratios used in the analysis:

FINANCIAL INDICATORS AND RATIOS

	12/31/2001	12/31/2000
Current Assets	$ 1,082,290,000	$ 918,795,000
Cash and Current Investment	$ 763,426,000	$ 568,518,000
Assets Restricted for Capital Projects	$ 143,418,000	$ 99,298,000
Total Assets	$ 2,968,371,000	$ 2,842,967,000
Current Liabilities	$ 371,971,000	$ 370,727,000
Total Liabilities	$ 1,937,731,000	$ 1,880,829,000
Total Equity	$ 1,030,640,000	$ 962,138,000
Net Operating Revenues	$ 2,416,562,000	$ 1,971,827,000
Interest Expense	$ 85,832,000	$ 86,385,000
Net Profit – Operations	$ 112,325,000	$ 58,365,000
Net Income	$ 112,325,000	$ 58,365,000
Cash Flow from Operations	$ 321,111,000	$ 166,244,000
Working Capital	$ 710,319,000	$ 548,068,000
Current Ratio (CA/CL)	2.9	2.5
Cash Flow to Current Liabilities (CFO/CL)	0.9	0.4
Long-Term Debt to Equity (TL-CL/TE)	1.5	1.6
Times Interest Earned (NPO+Int/Int)	2.3	1.7
Equity to Total Assets (TE/TA)	34.7%	33.8%
Operating Margin (NPO/NOR)	4.6%	3.0%
Total Margin (NI/NOR)	4.6%	3.0%
Return on Assets (NI/TA)	3.8%	2.1%
Operating Cash Flow to Assets (CFO/TA)	10.8%	5.8%

Short-term position:
The applicant's current ratio of 2.9 indicates current assets are almost three times that of short-term liabilities, a good position. The working capital (current assets less current liabilities) of $710 million is a very large amount. The ratio of cash flow to current liabilities of 0.9 is good. The applicant has a strong short-term position.

Long-term position:
The long-term debt to equity of 1.5 is only fair, indicating a significant amount of debt when compared to total equity. The cash flow to assets of 10.8 percent is considered good for Florida hospitals. The most recent year had an operating profit of $112 million, which resulted in a margin of 4.6 percent, a satisfactory level. The total equity of $1 billion with the equity to assets of 34.7 percent is strong. Although the indicators are somewhat mixed, the significant amount of total equity and good earnings and cash flows overshadows the others resulting in a good long-term position.

Capital requirements:
The applicant did not provide a Schedule 2. A narrative titled Schedule 2 indicated the applicant has a total capital budget of $421 million. The notes indicated this amount included maturities of long-term debt in the amount of $31.75 million. This long-term debt maturity was only for 2002. This review feels the debt maturities through 2004 would be more appropriate to cover the construction period of this project. The total long-term debt maturities through 2004 would be $97.8 million and when added to other capital projects would result in a total requirement of $487 million. The normal detail for funding these projects was not provided, only a statement that funding is coming from cash reserves, cash from operations, proceeds from prior bond issues, and other financing methods commonly used in the industry such as tax exempt bonds.

Available capital:
The audited balance sheet shows $763 million cash and investments, $710 million working capital, $143 million assets limited to use for capital projects, and $321 million annual cash flows.

Conclusion:
Based on the financial position, cash on hand, designated assets, and cash flows of the applicant, a reasonable probability exists that funding all capital projects will be available as needed.

f. What is the immediate and long-term financial feasibility of the proposal? ss. 408.035(8), Florida Statutes.

A comparison of the applicant's estimates to the control group values provides for an objective evaluation of financial feasibility, (the likelihood that the services can be provided under the parameters and conditions contained in Schedules 7 and 8), and efficiency, (the degree of economies achievable through the skill and management of the applicant). In general, projections that approximate the median are the most desirable, and balance the opposing forces of feasibility and efficiency. In other words, as estimates approach the highest in the group, it is more likely that the project is feasible, because fewer economies must be realized to achieve the desired outcome. Conversely, as estimates approach the lowest in the group, it is less likely that the project is feasible, because a much higher level of economies must be realized to achieve the desired outcome. These relationships hold true for a constant intensity of service through the relevant range of outcomes. As these relationships go beyond the relevant range of outcomes, revenues and expenses may, either go beyond what the market will tolerate, or may decrease to levels where activities are no longer sustainable.

Comparative data were derived from hospitals in peer groups that reported data in 2000; the applicant will be compared to the hospitals in group 9. Per diem rates are projected to increase by an average of 3.3 percent per year. Inflation adjustments were based on the most current Florida Hospital Input Price Index.

Gross revenues, net revenues, and costs were obtained from Schedules 7 and 8 in the financial portion of the application. These were compared to the control group as a calculated amount per adjusted patient day. The adjustment is made to factor out the outpatient revenues in the per patient day computation.

Net revenue per adjusted patient day (NRAPD) of $1,625 in year one and $1,706 in year two is similar to the control group median values of $1,656 in year one and $1,706 in year two. With net revenues falling close to the median, the facility is expected to consume health care resources in proportion to the services provided. (See Comparative Table). The 2000 actual NRAPD for this hospital was $1,558, which was the highest in that year.

Projected cost per adjusted patient day of $1,517 in year one and $1,595 in year two is just above the group median values of $1,491 in year one and $1,536 in year two. This application is considered cost efficient when compared to the control group. (See Comparative Table). The 2000 actual CAPD for this hospital was $1,468, which was the highest in the group.

The year two operating profit for the hospital of $78.4 million computes to an operating margin per adjusted patient day of $112 which falls between the peer group median and highest of $35 and $278. The operating margin computes to 6.5 percent, which is a little above average for Florida hospitals. The 2000 financial data submitted to the agency shows the hospital with an operating margin per adjusted patient day of $90, which is slightly below the projected margin. This project makes a net contribution of $673,976 to the margin. The projected margins appear to be reasonable and the project taken as a whole is financially feasible.

COMPARATIVE TABLE

CON # 9543					
Florida Hospital	2005	YEAR 2			
2000 DATA Peer Group 9	YEAR 2	ACTIVITY	INFLATION ADJ. VALUES		
	ACTIVITY	PER DAY	Highest	Median	Lowest
ROUTINE SERVICES	630,286,735	897	996	753	421
INPATIENT AMBULATORY	0	0	126	76	38
INPATIENT ANCILLARY SERVICES	1,797,760,933	2,558	2,869	2,178	1,845
OUTPATIENT SERVICES	1,129,294,168	1,607	2,347	1,421	1,179
OTHER OPERATING REVENUE	71,430,334	102	72	18	10
TOTAL REVENUE	3,628,772,170	5,164	6,308	4,627	3,719
DEDUCTIONS FROM REVENUE	2,429,652,644	3,458	*	*	*
NET REVENUES	1,199,119,526	1,706	1,861	1,706	1,411
EXPENSES					
ROUTINE	190,854,716	272	286	254	177
ANCILLARY	437,188,737	622	691	521	406
AMBULATORY	57,505,589				
OVERHEAD	435,158,610	619	902	715	647
OTHER	0	0			
TOTAL EXPENSES	1,120,707,652	1,595	1,973	1,536	1,410
OPERATING INCOME	78,411,874	112	278	35	-146
		6.5%			
PATIENT DAYS	475,177		NOT INFLATION ADJUSTED		
ADJUSTED PATIENT DAYS	702,717				
TOTAL BED DAYS AVAILABLE	658,095				
ADJ. FACTOR	0.6762				
TOTAL NUMBER OF BEDS	1,803				
PERCENT OCCUPANCY	72.2%		66.0%	55.9%	38.6%
PAYER TYPE	PATIENT DAYS	% TOTAL			
MEDICARE	234,403	47.3%	43.5%	35.1%	25.9%
COMMERCIAL	16,832	3.4%			
MEDICAID	42,373	8.6%	19.7%	12.7%	5.0%
PRIVATE	22,727	4.6%			
HMO/PPO	158,586	32.0%	47.2%	42.3%	36.9%
OTHER	20,256	4.1%			
TOTAL	495,177	100.0%			

g. Will the proposal foster competition to promote quality and cost-effectiveness? ss. 408.035(9), Florida Statutes.

The applicant projects managed care to represent 32.0 percent of its patient days. This is below the control group lowest level and is significantly below the hospital's own 2000 managed care level of 41.1 percent. The applicant's level of managed care will have no discernible impact on competition, to promote quality assurance and cost-effectiveness.

The proposed NICU III project was compared to all other hospitals in the state with approved NICU III programs. Schedule 7, total gross revenue for the NICU III only is projected to be $15,599,295 for year two. With 2,733 patient days anticipated the gross revenue (gross charges) per patient day computes to $5,707. This amount exceeds the statewide highest values for all NICU providers with Level III beds. As the estimated revenues per day are expected to be the most expensive statewide, the project will not foster competition to promote quality and cost-effectiveness. NICU revenues per patient day for Florida Hospital as reported to the agency averaged $2,140 in 2000. The estimates projecting $5,707 per patient day for the NICU III beds are open to question.

h. Are the proposed costs and methods of construction reasonable? Do they comply with statutory and rule requirements? ss. 408.035(10), Florida Statutes; Ch. 59A-3 or 59A-4, Florida Administrative Code.

The proposal is to add 20 Level III NICU beds on the second floor adjacent to the hospital's existing Level II and Level III beds. The space to house these beds are existing and have been recently vacated. Therefore, there is no additional square footage involved in the project.

The application includes very minimal schematic drawings showing the second floor with the existing smoke compartment that the new beds will be in and a larger scale plan of the proposed new unit and the individual rooms. Except for two semi-private bedrooms, all of the rooms are private and are for single infants. The minimum square footage has been provided. Each room has its own sliding glass door opening onto the central area where there are three ancillary spaces and four nurse stations. The layout is excellent from an observation standpoint. However, there are significant problems discussed below.

Although the larger scale plans are shown to be to scale, it is not possible to tell if they have been printed accurately since no actual dimensions are given for reference. This becomes a critical issue due to the specific clearance requirements for neonatal beds. It is quite apparent that the distance between isolettes in the semi-private rooms does not meet code requirements. The application states that these spaces are for twins and/or other multiple births, but the code does not address this situation. It is possible that a waiver could be granted for the clearance requirements if there is a compelling reason that the beds are so closely spaced.

There are no hand washing facilities shown and they are required by code. There is also no multipurpose room for breast feeding demonstration and counseling nor a physicians' sleeping room equipped with a private toilet and shower room. There is no janitor's closet within the unit.

There is also a significant architectural issue regarding the exiting through and from the proposed new suite. The hospital section of the Florida Building Code, formerly Chapter 59A-3 of the Florida Administrative Code, states that "If the intensive care unit is in excess of 5,000 square feet, it shall be designed with a corridor system…" It further states that "Access to the Level II nursery suite is permitted only through exit access corridor doorways". Code requirements for a Level II NICU also apply to Level III units. In the case of the proposed 20 NICU beds, neither of these requirements are met. The space between the central core/nurses' stations and the private rooms does not constitute a corridor system. Egress through the NICU to the stairwell (which is not part of a corridor system) appears to be the only way for some occupants of other parts of the hospital to exit in case of a fire.

Although the door into the stairwell might appear to satisfy the requirement for the second point of egress, the stairwell door is an exit door and not an exit access door. NFPA 101 states: "Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 sq. ft. (93 sq. m.) shall have at least two exit access doors remotely located from each other". The entrance to the unit is through an exit access door. The second exit access door should lead to another corridor/smoke compartment where non-ambulatory patients could find refuge in case of a fire or other emergency. Having the secondary egress be a stairwell does not provide a safe refuge for the type of patient in the NICU or other types of suites.

The drawings presented in the application show only the proposed renovation in any detail, so it is not possible to tell if there are any mitigating circumstances to the problems above. The application has a list of the new building codes that are now in force and it is mostly correct.

The projected cost of almost $208,000 per bed for 20 new Level III beds appears to be rather high. Architecturally, the proposed plan is not acceptable and needs extensive redesign to address the exiting and ancillary rooms problems discussed above.

i. **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(11), Florida Statutes.**

The applicant is a designated Medicaid Disproportionate Share Provider and has a history of providing Medicaid and charity care. Florida Hospital is proposing a condition of at least 25 percent of the Level III NICU days will be delivered to Medicaid, Medicaid HMO, and charity patients combined.

The applicant presented a chart showing calendar year 2001 payer mix.

Florida Hospital Orlando Level III NICU
Patient Days by Payer Source for 2001

Payer	Percent of Patient Days
Other Managed Care	51.5%
Medicaid	36.8%
Medicaid HMO	3.3%
Commercial Insurance	3.3%
Self Pay	2.7%
Other Payers	2.4%
Total	100.0%

Source: CON Application 9543

The following table provides an indication of the facility's commitment to charity and Medicaid, with comparison to the district, based on Fiscal Year (FY) 2000 Actual Data prepared by AHCA. The Medicaid and charity amount is on the whole hospital.

Applicant Hospital	FY 00 Conventional Medicaid % of Pt. Days	FY 00 Charity % of Patient Days
Florida Hospital	10.3%	2.1%
District 7 Average	9.4%	2.6%

Source: FY 2000 Actual Data/AHCA

As reflected in the table, Florida Hospital Orlando's Hospital provision of Medicaid is greater than the district average. Its charity care provision is lower than the district average.

The applicant states that during 2001, Florida Hospital provided over $57.8 million in charity care, or 2.2 percent of gross revenues, and 12.2 percent of total discharges to over 11,500 Medicaid and Medicaid HMO enrollees.

F. SUMMARY

The hospital, located in District 7, Orange County, is a 902-bed Class I General Hospital licensed for 702 acute care beds, 35 hospital-based skilled nursing beds, 49 comprehensive medical rehabilitation beds, 59 adult psychiatric beds, 16 child/adolescent psychiatric beds, 28 Level II and 13 Level III NICU beds.

Florida Hospital proposes to add 20 Level III NICU beds to its existing 13-bed Level III NICU, creating a 33-bed unit.

Need/Other Special Circumstances:
A fixed need pool of three beds was published for Level III NICU services in District 7 for the July 2004 planning horizon.

District 7 has 57 licensed Level III neonatal intensive care beds and zero approved Level III beds as of January 25, 2002. The Level III NICU beds in District 7 experienced an occupancy rate of 84.12 percent during the period July 2000 through June 2001.

The applicant did not show numeric need for 17 beds beyond that published as needed in the subdistrict for the July 2004 planning horizon.

There would be an impact on the other District 7 Level III NICU provider because the occupancy rate at Arnold Palmer Hospital dropped below 60 percent for calendar year 2001.

Quality of Care:
The applicant is JCAHO accredited and has a history as a quality care provider.

Medicaid/Indigent Care:
According to the *Certificate of Need Predicated on Conditions* page, the applicant is proposing a minimum of 25 percent of its Level III NICU patient days to Medicaid, Medicaid HMO, and charity care patients. Florida Hospital is a designated Medicaid Disproportionate Share Provider.

Financial/Cost:
The short-term position of the applicant is strong and the applicant has a good long-term position. Based on the financial position, cash-on-hand, designated assets, and cash flows, a reasonable probability exists that the applicant will be able to fund all capital requirements as needed.

The applicant's level of managed care will have no discernible impact on competition, to promote quality assurance, and cost-effectiveness.

Architectural:
Overall, the proposed project, as submitted, is unacceptable. Although the layout is excellent from an observation standpoint, there are many problems. The distance between isolettes in the semi-private rooms does not meet code requirements. There are no hand washing facilities shown. There is no multipurpose room for breast feeding demonstration and counseling nor a physician's sleeping room equipped with a private toilet and shower room. There is no janitor's closet within the unit. Furthermore, there is also a significant architectural issue regarding the exiting through and from the proposed new suite. The requisite corridor system and exit access are not met. The proposed plan needs extensive redesign to address the exiting and ancillary rooms problems.

The projected cost of approximately $208,000 per bed for 20 new Level III NICU beds appears to be rather high.

RECOMMENDATION:

Deny CON #9543.

CON Action Number: 9543

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: ______________________

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Karen Rivera
Health Services and Facilities Consultant Supervisor
Certificate of Need

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Jeffrey N. Gregg
Chief, Bureau of Health Facility Regulation